

Department of State Health Services
Agenda Item for State Health Services Council
January 31, 2007

Agenda Item Title: New 25 TAC, §450.100 and amendments to §§450.101, 450.102, 450.104 - 450.117, and 450.120 - 450.126 concerning the licensing and regulation of chemical dependency counselors.

Agenda Number: 5e

Recommended Council Action:

For Discussion Only

For Discussion and Action by the Council

Background: The proposed new rule and amendments are necessary to create a definitions section within Chapter 450; to correct internal rule citations, amend references to the former Texas Commission on Alcohol and Drug Abuse to refer to the Department of State Health Services (department), and delete unnecessary text; to increase the passing rates on licensure examinations by providing more testing opportunities; to modify supervision requirements for counselor interns who have passed both portions of their licensing exam; to improve applicable ethical standards; to add renewal provisions specific to persons on or called to active military duty; to provide for fee payment by personal check, consistent with other professional licensing programs, and authorize the imposition of a returned check fee; and to add Texas Online usage fees.

Summary: The proposed new rule incorporates by reference currently applicable definitions found in chapter 441 of this title and adds and revises certain definitions, primarily to account for the transfer of certain duties and powers from the Texas Commission on Alcohol and Drug Abuse to the department. The proposed amendments correct certain cites and terminology, replace references to the department's legacy agency, and delete unnecessary text; authorize applicants to pay fees by personal check and the department to collect returned check fees; authorize the department to collect subscription and convenience fees associated with license processing through Texas Online; increase licensure examination opportunities for counselor interns; make provisions for licensure renewal for persons on or called to active duty; add to counselor ethical standards; and modify supervision requirements for counselor interns who have passed both portions of their licensure examination.

Summary of Stakeholder Input to Date (including advisory committees): Members of the Addiction Transfer of Technology Colleges and the Texas Association of Addiction Professionals have provided input for the proposed rules through verbal and written communication, and the proposed new rule and amendments will be posted for additional input on the licensed chemical dependency counselor program web site.

Proposed Motion: Motion to recommend HHSC approval for publication of proposed rules contained in agenda item 5e.

Agenda Item Approved by: _____

Presented by: Debbie Peterson

Title: Unit Manager

Program/Division: PLC **Contact Name/Phone:** Debbie Peterson 834-2725

Date Submitted

11/22/06

Title 25. HEALTH SERVICES

Part 1. DEPARTMENT OF STATE HEALTH SERVICES

Chapter 450. Counselor Licensure

New §450.100

Amendments §§450.101, 450.102, 450.104 - 450.117, and 450.120 - 450.126

Proposed Preamble

The Executive Commissioner of the Health and Human Services Commission (commission), on behalf of the Department of State Health Services (department), proposes new §450.100 and amendments to §§450.101, 450.102, 450.104 - 450.117, and 450.120 - 450.126 concerning the licensing and regulation of chemical dependency counselors.

BACKGROUND AND PURPOSE

The new rule and amendments to the rules are needed to correct certain citations and terminology, replace references to the department's legacy agency, the Texas Commission on Alcohol and Drug Abuse, and delete unnecessary text; to help increase the licensure examination passing rate for counselor interns; to recognize, through reduced supervision requirements, a higher level of competence achieved by counselor interns who have passed both portions of the licensure examination; to improve the ethical standards that apply to both licensed counselors and interns; and to allow persons on or called to active military duty to delay renewal of their license without penalty for the period of active duty. The amendments also implement statutory provisions for the Texas Online Project by providing for collection of subscription and convenience fees associated with new and renewal application processing through Texas Online. For consistency with other professional licensing programs, the amendments add the ability to pay fees by personal check and, to address the potential for increased costs from returned checks, authorize the department to collect a \$25 fee for returned checks.

SECTION-BY-SECTION SUMMARY

The proposed new §450.100 incorporates by reference currently applicable definitions found in §441.101 of this title, and adopts new and amended definitions to account for the transfer of certain duties, functions, programs, and powers from the Texas Commission on Alcohol and Drug Abuse to the department, and to clarify that inclusion of other licensed individuals within the definition of "Qualified Credentialed Counselor" does not extend the authorized scope of their respective licenses.

In addition to the changes outlined below, the proposed amendments to §§450.101, 450.102, 450.104 - 450.117, and 450.120 - 450.126 correct certain internal rule citations, amend references to the former Texas Commission on Alcohol and Drug Abuse to refer to the department, and delete unnecessary text.

The proposed amendment to §450.101 uses the unmodified term "social worker", consistent with Texas Occupations Code, §504.002, but clarifies that the exemption applies only to the extent

that a person is acting within the authorized scope of one of the enumerated licenses held by that person.

The proposed amendment to §450.102 corrects the terminology used in the reference to the definition of the KSAs by changing the word “Abilities” to “Attitudes,” and corrects the cite reference.

The proposed amendment to §450.104 creates a fee for returned checks and, consistent with other professions licensed by the department, allows counselor fees to now be paid with personal check. Pursuant to Texas Government Code, §2054.252, the proposed amendment allows the Department to collect subscription and convenience fees to recover costs associated with new and renewal application processing through Texas Online.

The proposed amendment to §450.112 allows counselor interns to take each portion of the licensure examination four times, both verbal and written, without requiring that the two portions be taken together.

The proposed amendment to §450.116 modifies for clarification the description of social workers who, because of their dual licensure status, are required to complete fewer continuing education hours to maintain their license as a licensed chemical dependency counselor (LCDC). Additionally, these licensees will not have to submit a copy of their non-LCDC license at the time of renewal, since the department has the capacity to independently verify their non-LCDC licensure status. The amendment also adds provisions for licensure renewal for persons on or called to active military duty, in accordance with Texas Occupations Code, Chapter 55.

The proposed amendment to §450.121 adds ethical standards relating to billing for services that were not provided, meeting with clients in inappropriate locations, and prohibiting conduct that could be considered coercive or degrading to the client or another.

The proposed amendment to §450.125 revises the requirements for direct supervision of interns to allow an intern with less than 2,000 hours of documented work experience who has passed both the written and oral examinations to be supervised in accordance with Level III standards.

FISCAL NOTE

Kathryn C. Perkins, Section Director, Health Care Quality Section, has determined that for each calendar year of the first five years the sections are in effect, there will be fiscal implications to the state or local governments as a result of enforcing or administering the sections as proposed. For all applications and renewal applications, the department is authorized to collect subscription and convenience fees, in amounts determined by the Texas Online Authority, to recover costs associated with allocation and renewal processing through Texas Online. The estimated increase in revenue will be \$8,800. Any fees collected by the department will be paid to the Texas Online Authority.

SMALL AND MICRO-BUSINESS IMPACT ANALYSIS

Ms. Perkins has also determined that there are anticipated costs to small businesses or micro-businesses that pay licensing fees for their personnel required to obtain and/or maintain a chemical dependency counselor license. New and renewal chemical dependency counselor licensure applicants will be required to pay the Texas Online fees proposed to be collected, and, whenever applicable, will have to pay a returned check fee of \$25. Although subscription fees are currently limited by statute not to exceed \$10 per biennial occupational license, convenience fees can be added to fully recover costs, so the estimated increase for each new or renewal application cannot be accurately estimated, since the amounts are set and subject to change by Texas Online Authority. The numbers of businesses paying fees for their employees and the number of counselors for whom they pay also cannot be reasonably estimated. There is no anticipated negative impact on local employment.

PUBLIC BENEFIT

Ms. Perkins has also determined that for each year of the first five years the sections are in effect, the public will benefit from adoption of the sections. The public benefit anticipated as a result of enforcing or administering the sections is ensuring the health and safety of the public, including through an increase in the number of available licensed chemical dependency counselors and strengthened professional ethical standards.

REGULATORY ANALYSIS

The department has determined that this proposal is not a “major environmental rule” as defined by Government Code §2001.0225. “Major environmental rule” is defined to mean a rule the specific intent of which is to protect the environment or reduce risk to human health from environment exposure and that may adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment or the public health and safety of a state or sector of the state. This proposal is not specifically intended to protect the environment or reduce risks to human health from environment exposure.

TAKINGS IMPACT ASSESSMENT

The department has determined that the proposed new rule and amendments do not restrict or limit an owner’s right to his or her property that would otherwise exist in the absence of government action and, therefore, do not constitute a taking under Government Code, §2007.043.

PUBLIC COMMENT

Comments on the proposal may be submitted to Debbie Peterson, Professional Licensing and Certification Unit, Division for Regulatory Services, Department of State Health Services, 1100 West 49th Street, Austin, Texas 78756, 512/834-6628, ext. 2725 or by email to Debbie.Peterson@dshs.state.tx.us. Comments will be accepted for 30 days following publication of the proposal in the Texas Register.

LEGAL CERTIFICATION

The Department of State Health Services General Counsel, Cathy Campbell, certifies that the proposed rules have been reviewed by legal counsel and found to be within the state agency's authority to adopt.

STATUTORY AUTHORITY

The proposed amendments and new rule are authorized by Texas Occupations Code, §504.051, which authorizes rulemaking necessary to carry out the duties established under Texas Occupations Code, Chapter 504, and the establishment of standards of conduct and ethics for Chapter 504 licensees; by Texas Occupations Code, §504.053, which authorizes the imposition of licensing and other fees to cover the costs of administering Texas Occupations Code, Chapter 504; by Texas Government Code, §2054.252, which requires the department to participate in an electronic system for occupational licensing transactions and authorizes an increase in licensure fees and the imposition of convenience fees on license holders to recover costs associated with online application and renewal application processing; by Texas Occupations Code, §§55.002 and 55.003, which authorize rulemaking to exempt active duty military personnel from late renewal fees and penalties, and authorize additional time for persons called to active duty to meet continuing education and renewal requirements; and by Government Code, §531.0055, and Health and Safety Code, §1001.075, which authorize the Executive Commissioner of the commission to adopt rules and policies necessary for the operation and provision of health and human services by the department and for the administration of Health and Safety Code, Chapter 1001.

The proposed new rule and amendments affect the Texas Occupations Code, Chapters 55 and 504; Health and Safety Code, Chapter and 1001; and Government Code, Chapters 2054 and 531.

Legend: (Proposed New Rule)
Regular Print = Proposed new language

§450.100. Definitions.

The words and terms used in this chapter shall have the meanings set forth in §441.101 of this Title unless the context clearly indicates otherwise, except as follows.

- (1) “Commissioner” -- The Commissioner of the Department of State Health Services.
- (2) “Department” -- The Department of State Health Services and its Commissioner, Assistant Commissioners, organizational units, divisions and/or employees.
- (3) “Qualified Credentialed Counselor” or “QCC” -- A licensed chemical dependency counselor or one of the practitioners listed below who is licensed and in good standing in the State of Texas, to the extent that such person is acting within the authorized scope of the person’s license, including:
 - (A) licensed professional counselor (LPC);
 - (B) licensed master social worker (LMSW);
 - (C) licensed marriage and family therapist (LMFT);
 - (D) licensed psychologist;
 - (E) licensed physician;
 - (F) licensed physician’s assistant;
 - (G) certified addictions registered nurse (CARN); or
 - (H) nurse practitioner recognized by the Board of Nurse Examiners as a clinical nurse specialist or practitioner with a specialty in psych-mental health (APN-P/MN).

Legend: (Proposed Amendments)
Single Underline = Proposed new language
[Bold Print and Brackets] = Current language proposed for deletion
Regular Print = Current language
(No change.) = No changes are being considered for the designated subdivision

§450.101. License Required.

- (a) (No change.)

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

(1) - (2) (No change.)

(3) to the extent such licensees are acting within the authorized scope of their respective licenses, licensed physicians, licensed psychologists, licensed professional counselors (LPC), licensed marriage and family therapists (LMFT), and licensed **[master]** social workers **[(LMSW)]**;

(4) - (5) (No change.)

(6) counselor interns who are registered with the department **[Commission]** and working under the auspices of a registered clinical training institution.

(c) (No change.)

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

§450.102. Scope of Practice.

(a) A licensed chemical dependency counselor (LCDC) is licensed to provide chemical dependency counseling services involving the application of the principles, methods, and procedures of the chemical dependency profession as defined by the profession's ethical standards and the Knowledge, Skills, and Attitudes **[Abilities]** (KSAs) as defined in Chapter 441 [40 TAC ch. 141] of this title (relating to General Provisions). The license does not qualify an individual to provide services outside this scope of practice.

(b) (No change.)

§450.103. Department **[Commission]** Review.

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

§450.104. Fees.

(a) The schedule for fees is:

(1) - (5) (No change.)

(6) certificate replacement or duplication fee--\$25; and [.]

(7) returned check fee--\$25.

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

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

(d) Licensure fees paid to the department [**Commission**] are not refundable.

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

(f) For all new and renewal applications, the department is authorized to collect subscription and convenience fees in amounts determined by the Texas Online Authority to recover costs associated with new and renewal application processing through Texas Online. The fees may be paid with a credit card when applying for or renewing a license online.

§450.105. Licensure Application Standards and Registration.

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

(1) (No change.)

(2) the department's [**Commission's**] current application form which has been completed, signed, dated, and notarized;

(3) (No change.)

(4) two sets of fingerprints completed according to department [**Commission**] instructions with cards issued by the department [**Commission**]; and

(5) documentation that the applicant has successfully completed intern registration requirements in §450.106 [**§150.106**] of this title (relating to Requirements for Counselor Intern Registration).

(b) An applicant shall:

(1) read the department [**Commission**] rules (Chapter 450 of this title) [**40 TAC ch. 150 (2004)**];

(2) (No change.)

(3) allow the department [**Commission**] to seek any additional information or references necessary; and

(4) notify the department [**Commission**] in writing within 30 days of a change in address.

(c) Application materials become the property of the department [**Commission**].

(d) An application packet will not be accepted unless it is complete.

(1) Incomplete documents will be returned to the sender. The department [**Commission**] will hold the remaining documents, but will not accept the application until all outstanding documents have been completed and approved.

(2) (No change.)

(e) (No change.)

(f) An applicant must receive written notice of registration from the department [**Commission**] before accumulating any supervised work experience or taking the examination or providing chemical dependency services.

(g) Within 45 days of receipt of the application, the department [**Commission**] shall notify the applicant that the application is complete or specify the additional information required.

(h) By signing the application, the applicant accepts responsibility for remaining knowledgeable of licensure rules, including revisions.

[(1) Current rules are published in the Texas Administrative Code and posted on the Secretary of State's web site and the Commission's web site.]

[(2) Proposed rule changes are published in the Texas Register and posted on the Secretary of State's web site and the Commission's web site.]

§450.106. Requirements for Counselor Intern Registration.

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

(1) - (2) (No change.)

(3) successfully complete 270 classroom hours of chemical dependency curricula as described in §450.107 [**§150.107**] of this title (relating to Standards for 270 Educational

Hours) or meet the educational waiver contained in §450.109 [**§150.109**] of this title (relating to Education and Experience Exemptions/Waivers);

(4) complete 300 hours of approved supervised field work practicum as described in §450.108 [**§150.108**] of this title (relating to Practicum Standards) or meet the educational waiver contained in §450.109 [**§150.109**] of this title (relating to Education and Experience Exemptions/Waivers);

(5) pass the criminal history standards described in §450.115 [**§150.115**] of this title (relating to Criminal History Standards);

(6) sign a written agreement to abide by the ethical standards contained in §450.121 [**§150.121**] of this title (relating to Ethical Standards); and

(7) be worthy of the public trust and confidence as determined by the department [**Commission**].

§450.107. Standards for 270 Educational Hours.

(a) - (d) (No change.)

(e) The department [**Commission**] shall not accept hours unless documented with a passing grade on an official transcript from the school. The applicant shall submit additional information requested by the department [**Commission**] if needed to verify the content of a course.

§450.108. Practicum Standards.

(a) - (b) (No change.)

(c) The department [**Commission**] shall not accept a practicum without an official transcript from the school and a letter from the school's educational coordinator or chair verifying that the practicum was completed in the field of substance abuse.

(d) - (f) (No change.)

§450.109. Education and Experience Exemptions/Waivers.

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

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

§450.110. Requirements for Licensure.

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

(1) complete the application related to §450.105 [**§150.105**] of this title (relating to Licensure Application Standards and Registration);

(2) meet the requirements to be a counselor intern in §450.106 [**§150.106**] of this title (relating to Requirements for Counselor Intern Requirements);

(3) hold an associate degree or more advanced degree with a course of study in human behavior/development and service delivery, with the exception of:

(A) those applicants who meet the requirements for intern registration and submit an application to the department [**Commission**] by September 1, 2004; [,] and

(B) (No change.)

(4) complete 4,000 hours of approved supervised experience working with chemically dependent persons as described in §450.111 [**§150.111**] of this title (relating to Standards for Supervised Work Experience);

(5) pass the written chemical dependency counselor examination approved by the department [**Commission**];

(6) submit an acceptable written case presentation to the test administrator;

(7) pass an oral chemical dependency counselor examination approved by the department [**Commission**]; and

(8) (No change.)

450.111. Standards for Supervised Work Experience.

(a) An applicant must be registered with the department [**Commission**] as described in §§450.105 [**§§150.105**] and 450.106 [**150.106**] of this title (relating to Licensure Application Standards and Registration and Requirements for Counselor Intern Registration) before accumulating supervised work experience.

(b) (No change.)

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

(1) - (2) (No change.)

(d) Out-of-state work experience will be accepted only if the following conditions are met.

(1) - (2) (No change.)

(3) The supervised work experience must be documented on the department's [Commission's] supervised work experience form or a comparable form used by the governing agency of the other state.

(e) - (g) (No change.)

(h) It is the applicant's responsibility to verify that the training institution is registered with the department [Commission]. The department [Commission] shall not accept hours from an unregistered provider. A list of registered CTIs is available on the department's [Commission's] web site, under "Licensure" at <http://www.dshs.state.tx.us/sa/>.

§450.112. Examination.

(a) To be eligible for examination, an applicant shall:

(1) be registered with the department [Commission] as an intern;

(2) - (3) (No change.)

(b) (No change.)

(c) An applicant may only take each portion of the examination four times, and all testing must be completed within five years from the date of registration. **[An applicant must take the written and oral portions of the examination together unless the applicant has already passed one part of the examination.]**

(d) If an applicant does not pass both parts of the examination within five years of the date of registration, does not complete the approved associate degree and/or does not complete the required 4,000 hours of supervised work experience, the department [Commission] shall deny the application.

(1) (No change.)

(2) A person whose application has been denied under this section may reapply for licensure only after completing 24 semester hours of course work pre-approved by the department [**Commission**] at an institution of higher education. The new application shall not be considered complete without an official college transcript documenting the required coursework.

(3) If the department [**Commission**] accepts the new application, the person must complete the remaining requirements for licensure and may take only the failed portion(s) of the examination an additional three times. Transition standards will not apply. The additional tests must be completed within three years of the new date of registration. During this period, the applicant may provide chemical dependency counseling services as an intern under the auspices of a registered clinical training institution.

§450.113. Issuing Licenses.

(a) When the applicant has met all requirements for licensure and paid the licensure fee, the department [**Commission**] will issue a license within 45 days.

(b) LCDCs shall keep current versions of the certificate of licensure and the department's [**Commission's**] public complaint notice prominently displayed in their place of business.

(c) A licensee shall not duplicate the licensure certificate to obtain a second copy of the license. A licensee can obtain an official duplicate certificate from the department [**Commission**] by submitting a written request and the fee specified in §450.104 [**§150.104**] of this title (relating to Fees).

(d) The department [**Commission**] will replace a lost or damaged certificate if the licensee provides:

(1) - (4) (No change.)

(e) A license replaced because of a printing error or mail damage will be replaced without cost, but all other license replacements require a fee, as specified in §450.104 [**§150.104**] of this title (relating to Fees). The fee shall be paid in advance with a money order, commercial check, or cashier's check.

(f) LCDCs shall notify the department [**Commission**] in writing within 30 days of a change in name or address.

(g) - (h) (No change.)

§450.114. Licensure through Reciprocity.

(a) A person seeking application through reciprocity shall submit:

(1) (No change.)

(2) the department's [**Commission's**] current reciprocity application which has been completed, signed, dated, and notarized;

(3) two sets of fingerprints on cards issued by the department [**Commission**];

(4) - (6) (No change.)

(b) The applicant shall meet the criminal history standards described in §450.115 [**§150.115**] of this title (relating to Criminal History Standards).

(c) The department [**Commission**] may issue a license based on reciprocity if the individual is currently licensed or certified by another state as a chemical dependency counselor.

(d) The department [**Commission**] shall not issue a license based on reciprocity unless it finds that the licensing or certification standards of the state of origin are at least substantially equivalent to the requirements for licensure of this chapter.

(e) (No change.)

§450.115. Criminal History Standards.

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

(1) an applicant registers with the department [**Commission**] as an intern;

(2) (No change.)

(3) the department [**Commission**] receives information that a counselor or intern has been charged, indicted, placed on deferred adjudication, community supervision, or probation, or convicted of an offense described in subsection (d) of this section.

(b) (No change.)

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

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

(1) - (5) (No change.)

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

(1) - (5) (No change.)

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

(1) - (5) (No change.)

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

(1) - (2) (No change.)

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

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

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

(i) (No change.)

§450.116. License Expiration and Renewal/Active Military Duty.

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

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

(1) send a complete renewal application to the department [**Commission**];

(2) (No change.)

(3) submit two sets of fingerprints completed according to department [Commission] instructions with cards issued by the department [Commission] (if the counselor has not previously submitted fingerprint cards for initial licensure through examination or licensure renewal);

(4) meet the criminal history standards described in §450.115 [§150.115] of this title (relating to Criminal History Standards); and

(5) complete all required continuing education as described in section §450.117 [§150.117] of this title (relating to Continuing Education Standards).

(c) An [A] LCDC who is also licensed as a social worker whose license permits the licensee to engage in clinical practice, [an LMSW,] LMFT, LPC, physician, or psychologist in the State of Texas shall complete at least 24 hours of continuing education during each two-year licensure period. The 24 hours of education must include the specific courses required in subsection (e) [(f)] and, if applicable, in subsection (f) [(g)]. [The individual must submit a copy of the active non-LCDC licensure certificate to be eligible for this provision.]

(d) - (f) (No change.)

(g) Renewal fees are due on or before the expiration date. A licensee who submits a late renewal application shall pay a penalty fee in addition to the renewal application and licensure fees, as provided in §450.104 [§150.104] of this title (relating to Fees).

(h) - (j) (No change.)

(k) If a licensee meets the conditions specified in paragraph (1) of this subsection, a licensee on active duty, or ordered by proper authority to active duty, in or with the United States Armed Forces serving outside the State of Texas, is entitled, subject to the provisions of paragraphs (2) and (3) of this subsection, to an additional amount of time, equal to the total number of days that the person serves on active duty, to complete the continuing education requirements outlined in this section and in §450.117 of this title (relating to Continuing Education Standards), and to meet all other renewal requirements specified in this section, including the payment of fees applicable to license renewal. If a complete renewal application and fees are submitted within the additional amount of time allowed by this subsection, no late renewal penalty fee will be imposed.

(1) Written notification from the licensee to the department's chemical dependency counselor licensing staff of the licensee's eligibility under this subsection for an extension of time to renew a license, and a copy of the official order(s) or other official documentation showing the licensee is or was on or ordered to active duty outside the State of Texas, and the length of active duty, shall be received by the department no later than 60 days after the licensee is discharged from active duty. Whenever possible, the licensee shall provide written notification of the licensee's intent to extend the renewal period under this subsection before the commencement of active duty or the scheduled expiration of the licensee's license.

(2) A licensee who is eligible to extend the renewal period under subsection (k) of this section remains subject to subsection (i) of this section after the regularly scheduled expiration of the LCDC's license, and until such time, if any, as the licensee completes renewal of the license in accordance with this subsection.

(3) If the licensee's renewal period is extended pursuant to this subsection, the licensee's subsequent renewal cycle shall commence on the date that the renewal application is finally granted.

§450.117. Continuing Education Standards.

(a) The department **[Commission]** will accept continuing education (CE) hours that meet the criteria in this section. Hours that do not meet these criteria may be evaluated on a case-by-case basis.

(b) Subject to department **[Commission]** review, the department **[Commission]** will accept continuing education credits from:

(1) - (3) (No change.)

(c) (No change.)

(d) For counselors who live out of state, the department **[Commission]** will also accept continuing education hours approved by other state and Federal agencies.

(e) (No change.)

(f) The department **[Commission]** will also accept education hours from an accredited college or university.

(1) - (2) (No change.)

(g) - (h) (No change.)

§450.120. Counseling Through Electronic Means.

(a) - (b) (No change.)

(c) The department **[Commission]** maintains its authority to regulate the counselor regardless of the location of the client.

(d) - (h) (No change.)

(i) The counselor must provide a description of all services offered to the client in writing and describe who is appropriate for the services. The description must include:

(1) a grievance procedure and provide a link to the department [**Commission**] for filing a complaint when using the Internet and the toll-free number for the department [**Commission**] when counseling by telephone;

(2) (No change.)

(3) a link to the licensure verification page when using the Internet and the toll-free number for the department [**Commission**] when counseling by telephone;

(4) - (5) (No change.)

(j) - (k) (No change.)

§450.121. Ethical Standards.

(a) - (c) (No change.)

(d) The LCDC shall:

(1) promptly report to the department [**Commission**] any suspected, alleged, or substantiated incidents of abuse, neglect, or exploitation committed by self or other LCDCs or registered counselor interns;

(2) promptly report to the department [**Commission**] violations of Texas Occupations Code, Chapter 504 [TEX. OCC. CODE ANN. ch. 504 (Vernon 2004)], or rules adopted under the statute, including violations of this section by self or others, unless making such a report would violate Federal confidentiality regulations found in 42 Code of Federal Regulations, Part 2 [C.F.R. pt. 2];

(3) - (4) (No change.)

(e) - (f) (No change.)

(g) The LCDC shall:

(1) report information fairly, professionally, and accurately to clients, other professionals, the department [**Commission**], and the general public;

(2) maintain appropriate documentation of services provided; [**and**]

(3) not submit or cause or allow to be submitted to a client or third party payer a bill for services that were not provided or were improper, unreasonable, or medically or clinically unnecessary, with the exception of a missed appointment; and

(4)~~(3)~~ provide responsible and objective training and supervision to interns and subordinates under the counselor's supervision. This includes properly documenting supervision and work experience and providing supervisory documentation needed for licensure.

(h) (No change.)

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

(1) - (7) (No change.)

(8) not request a client to divulge confidential information that is not necessary and appropriate for the services being provided; **[and]**

(9) not offer or provide chemical dependency counseling or related services, nor meet with a client, in settings or locations which are inappropriate, harmful to the client or others, or which would tend to discredit the profession of chemical dependency counseling; and **[.]**

(10) refrain from using any method or engaging in any conduct that could be considered coercive or degrading to the client or another, including, without limitation, threats, negative labeling, or attempts to provoke shame or humiliation.

(j) - (k) (No change.)

(l) The LCDC shall treat other professionals with respect, courtesy, and fairness, and shall:

(1) (No change.)

(2) cooperate with the department **[Commission]**, professional peer review groups or programs, and professional ethics committees or associations, and promptly supply all requested or relevant information unless prohibited by law; and

(3) (No change.)

(m) Prior to treatment, the LCDC shall inform the client of the counselor's fee schedule and establish financial arrangements with a client. The counselor shall not:

(1) (No change.)

(2) pay or receive any commission **[Commission]**, consideration, or benefit of any kind related to the referral of a client for treatment;

(3) - (4) (No change.)

§450.122. Actions Against a License.

(a) (No change.)

(b) The department [**Commission**] shall take action against a license for:

(1) - (3) (No change.)

(4) engaging in false, misleading, or deceptive conduct as defined by Texas Business and Commerce Code, §17.46 [**TEX. BUS. & COM. CODE ANN. §17.46 (Vernon 2002 & Supp. 2004)**];

(5) - (6) (No change.)

(7) having a license to practice chemical dependency counseling in another jurisdiction refused, suspended, or revoked for a reason that the department [**Commission**] finds would constitute a violation of this chapter;

(8) (No change.)

(9) committing an act for which liability exists under Texas Civil Practice and Remedies Code, Chapter 81 [**TEX. CIV. PRAC. & REM. CODE ANN. ch. 81 (Vernon 1997 & Supp. 2004)**].

(c) The department [**Commission**] will determine the length of the probation or suspension. The department [**Commission**] may hold a hearing at any time and revoke the probation or suspension.

(d) The department [**Commission**] may impose an administrative penalty against a licensee who violates Texas Occupations Code, Chapter 504 [**TEX. OCC. CODE ANN. ch. 504 (Vernon 2004)**] or a rule or order adopted under the statute.

(e) (No change.)

(f) An individual whose license has been revoked is not eligible to apply for licensure until two years have passed since the date of revocation. During the period of revocation, the individual cannot become a counselor intern. The individual is not eligible to reapply for licensure unless he/she petitions the department [**Commission**] and demonstrates that sufficient time has elapsed to allow the events leading to revocation to no longer serve as a basis for denial of application. The department [**Commission**] may require certain conditions be met, before it grants an individual's petition for re-licensure.

(g) The department [**Commission**] shall deny, suspend, and/or refuse to renew the license of a person based on criminal history as provided in §450.115 [**§150.115**] of this title (relating to Criminal History Standards).

(h) The department [**Commission**] shall implement a final order to suspend the license of a counselor for failure to pay child support as provided by the Texas Family Code, Chapter 232 [TEX. FAM. CODE ANN. ch. 232 (Vernon 1996)].

§450.123. Clinical Training Institution (CTI) Registration.

(a) - (b) (No change.)

(c) The approval is valid for two years. The CTI shall reapply every two years by submitting a completed application form. The department [**Commission**] may mail a courtesy notice, but it is the program's responsibility to reapply at least 45 days before the expiration date.

(d) The CTI shall notify the department [**Commission**] in writing within 30 days of the following changes:

(1) - (3) (No change.)

(e) The department [**Commission**] may withdraw approval if the CTI fails to comply with all applicable department [**Commission**] rules.

§450.124. Clinical Training Institution (CTI) Standards.

(a) The training program shall appoint a single training coordinator who is a qualified credentialed counselor (QCC). The training coordinator shall oversee all training activities and ensure compliance with department [**Commission**] requirements and rules.

(b) The CTI [**Clinical Training Institution (CTI)**] shall establish admission criteria. No applicant shall be admitted without:

(1) documentation that the applicant is registered with the department [**Commission**]; and

(2) a signed ethics agreement which is consistent with the LCDC ethical standards in §450.121 [**§150.121**] of this title (relating to Ethical Standards).

(c) - (d) (No change.)

(e) All interns must be under the direct supervision of a QCC as described in §450.125 [**§150.125**] of this title (relating [**related**] to Direct Supervision of Interns).

(f) (No change.)

(g) The CTI shall use the department's [**Commission's**] KSA evaluation tool to structure the intern's 4,000 hours of supervised work experience.

(1) - (5) (No change.)

(h) - (i) (No change.)

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

(1) - (2) (No change.)

(k) - (l) (No change.)

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

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

(o) (No change.)

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

(q) - (s) (No change.)

§450.125. Direct Supervision of Interns.

(a) - (e) (No change.)

(f) An individual who has successfully completed the verbal and written portions of the licensing examination may be supervised in accordance with Level III standards set forth in subsection (g) of this section, but is still required to complete 4,000 hours of supervised work experience before achieving graduate status in the absence of a waiver under §450.109 of this title (relating to Education and Experience Exemptions/Waivers).

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

(1) be available by phone while the intern is working;

(2) observe and document the intern performing assigned activities as determined necessary by the CTI coordinator;

(3) provide and document one hour of face-to-face individual or group supervision each week; and

(4) sign off on all clinical assessments, treatment plans, and discharge summaries completed by the intern.

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

(1) be available by phone while the graduate intern is working;

(2) provide and document one hour of face-to-face individual or group supervision each week; and

(3) sign off on all clinical assessments, treatment plans, and discharge summaries completed by the graduate intern.

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

§450.126. Intern Violations.

(a) The CTI shall investigate all allegations that an intern has violated the ethical standards described in §450.121 [~~§150.121~~] of this title (relating to Ethical Standards).

(b) (No change.)

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

(1) - (5) (No change.)

(d) (No change.)