



# Community Recovery Resources

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## **Transitional Houses**

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**A  
United Way  
Agency**

August 17, 2007

Stuart Drown – Executive Director

Milton Marks Commission on California State Government Organization

925 J Street, Suite 805

Sacramento, CA 95814

Dear Mr. Drown:

Thank you for inviting me to participate as an advisory panel member in the follow up review of the Substance Abuse and Crime Prevention Act (SACPA) of 2000.

Following are comments concerning my views on pertinent SACPA issues:

### ***1. Whether the program is tailored correctly given client type:***

It has been our experience that the client group that Proposition 36 was designed to respond to varies significantly from the actual program participants in many critical ways. Whereas Proposition 36 (P-36) was intended to redirect “first time” offenders who were thought to be initial users with short term addiction histories, the actual clientele has proven to be much more advanced in both its criminal history and its sophistication in addiction cycle.

We have found that those presenting for treatment are much more ingrained in the criminal justice system and by far more entrenched in the addiction cycle. A “first time offense” is not the rule of thumb for those being treated and their needs are much more complex than what was originally expected. Unfortunately many clients are being referred to counselors who are entry level (see attached minimum requirements for only 30% of counselors in licensed facilities by 2010 by the Department of Alcohol and Drug Programs (DADP)) and who do not possess the skills and competencies necessary to address the complex needs and issues of the presenting clients.

The clientele presenting themselves through our program are more representative of heavy users with long histories who are in need of specialized care that can only be provided by experienced and knowledgeable treatment professionals. Given the severity of the addiction status of referred offenders, it is absolutely necessary that administrators develop better resources for assessment and referral of clients. Recognized assessment models, such as the *ASAM Patient Placement Criteria II* given by appropriately trained professionals should be a standard for this program. In addition an orderly assessment of treatment programs available for referral should also be made so that clients can be matched to programs that can provide the appropriate level of care needed, and reassessed a minimum of every 30 days to maximize both the treatment experience for the client and to maximize the tax-payers investment in their treatment. Programs with poor outcome results and abuse and/or incompetence problems should also be noted so that future referrals are not allowed. Would you send a loved one to a treatment program that had poor outcomes and/or staff that had been reported for unethical behavior? Would you expect taxpayers to pay for less than adequate treatment?

***2. Opportunities for creating increased success rates:***

California lags well behind other states in its commitment to the quality of care delivered in its public and private treatment centers. Sending offenders to unqualified and/or incompetent counselors, or programs with low outcomes is contrary to what I believe the voters of California envisioned when passing Proposition 36.

I believe the public and the electorate want real treatment that will change the behavior of addicts and stop crowding our prisons. I believe relying on the Department of Alcohol and Drug Programs current regulatory framework to assure Proposition 36 clients quality treatment is foolhardy at best. Only 30 percent of persons providing direct services (counseling) to clients are required to be certified by 2010. Unfortunately even those who are “certified” are certified at a level that is far below the national average. In order to raise success rates, the requirements for the treatment professionals treating P-36 clients must be increased.

No other single reform can increase outcomes more significantly than improving the treatment provided, which is the central issue that determines success or failure for the program.

### **3. Benefits of the Offender Treatment Program:**

I fully support programming that includes direct consequences, such as flash incarceration, for offenders who are unwilling to participate in their own recovery effort. *However, on the other hand I believe that it is extremely unfair to the addict and economically undesirable to the state to refer clients to programs where there are minimally experienced counselors, negligible or non-existent supervision and poor client expectations and then blame the patient or P-36 for failure. Recycling offenders through inefficient and ineffective treatment programs erodes the addict's belief in his or her own recovery effort and degrades the public's trust in treatment as an alternative to incarceration.* In this regard the Offender Treatment Program is a better model, because it returns addicts who continue to use to a safe environment that protects the public. Regardless of the model, practitioners are extremely dismayed by the lack of cooperation in many counties between mental health/health agencies and law enforcement. Better coordination and direct input from health, law enforcement and counselors is imperative for success. Allowing counties to choose between lead agencies with out mandating an advisory panel for oversight leads to compartmentalism and an unbalanced representation necessary to make integral components work together. I believe the model of Drug Courts created by the Judicial is an excellent model with a proven track record and the highest success rates of any treatment model in the Nation.

### **4. The effectiveness of the criminal justice system in curbing addiction:**

I believe using solely incarceration to curb addiction is the most expensive, socially harmful and illogical way to treat addiction. As the methamphetamine epidemic stretches across California and the Nation, this system's ability to respond is being stressed beyond all projections. In 2004 (As reported by TEDS California had over 60,000 admissions for methamphetamine with Washington being the next closest with over 9,000 admissions)(see attached). Until the state seriously considers private financing of our addiction treatment system (parity/licensure of counselors) the justice system will continue to suffer. The simplest alternative to waiting until a person's addiction has reached a stage that involves criminal conduct that draws attention from law enforcement is to simply give addicts access to care earlier in their disease progression. Addicts with access to health insurance that covers addiction treatment can address their issues while still employed and reasonably clear of the criminal justice system. I believe many addicts would be amenable to care well before legal issues would prompt them in that direction if access and social stigma were changed.

Until policy makers submit that the disease of addiction can be adequately treated in its early stages utilizing health care benefits and that standards for addiction professionals must be increased, both offender program approaches will be overburdened with addicts who are entrenched in the addiction cycle due to an inadequate treatment system.

***5. Recommended policy changes:***

The public has put its trust in the success of Proposition 36. In order to salvage that trust, I urge the commission to work toward implementing the following goals:

1. Support draft regulatory amendments that will immediately raise standards for persons giving direct services to addicts being treated in licensed and certified facilities, and that those regulatory amendments pertaining to those providing services require supervision by professionally licensed addiction professionals.
2. Strongly support parity for substance abuse and licensure of alcoholism and drug abuse counselors to create private avenues of effective addiction treatment to ease the pressures placed now on the public system which is the only model available to addicts.
3. Create a 1 year pilot program whereby a random sampling of offenders are directed to facilities where all counselors are fully certified or licensed at or above the national standard. Compare recidivism rates for the pilot program participants versus non-pilot program clients.
4. Create a database that ranks facilities based on important treatment outcome determinants such as: percentage of counselors certified at or above the national level; counselor to client ratios; client supervision parameters; ability to meet law enforcement and judiciary officials' recommendations; and success rates with past offenders. Within the same ranking system, also provide negative credit for; investigations by the DADP; ethics violations by counselors; poor supervision; and occurrences of violence and deaths. Publish this data base as a guide for use by those directing offenders to treatment programs.
5. Create an oversight board or committee in each county where representatives from justice, health and treatment programming can meet regularly to give feedback. Possible expand the role of the currently mandated alcohol advisory committee.

6. Create a cabinet level position within the Governor's office so that a clearer picture of the need to treat addiction as a disease rather than a crime be established and so that addiction issues and their accompanying criminal behavior affecting all Californians can be at the forefront of the Governors reform of State government

California has the largest treatment system in the World along with the greatest addiction treatment needs yet we lag far behind many other states in the level of attention given to this serious health issue and definitely behind in our requirements for professionalism and accountability. Although addiction may not be believed to be the most costly health issue concerning our state I believe if quantified correctly we would find that the cost of addiction is ten fold what we currently know it to be and as such should receive the like amount of attention by the Governor.

I firmly assert that because Proposition 36 clients are being mandated to the care they receive, it is the responsibility of its administrators to ensure that this care is a worthy alternative to incarceration and if not changed then we must also take responsibility for the less than desirable results we are receiving.

By adopting the six recommendations outlined above, California can move forward in addressing this public policy initiative's "Achilles heel." Without quality treatment, and fully qualified counselors at its center, reform of any kind will sorely miss its mark.

Please feel free to copy and distribute these materials as you see fit. If you have any questions, please call me at 530-273-9541 x 213 or 530-923-2421

Sincerely,

Warren Daniels, CADC II, ICADC – Executive Director  
Community Recovery Resources

Chairman – California Foundation for the Advancement of Addiction Professionals

Past President – California Association of Alcoholism and Drug Abuse Counselors

## DEPARTMENT OF ALCOHOL AND DRUG PROGRAMS

### Adoption of Chapter 8 (commencing with Section 13000), and Amendment of Sections 9846, 10125, and 10564, Division 4, Title 9, California Code of Regulations

#### COUNSELOR CERTIFICATION

##### Text of Final Regulations

#### § 9846. Staff Qualifications and Functions.

- (a) The DUI program administrator shall have the following minimum experience and/or education:
  - (1) Two years of experience providing alcohol and/or other drug treatment or recovery services;
  - (2) One year of experience supervising personnel; and
  - (3) One year of experience managing an accounting system, or preparing or directing the preparation of budgets or cost reports. Satisfactory completion of two college-level courses in accounting may be substituted for the one year of experience required in this subsection. As used in this regulation, "satisfactory completion" means attainment of a grade "C" or better.
- (b) Program staff who conduct educational sessions shall have a minimum of two years of experience in providing alcohol and/or drug education and information to persons with alcohol and/or other drug problems in a classroom setting.
- (c) Except for new hires, as specified in Section 13035(e), by April 1, 2010 all program staff who provide counseling services (as defined in Section 13005) shall be licensed, certified, or registered to obtain certification pursuant to Chapter 8 (commencing with Section 13000).
- (d) Program staff who provide counseling services (as defined in Section 13005) shall comply with the code of conduct, pursuant to Section 13060, developed by the organization by which they were certified or registered.
- (e) Volunteers may assist in conducting educational sessions, group counseling sessions, intake interviews, face-to-face interviews, or assessments of alcohol and/or other drug problems.

- (1) Volunteers assisting in the provision of educational sessions shall be under the direct supervision of a staff member who meets the requirements of Subsection (b) of this regulation. Volunteers assisting in the provision of counseling services shall be under the direct supervision of a certified counselor and shall adhere to the code of conduct specified in Section 13060.
  - (2) Volunteers shall not provide services unless the supervising staff member is present in the room during the provision of services.
- (f) The program may employ interns to conduct counseling or educational sessions. As used in this regulation, an "intern" is an entry level, paid staff member who does not have a minimum of 2,080 hours of experience in providing educational or counseling services to persons with alcohol and/or other drug problems. Prior to employing interns, the licensee shall provide the Department with a description of its intern program, which shall comply with following requirements:
- (1) Interns may not comprise more than twenty percent of the program's counseling staff.
  - (2) The licensee shall designate a staff member who is licensed or certified pursuant to Chapter 8 (commencing with Section 13000) as the coordinator of its intern program.
  - (3) Prior to conducting services without direct supervision, each intern shall observe at least three hours of face-to-face interviews, 12 hours of educational classes conducted by staff who meet the requirements of (b) of this regulation, and 20 hours of group counseling sessions conducted by a certified counselor. The licensee shall document the sessions in the intern's personnel record.
  - (4) The intern coordinator shall provide individual progress reviews with each intern on a weekly basis as long as the intern is employed as an intern or until the intern meets the requirements of (b) and (c) of this section. The licensee shall document individual progress reviews in the intern's personnel record.
  - (5) Administration and associated costs of interns may be allocated over as many AOD treatment programs within a given agency as use interns, proportionate to the number of interns used by each program.
- (g) As used in this regulation, "one year of experience" means 1,776 total hours of full or part time, compensated or uncompensated, work experience.
- (h) The licensee shall maintain personnel records for all staff, including DUI program administrators, containing:
- (1) Name, address, telephone number, position, duties, and date of employment; and

- (2) Resumes, applications, and/or transcripts documenting work experience and/or education used to meet the requirements of this regulation.
- (3) Personnel records for staff who provide counseling services (as defined in Section 13005) shall also contain:
  - (A) Written documentation of licensure, certification, or registration to obtain certification pursuant to Chapter 8 (commencing with Section 13000); and
  - (B) A copy of the code of conduct of the registrant's or certified AOD counselor's certifying organization pursuant to Section 13060.

NOTE: Authority cited: Sections 11755 and 11836.15, Health and Safety Code.  
Reference: Section 11836.15, Health and Safety Code.

**§ 10125. Counselors.**

- (a) Counselors may be physicians, physician's assistants, nurses, nurse practitioners, psychologists, social workers, psychiatric technicians, marriage and family therapists, certified counselors, or others as long as they have training or experience in treating persons with an opiate addiction.
- (b) Program staff who provide counseling services (as defined in Section 13005) shall be licensed, certified, or registered to obtain certification or licensure pursuant to Chapter 8 (commencing with Section 13000).
- (c) Program staff who provide counseling services (as defined in Section 13005) shall comply with the code of conduct, pursuant to Section 13060, developed by the organization or entity by which they were registered, licensed, or certified.
- (d) The licensee shall maintain personnel records for all staff containing:
  - (1) Name, address, telephone number, position, duties, and date of employment; and
  - (2) Resumes, applications, and/or transcripts documenting work experience and/or education used to meet the requirements of this regulation.
  - (3) Personnel records for staff who provide counseling services (as defined in Section 13005) shall also contain:
    - (A) Written documentation of licensure, certification, or registration to obtain certification pursuant to Chapter 8 (commencing with Section 13000); and
    - (B) A copy of the code of conduct of the registrant's or certified AOD counselor's certifying organization pursuant to Section 13060.

NOTE: Authority cited: Sections 11755, 11864 and 11876(a), Health and Safety Code.  
Reference: Sections 11876(a), and 11880, Health and Safety Code.

**§10564. Personnel Requirements.**

(a) Facility administrator qualifications

- (1) The facility administrator shall demonstrate abilities and competency in the following areas:
  - (A) Knowledge of the requirements for providing the type of alcoholism or drug abuse recovery or treatment services needed by residents.
  - (B) Knowledge of and ability to comply with applicable laws and regulations.
  - (C) Ability to direct the work of others, when applicable.
  - (D) Ability to develop and manage the facility's alcohol or drug abuse recovery or treatment services and budget.
  - (E) Ability to recruit, employ, train, and evaluate qualified staff, and to terminate employment of staff, if applicable.
- (2) Each licensee shall make provisions for continuing operation and administration during any absence of the regular administrative personnel.
- (3) The licensee, if an individual, or any member of the governing board of the licensed corporation or association, shall be permitted to be the facility administrator provided that he/she meets the qualifications specified in this section, and in applicable regulations.

(b) Staff Qualifications

- (1) Facility personnel including volunteers shall be competent to provide the services necessary to meet resident needs and shall be adequate in numbers necessary to meet such needs. Competence shall be demonstrated by accrued work, personal, and/or educational experience and/or on-the-job performance.
- (2) The department shall have the authority to require any licensee to provide additional staff whenever the department determines and documents that existing staff is unable to provide services as described in the plan of operation submitted to the department. The licensee shall be informed in writing of the reasons for the department's determination. The following factors shall be taken into consideration in determining the need for additional staff:
  - (A) Needs of the residents;

- (B) Extent of the services provided by the facility; and
  - (C) Physical arrangements of the particular facility.
- (3) All personnel shall be trained or shall have experience which provides knowledge of the skills required in the following areas, as appropriate to the job assigned, and as evidenced by safe and effective job performance:
- (A) General knowledge of alcohol and/or drug abuse and the principles of recovery.
  - (B) Housekeeping and sanitation principles.
  - (C) Principles of communicable disease prevention and control.
  - (D) Recognition of early signs of illness and the need for professional assistance.
  - (E) Availability of community services and resources.
  - (F) Recognition of individuals under the influence of alcohol and/or drugs.
  - (G) Principles of nutrition, food preparation and storage, and menu planning.
- (c) In addition to the requirements of (b) of this regulation, program staff who provide counseling services (as defined in Section 13005) shall be licensed, certified, or registered to obtain certification pursuant to Chapter 8 (commencing with Section 13000).
- (d) Program staff who provide counseling services (as defined in Section 13005) shall comply with the code of conduct, pursuant to Section 13060, developed by the organization by which they were certified or registered
- (e) All personnel shall be in good health.
- (1) Except as specified in (3) below, good physical health shall be verified by a health screening, including a test for tuberculosis, performed under licensed medical supervision not more than 60 days prior to or 7 days after employment with tuberculosis testing renewable every year.
- Personnel with a known record of tuberculosis or record of positive testing shall not be required to be retested if a physician verifies the individual has been under regular care and monitoring for tuberculosis. Such verification will be renewed annually.
- (2) A health screening report signed by the person performing such screening

shall be made for each person specified above, and shall indicate the following:

- (A) The person's physical qualifications to perform assigned duties.
  - (B) The presence of any health condition that would create a hazard to the person, residents or other staff members.
- (3) The good physical health of each volunteer who works in the facility shall be verified by a statement signed by each volunteer affirming that he/she is in good health, and a test for tuberculosis performed under licensed medical supervision not more than 60 days prior to or 7 days after initial presence in the facility and annually thereafter. At the discretion of the licensee, tuberculosis testing need not be required for volunteers whose functions do not necessitate frequent or prolonged contact with residents.

Volunteers with a known record of tuberculosis or record of positive testing shall not be required to be re-tested if a physician verifies the individual has been under regular care and monitoring for tuberculosis. Such verification will be renewed annually.

- (f) Personnel with evidence of physical illness that poses a threat to the health and safety of residents shall be temporarily relieved of their duties.
- (g) Residents shall not be used as substitutes for required staff but shall be permitted to participate in duties and tasks as a voluntary part of their program of activities.
- (h) When regular staff members are absent, there shall be coverage by personnel capable of performing assigned tasks as evidenced by on-the-job performance, experience or training. Residents shall not be utilized to fulfill this requirement.
- (i) Personnel shall provide services without physical or verbal abuse, exploitation or prejudice.
- (j) All personnel shall be instructed to report observation or evidence of violations of personal rights as specified in Section 10569 of this subchapter.
- (k) The licensee shall develop, maintain, and implement an ongoing training program for all staff in the areas identified in Section 10564 (b)(3) of this subchapter in addition to specific training related to their duties. Staff participation in the training program shall be documented and maintained on file for 3 years.
- (l) The licensee shall maintain personnel records for all staff, including program administrators, containing:
  - (1) Name, address, telephone number, position, duties, and date of employment; and

- (2) Resumes, applications, and/or transcripts documenting work experience and/or education used to meet the requirements of this regulation.
- (3) Personnel records for staff who provide counseling services (as defined in Section 13005) shall also contain:
  - (A) Written documentation of licensure, certification, or registration to obtain certification pursuant to Chapter 8 (commencing with Section 13000); and
  - (B) A copy of the code of conduct of the registrant's or certified AOD counselor's certifying organization pursuant to Section 13060.

NOTE: Authority cited: Section 11834.50, Health and Safety Code.  
Reference: Section 11834.27, Health and Safety Code.

## **CHAPTER 8. CERTIFICATION OF ALCOHOL AND OTHER DRUG COUNSELORS**

### **Subchapter 1. General Administration**

- 13000 Application and Purpose of Chapter
- 13005 Definitions

### **Subchapter 2. Requirement for Certification for Individuals Providing Counseling Services in AOD Recovery and Treatment Programs**

- 13010 Requirement for Certification
- 13015 Requirements for Certification of Licensed Professionals
- 13020 Requirements for Previously Certified AOD Counselors
- 13025 Requirements for Certification by Testing
- 13030 Requirements for Counselors Certified or Licensed in Other States or by Other Certifying Organizations
- 13035 Certifying Organizations

### **Subchapter 3. Requirements for Certification of AOD Counselors**

- 13040 Requirements for Initial Certification of AOD Counselors
- 13045 Issuance of Certification as an AOD Counselor
- 13050 Length of Certification
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**Chapter 8. Certification of Alcohol and Other Drug Counselors.**

**Subchapter 1. Application and Purpose of Chapter and Definitions.**

**§ 13000. Application and Purpose of Chapter.**

The regulations contained in this Chapter shall apply to all individuals providing counseling services in an alcohol or other drug (AOD) program, to all organizations certifying AOD counselors, and to all AOD programs, as defined in Section 13005.

NOTE: Authority cited: Sections 11755 and 11834.50 of the Health and Safety Code.  
Reference: Sections 11833 and 11834.27 of the Health and Safety Code.

**§ 13005. Definitions.**

- (a) The following definitions apply to terminology used in this Chapter:
- (1) “Alcohol and other drug (AOD) program” means any of the following:
    - (A) A driving under the influence program licensed pursuant to Chapter 9 (commencing with Section 11836), Part 2, Division 10.5 of the Health and Safety Code (HSC), and the provisions of Chapter 3 (commencing with Section 9795), Division 4, Title 9 of the California Code of Regulations (CCR);
    - (B) A narcotic treatment program licensed pursuant to Article 1, Chapter 10 (commencing with Section 11839), Part 2, Division 10.5, HSC, and the provisions of Chapter 4 (commencing with Section 9995), Division 4, Title 9, CCR;
    - (C) A residential alcohol or drug abuse recovery or treatment program licensed pursuant to Chapter 7.5 (commencing with Section 11834.01), Part 2, Division 10.5, HSC, and the provisions of Chapter 5 (commencing with Section 10500), Division 4, Title 9, CCR;
    - (D) An alcohol or drug recovery or treatment program certified to receive Medi-Cal reimbursement pursuant to Section 51200, Title 22, CCR;
    - (E) An alcohol or drug recovery or treatment program certified pursuant to Section 11830, Chapter 7, Part 2, Division 10.5, HSC; or
    - (F) An alcohol or drug recovery or treatment program funded pursuant to Part 2, Division 10.5, HSC (commencing with Section 11760).
  - (2) “Certified AOD counselor” means an individual certified by a certifying organization pursuant to Section 13035.
  - (3) “Certifying organization” means an organization approved to certify individuals as AOD counselors, as listed in Section 13035.
  - (4) “Counseling services” means any of the following activities:
    - (A) Evaluating participants’, patients’, or residents’ AOD treatment or recovery needs, including screening prior to admission, intake, and assessment of need for services at the time of admission;
    - (B) Developing and updating of a treatment or recovery plan;

- (C) Implementing the treatment or recovery plan;
  - (D) Continuing assessment and treatment planning;
  - (E) Conducting individual counseling sessions, group counseling sessions, face-to-face interviews, or counseling for families, couples, and other individuals significant in the life of the participants, patients, or residents; and
  - (F) Documenting counseling activities, assessment, treatment and recovery planning, clinical reports related to treatment provided, progress notes, discharge summaries, and all other client related data.
- (5) “Days” means calendar days unless otherwise specified.
  - (6) “Department” means the Department of Alcohol and Drug Programs.
  - (7) “Hour” means sixty (60) minutes unless otherwise specified.
  - (8) “Registrant” means an individual registered with any certifying organization to obtain certification as an AOD counselor.

NOTE: Authority cited: Sections 11755 and 11834.50 of the Health and Safety Code.  
Reference: Sections 11833 and 11834.27 of the Health and Safety Code.

**Subchapter 2. Requirement for Certification for Individuals  
Providing Counseling Services in AOD Recovery and Treatment Programs.**

**§ 13010. Requirement for Certification.**

- (a) By April 1, 2010, at least thirty percent (30%) of staff providing counseling services in all AOD programs shall be licensed or certified pursuant to the requirements of this Chapter. All other counseling staff shall be registered pursuant to Section 13035(f).
- (b) Each AOD program may determine which of the Department approved certifying organizations, as specified in Section 13035, it will recognize when hiring AOD counselors certified by or registered with that/those organization(s).
- (c) Certification pursuant to this Chapter does not confer on any individual any right or privilege to provide AOD treatment services outside of an AOD program or to practice any other profession for which licensure is required.

NOTE: Authority cited: Sections 11755 and 11834.50 of the Health and Safety Code.  
Reference: Sections 11833 and 11834.27 of the Health and Safety Code.

## **§ 13015. Requirements for Certification of Licensed Professionals.**

- (a) As used in this regulation, “licensed professional” means a physician licensed by the Medical Board of California; or a psychologist licensed by the Board of Psychology; or a clinical social worker or marriage and family therapist licensed by the California Board of Behavioral Sciences, or an intern registered with the California Board of Psychology or the California Board of Behavioral Sciences.
- (b) Licensed professionals, providing counseling services in an AOD program, who are in good standing with their licensing agency, shall not be required to become certified as AOD counselors pursuant to this Chapter. As used in this regulation, “in good standing” means that the individual’s license is valid and is not revoked, suspended, or otherwise terminated.
- (c) Licensed professionals, providing counseling services in an AOD program, shall provide to the AOD program by which they are employed, for retention in their personnel files, a copy of their license to practice in the State of California.
- (d) Licensed professionals, providing counseling services in an AOD program, shall complete 36 hours of continuing education during every two year period of licensure beginning January 1, 2006. Such continuing education shall be based on the curriculum described in Section 13055 and shall be provided or approved by the AOD program employing the licensed professional or one of the certifying organizations specified in Section 13035. Licensed professionals shall be required to complete 36 hours of continuing education during every two year period of licensure; however, at the discretion of the employing AOD program, the continuing education units required by the licensed professional’s licensing board shall satisfy this requirement.

NOTE: Authority cited: Sections 11755 and 11834.50 of the Health and Safety Code.  
Reference: Sections 11833 and 11834.27 of the Health and Safety Code.

**§ 13020. Requirements for Previously Certified AOD Counselors.**

- (a) Any individual who was certified to provide counseling services in an AOD program, by a certifying organization (listed in Section 13035), as of April 1, 2005, shall be deemed certified pursuant to the requirements of this Chapter. All such individuals shall comply with all other requirements of Subchapter 3 (commencing with Section 13055) of this Chapter.
- (b) Any individual, certified to provide counseling services in an AOD program, as of April 1, 2005, shall present to the AOD program by which he/she is employed, for retention in his/her personnel file, a copy of his/her certificate as an AOD counselor.

NOTE: Authority cited: Sections 11755 and 11834.50 of the Health and Safety Code.  
Reference: Sections 11833 and 11834.27 of the Health and Safety Code.

**§ 13025. Requirements for Certification by Testing.**

At its discretion, until April 1, 2007, any of the certifying organizations listed in Section 13035 may certify any individual employed as an AOD counselor as of April 1, 2005, if the individual:

- (a) Registers to obtain certification with a certifying organization listed in Section 13035;
- (b) Provides written documentation to the certifying organization that he/she has been employed to provide counseling services in an AOD program for the equivalent of forty (40) hours per week for a minimum of five (5) years between April 1, 1995 and April 1, 2005 or provides an official diploma or written transcript verifying that he/she has successfully completed an associate's degree (A.A.), a bachelor's degree (B.A. or B.S.), or a master's degree (M.A.) in the study of chemical dependency; and
- (c) Achieves a score of at least seventy percent (70%) on an oral and/or written examination, approved by the certifying organization. Achievement of a passing score on an oral or written examination administered by any one of the certifying organizations listed in Section 13035 does not mandate any other certifying organization to certify the individual as an AOD counselor.

NOTE: Authority cited: Sections 11755 and 11834.50 of the Health and Safety Code.  
Reference: Sections 11833 and 11834.27 of the Health and Safety Code.

**§ 13030. Requirements for Counselors Certified or Licensed in Other States or by Other Certifying Organizations.**

- (a) Any certifying organization listed in Section 13035 may, at its option, certify by reciprocity an individual, who is currently certified or licensed in another state to provide counseling services in an AOD program, or is currently certified by an organization other than those listed in Section 13035, if:
  - (1) The individual registers with one of the certifying organizations listed in Section 13035 and provides the certifying organization with verifiable documentation of his/her current licensure or certification,
  - (2) The certifying organization verifies that the registrant's licensure or certification is current, has never been revoked, and is not currently the subject of an investigation by either the Department or the certifying organization which granted it, and
  - (3) The certifying organization determines to its satisfaction that the standards by which the other state or certifying organization granted licensure or certification were the same as or more stringent than the standards contained in this Chapter.
- (b) The registrant/certified AOD counselor shall comply with all the requirements of Subchapter 3 (commencing with Section 13040) of this Chapter.
- (c) This regulation shall not prohibit any certifying organization from establishing additional terms and conditions for certification by reciprocity, so long as those terms and conditions do not conflict with the provisions of this Chapter.
- (d) This regulation shall not require any certifying organization to grant certification by reciprocity.

NOTE: Authority cited: Sections 11755 and 11834.50 of the Health and Safety Code.  
Reference: Sections 11833 and 11834.27 of the Health and Safety Code.

## Section 13035. Certifying Organizations

- (a) As of April 1, 2005, the following organizations are approved by the Department to register and certify AOD counselors pursuant to this Chapter:
- (1) The Breining Institute,
  - (2) The California Association of Addiction Recovery Resources,
  - (3) The California Association for Alcohol/ Drug Educators,
  - (4) The California Association of Alcoholism and Drug Abuse Counselors,
  - (5) The California Association of Drinking Driver Treatment Programs,
  - (6) The Forensic Addictions Corrections Treatment,
  - (7) The Indian Alcoholism Commission of California, Inc.,
  - (8) The American Academy of Health Care Providers,
  - (9) The Association of Christian Alcohol & Drug Counselors, or
  - (10) The California Certification Board of Chemical Dependency Counselors
- (b) The Department will also approve any other organization that certifies counselors if it requests in writing that the Department recognize it and it provides written documentation that it complies with all of the requirements of (c) of this regulation, except that the accreditation required by (c)(2) must be in place by the time the organization requests recognition, if the organization requests recognition after April 1, 2007.
- (c) The certifying organizations listed in (a) of this regulation shall:
- (1) Maintain a business office in California, and
  - (2) Become accredited with the National Commission for Certifying Agencies (NCCA) by April 1, 2007 and shall continuously maintain such accreditation. Certifying organizations may obtain information on NCCA accreditation by contacting the NCCA at 2025 M Street NW, Suite 800, Washington D.C. 20036-3309; telephone (202) 367-1165; internet address [www.noca.org](http://www.noca.org);
  - (3) Provide written documentation from the NCCA that the NCCA has determined that the certifying organization complies with the requirements of this Chapter ; and

- (4) Comply with the requirements of this Chapter.
- (d) If any of the certifying organizations specified in this regulation fails to comply with the requirements of this regulation, within five (5) working days following receipt of written notification by the Department that it is no longer approved to certify AOD counselors, the certifying organization shall send written notification to each AOD counselor registered with or certified by the certifying organization, informing him/her of his/her rights and responsibilities, including the following:
    - (1) Before expiration of his/her certification or within six (6) months of the notice (whichever is sooner), the counselor shall register with one of the other certifying organizations listed in (a) of this regulation;
    - (2) For purposes of this Chapter, the AOD counselor's certification remains valid until it expires only if the certified counselor re-registers as required by (d)(1) of this regulation;
    - (3) The new certifying organization shall give credit for any continuing education credits earned while certified by the former certifying organization; and
    - (4) The new certifying organization shall give registrants sufficient credit for education and experience completed to place the registrant at an equivalent level in the new certifying organization.
  - (e) If any of the certifying organizations specified in (a) of this regulation voluntarily chooses to stop certifying AOD counselors, it shall notify the Department in writing of its decision and follow the steps outlined in (d) of this regulation.
  - (f) By October 1, 2005 or within six (6) months of the date of hire, whichever is later, all non-licensed or non-certified individuals providing counseling services in an AOD program shall be registered to obtain certification as an AOD counselor by one of the certifying organizations specified in this regulation.
    - (1) Registrants shall complete certification as an AOD counselor within five (5) years of the date of registration.
    - (2) The certifying organization may allow up to two (2) years additional time for a leave of absence due to medical problem or other hardship, consistent with the policy developed by the certifying organization.

NOTE: Authority cited: Sections 11755 and 11834.50 of the Health and Safety Code.  
Reference: Sections 11833 and 11834.27 of the Health and Safety Code.

### **Subchapter 3. Requirements for Certification of AOD Counselors**

#### **§ 13040. Requirements for Initial Certification of AOD Counselors.**

Prior to certification as an AOD counselor, the certifying organization shall require each registrant to:

- (a) Complete a minimum of 155 documented hours of formal classroom AOD education, which shall include at least the following subjects:
  - (1) The curriculum contained in “Addiction Counseling Competencies: The Knowledge, Skills, and Attitudes of Professional Practice”, Technical Assistance Publication Series 21(TAP 21), published by the Substance Abuse and Mental Health Services Administration, United States Department of Health and Human Services, Reprinted 2002;
  - (2) Provision of services to special populations such as aging individuals; individuals with co-occurring disorders (e.g., alcoholism and mental illness); individuals with post traumatic stress disorder [PTSD]; individuals with disabilities; diverse populations; individuals with cultural differences, individuals on probation/parole, etc.;
  - (3) Ethics;
  - (4) Communicable diseases including tuberculosis, HIV disease, and Hepatitis C; and
  - (5) Prevention of sexual harassment;
- (b) Complete a minimum of 160 documented hours of supervised AOD training based on the curriculum contained in TAP 21 [as defined in (a) of this regulation] and supervised on-site by an AOD counselor who has been licensed or certified pursuant to this Chapter. As used in this regulation, “supervised” means that the individual supervising the training shall:
  - (1) Be physically present and available on site or at an immediately adjacent site, but not necessarily in the same room at all times, and
  - (2) Document in the registrant’s record that the registrant has completed the supervised training required by this subsection.
- (c) Complete, an additional 2,080 or more documented hours of paid or unpaid work experience providing counseling services in an AOD program prior to, after, or at the same time as completion of the education required in (a) of this regulation and the supervised AOD training required in (b) of this regulation.
- (d) Obtain a score of at least seventy percent (70%) on a written or oral examination approved by the certifying organization;
- (e) Sign a statement documenting whether his/her prior certification as an AOD counselor has ever been revoked; and

- (f) Sign an agreement to abide by the certifying organization's code of conduct, developed pursuant to Section 13060.

NOTE: Authority cited: Sections 11755 and 11834.50 of the Health and Safety Code.  
Reference: Sections 11833 and 11834.27 of the Health and Safety Code.

**§ 13045. Issuance of Certification as an AOD Counselor.**

- (a) Prior to certifying a registrant as an AOD counselor, the certifying organization shall contact all other certifying organizations listed in Section 13035 to determine if the registrant's certification was ever revoked.
- (b) If previous certification was revoked, the certifying organization shall document in the registrant's file its reasons for granting or denying certification. The certifying organization shall send written notification to the Department that it has granted certification to a registrant whose previous certification was revoked within 48 hours of granting such certification.
- (c) If the certifying organization denies certification it shall send the registrant a written notice of denial. The notice shall specify the registrant's right to appeal the denial in accordance with the provisions of Section 13070.
- (d) If the certifying organization decides to grant certification, upon completion of all program requirements, as specified in Section 13040, and payment of all fees charged by the certifying organization, the certifying organization shall issue a written certificate to the registrant, stating that he/she is certified as an AOD counselor.

NOTE: Authority cited: Sections 11755 and 11834.50 of the Health and Safety Code.  
Reference: Sections 11833 and 11834.27 of the Health and Safety Code.

**§ 13050. Length of Certification.**

Certification as an AOD counselor shall be valid for two (2) years from the date of certification, unless renewed pursuant to Section 13055 or revoked pursuant to Section 13065.

NOTE: Authority cited: Sections 11755 and 11834.50 of the Health and Safety Code.  
Reference: Sections 11833 and 11834.27 of the Health and Safety Code.

## § 13055. Renewal of Certification.

- (a) In order to renew certification, the certifying organization shall require each certified AOD counselor to complete a minimum of forty (40) hours of continuing education, approved by the certifying organization, during each two-year period of certification.
- (b) If a previously certified counselor's certification expires prior to April 1, 2007, in order to have his/her certification renewed, the counselor shall complete 1.6 hours of continuing education prorated for every month he/she was certified after the effective date of this Chapter, and rounded to the nearest whole hour. For example, if the counselor's previous certification expires on September 30, 2005, the counselor shall be required to complete ten (10) hours of continuing education (i.e., 1.6 hours multiplied by six months) to renew certification.
- (c) The forty (40) hours of continuing education shall include any combination of the following:
  - (1) The curriculum contained TAP 21, as defined in Section 13040;
  - (2) Provision of services to special populations including at least aging individuals; individuals with co-occurring disorders (e.g., alcoholism and mental illness); individuals with post traumatic stress disorder [PTSD]; individuals with disabilities; diverse populations; individuals with cultural differences, individuals on probation/parole, etc.;
  - (3) Ethics;
  - (4) Communicable diseases including tuberculosis, HIV disease and Hepatitis C; and
  - (5) Prevention of sexual harassment.
- (d) At the certifying organization's discretion, the forty (40) hours of continuing education may also include other topics related to the field of alcoholism and drug abuse such as residential treatment, driving-under-the-influence, etc.
- (e) All certifying organizations (listed in Section 13035) shall accept as continuing education credits hours of training in the areas specified in (c) and (d), provided by any State, county, city, or other governmental agency or by any agency which provides services through a contractual arrangement with a State and/or county agency.
- (f) The certifying organization shall document completion of all continuing education hours and the subject matter studied in each certified AOD counselor's record maintained pursuant to Section 13075.

- (g) Prior to renewing certification, the certifying organization shall review the AOD counselor's record to determine if his/her certification has been revoked during the previous certification period.
- (h) If previous certification was revoked, the certifying organization shall document in the registrant's file its reasons for granting or denying renewal of certification. Within 48 hours of renewing certification, the certifying organization shall send written notification to the Department that it has renewed certification of an AOD counselor whose previous certification was revoked.
- (i) If the certifying organization denies renewal, it shall send the AOD counselor a written notice of denial. The notice shall specify the counselor's right to appeal the denial in accordance with the provisions of Section 13070.
- (j) If the certifying organization decides to renew certification, upon completion of all continuing education requirements and payment of all fees charged by the certifying organization, the certifying organization shall issue a written certificate to the registrant, stating that his/her certification as an AOD counselor has been renewed.
- (k) If the AOD counselor's previous certification was revoked, the certifying organization shall deny renewal of certification and shall send the AOD counselor a written notice of denial of renewal. The notice shall specify the AOD counselor's right to appeal the denial in accordance with the procedure established in Section 13070.
- (l) If certification as an AOD counselor has not been revoked, the certifying organization shall renew the AOD counselor's certification upon documentation of completion of a minimum of forty (40) hours of continuing education and payment of a renewal fee as specified by the certifying organization.

NOTE: Authority cited: Sections 11755 and 11834.50 of the Health and Safety Code.  
Reference: Sections 11833 and 11834.27 of the Health and Safety Code.

**§ 13060. Code of Conduct.**

- (a) Each certifying organization shall require registrants and certified AOD counselors to comply with a code of conduct developed by the certifying organization in compliance with the requirements of this regulation.
- (b) At a minimum, the code of conduct shall require registrants and certified AOD counselors to:
  - (1) Comply with a code of conduct developed by the certifying organization;
  - (2) Protect the participant's, patient's, or resident's rights to confidentiality in accordance with Part 2, Title 42, Code of Federal Regulations;
  - (3) Cooperate with complaint investigations and supply information requested during complaint investigations unless such disclosure of information would violate the confidentiality requirements of Subpart 2, Title 42, Code of Federal Regulations.
- (c) At a minimum, the code of conduct shall prohibit registrants and certified AOD counselors from:
  - (1) Providing counseling services, attending any program services or activities, or being present on program premises while under the influence of any amount of alcohol or illicit drugs. As used in this subsection, "illicit drugs" means any substance defined as a drug in Section 11014, Chapter 1, Division 10, Health and Safety Code, except:
    - (A) Drugs or medications prescribed by a physician or other person authorized to prescribe drugs, in accordance with Section 4036, Chapter 9, Division 2, Business and Professions Code, and used in the dosage and frequency prescribed; or
    - (B) Over-the-counter drugs or medications used in the dosage and frequency described on the box, bottle, or package insert.
  - (2) Providing services beyond the scope of his/her registration or certification as an AOD counselor, or his/her professional license, if the individual is a licensed professional as defined in Section 13015;
  - (3) Discriminating against program participants, patients, residents, or other staff members, based on race, religion, age, gender, disability, national ancestry, sexual orientation, or economic condition;
  - (4) Engaging in social or business relationships for personal gain with program participants, patients, or residents, their family members or other persons who are significant to them;

- (5) Engaging in sexual conduct with current participants, patients, residents, their family members, or other persons who are significant to them;
  - (6) Verbally, physically, or sexually harassing, threatening, or abusing any participant, patient, resident, their family members, other persons who are significant to them, or other staff members.
- (d) At its discretion, the certifying organization may chose to exclude any conviction(s) for usage or possession of drugs or alcohol, which occurred prior to the time of registration for certification as an AOD counselor, as a violation of the code of conduct.
- (e) Each certifying organization shall notify registrants and AOD counselors, in writing, of any changes to its code of conduct.
- (f) Certifying organizations and AOD programs may impose more stringent standards at their discretion.

NOTE: Authority cited: Sections 11755 and 11834.50 of the Health and Safety Code.  
Reference: Sections 11833 and 11834.27 of the Health and Safety Code.

**§ 13065. Investigation of Complaints, Suspension, and Revocation.**

- (a) Within 24 hours of the time an alleged violations of the code of conduct specified in Section 13060 by a registrant or a certified AOD counselor becomes known to an AOD program, the program shall report it to the Department and to the registrant or counselor's certifying organization. Such report may be made by contacting the Department and the certifying organization in person, by telephone, in writing, or by any automated or electronic means, such as e-mail or fax.
- (b) The report shall include facts concerning the alleged violation.
- (c) The Department shall investigate each alleged violation.
- (d) Within ninety (90) days of receipt of the request for investigation, the Department shall send a written order to the certifying organization specifying what corrective action (if any) it shall take, based on the Department's investigation and the severity of the violation.
- (e) If the Department orders the certifying organization to temporarily suspend or revoke a counselor's certification or registration, the certifying organization shall so inform the counselor and the AOD program employing the counselor or registrant in person or by telephone, with written notification to follow, immediately upon receipt of the written order from the Department. The written notification shall inform the counselor or registrant of his/her right to administrative review pursuant to Section 13070.
- (f) The same day that the certifying organization sends written notification to the counselor or registrant, it shall document in its database (pursuant to Section 13075) the violation alleged, the outcome of the Department's investigation, and what action the certifying organization took based on the Department's investigation.
- (h) If the Department does not order temporary suspension or revocation, within ten (10) days of receipt of the written order from the Department, the certifying organization shall send written notification to the counselor or registrant and the AOD program employing him/her, informing him/her of the results of the investigation.

NOTE: Authority cited: Sections 11755 and 11834.50 of the Health and Safety Code.  
Reference: Sections 11833 and 11834.27 of the Health and Safety Code.

**§ 13070. Administrative Review.**

- (a) The Department may initiate administrative review if a certifying organization registers or certifies an individual whose previous registration or certification was revoked.
- (b) A counselor or registrant whose registration or certification was denied, temporarily suspended, or revoked may request an informal review by sending a written request for review to the Director, Department of Alcohol and Drug Programs, 1700 K Street, Sacramento, California 95814.
- (c) The written request for review shall be postmarked within fifteen (15) working days of the date of the written notice of denial, temporary suspension, or revocation. The written request for review shall state:
  - (1) The alleged violation of the code of conduct which is at issue and the basis for review.
  - (2) The facts supporting the request for review.
- (d) Failure to submit the written request for review, pursuant to Subsections (b) and (c) of this regulation, shall be deemed a waiver of administrative review.
- (e) Within fifteen (15) working days of receipt of the request for review, the Director or the Director's designee shall schedule and hold an informal conference to review the Department's determination, unless:
  - (1) The counselor or registrant waives the fifteen (15) day requirement, or
  - (2) The Director or the Director's designee and the counselor or registrant agree to settle the matter based upon the information submitted with the request for review.
- (f) At the informal conference, the counselor or registrant shall have the right to:
  - (1) Be represented by legal counsel,
  - (2) Present oral and written evidence, and
  - (3) Explain any mitigating circumstances.
- (g) The representatives of the Department who conducted the investigation shall and their attorney may:
  - (1) Attend the informal conference, and

- (2) Present oral and/or written evidence and information substantiating the alleged violation.
- (h) The informal conference shall be conducted as an informal proceeding.
- (i) Neither the counselor or registrant nor the Department shall have the right to subpoena any witness to attend the informal conference. However, both the counselor or registrant and the Department may call witnesses to present evidence and information at the conference.
- (j) The proceedings of the informal conference may be recorded on audio tape by either party.
- (k) The Department shall mail its decision to affirm, modify, or dismiss the notice of denial, suspension, or revocation to the counselor or registrant. The decision shall:
  - (1) Be postmarked and mailed no later than fifteen (15) working days from the date of the informal conference.
  - (2) Specify the reason for affirming, modifying, or dismissing the suspension or revocation.
  - (3) Include a statement notifying the counselor or registrant of his/her right to appeal the decision made at the informal conference in accordance with Chapter 5 (commencing with Section 11500) Part 1, Division 3, Title 2 of the Government Code.
- (l) The counselor or registrant may appeal the decision made at the informal conference by submitting a written request to the Director of the Department of Alcohol and Drug Programs, 1700 K Street, Sacramento, California, 95814, postmarked no later than fifteen (15) working days from the date the decision was mailed. Upon receipt of the request for appeal, the Department shall:
  - (1) Request the Office of Administrative Hearings to set the matter for hearing, and
  - (2) Notify the counselor or registrant of the time and place of the hearing.
- (m) Failure of the counselor or registrant to submit a written request to appeal the decision made at the informal conference postmarked within 15 working days from the date the decision was mailed shall be deemed a waiver of further administrative review and the decision of the Director or the Director's designee shall be deemed final.

NOTE: Authority cited: Sections 11755 and 11834.50 of the Health and Safety Code.  
Reference: Sections 11833 and 11834.27 of the Health and Safety Code.

**§ 13075. Maintenance of Records.**

- (a) The certifying organization shall maintain an automated electronic database , containing a record for each registrant or counselor the organization has certified. The record shall document:
  - (1) Completion of all education and work experience required pursuant to Section 13040 and Section 13055;
  - (2) Certification to provide counseling services in an AOD program;
  - (3) Renewal of certification;
  - (4) Investigation and outcome of the investigation of any complaints alleging violations of the code of conduct developed pursuant to Section 13060; and
  - (5) Temporary suspension or revocation of certification pursuant to Section 13065; and
  - (6) The final outcome of any appeal of temporary suspension or revocation adjudicated pursuant to Section 13070.
- (b) The database shall be electronically accessible by the Department and by the public.
- (c) The information contained in the database shall be updated each working day and kept current at all times.
- (d) The certifying organization shall retain the information kept in the database for five (5) years from the date of initial certification, denial, last renewal, temporary suspension, or revocation, whichever occurs last.

NOTE: Authority cited: Sections 11755 and 11834.50 of the Health and Safety Code.  
Reference: Sections 11833 and 11834.27 of the Health and Safety Code.

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