



## Substance Use Disorder Compliance Guidance Letter

<b>Number:</b> GL 24-3002
<b>Title:</b> Facility and Client Consent Requirements for Chemical Dependency Treatment Facilities Providing Outpatient Services by Electronic Means
<b>Provider Types:</b> Chemical Dependency Treatment Facilities
<b>Date Issued:</b> May 20, 2024

### 1.0 Subject and Purpose

The Texas Health and Human Services Commission (HHSC) provides guidance to licensed providers and license applicants. This letter clarifies existing requirements for licensed chemical dependency treatment facilities (CDTFs) providing outpatient services by electronic means, also known as telehealth, and outlines provider responsibilities.

### 2.0 Background and History

HHSC developed this guidance letter as a courtesy to remind providers that, per [Texas Administrative Code Title 26 \(26 TAC\) Chapter 564](#), a licensed CDTF may not be structured to only provide telehealth services to clients or to outsource electronic treatment services to other facilities.

Please note, on April 30, 2024, HHSC administratively transferred the rules in 25 TAC Chapter 448 to [26 TAC Chapter 564](#). The rule transfer notices were previously posted in the [April 5, 2024, issue of the Texas Register \(49 TexReg 2197\)](#). Refer to [Figure: 25 TAC Chapter 441 and Chapter 448 \(PDF\)](#) for a crosswalk of the administratively transferred rules.

### 3.0 Letter Details and Provider Responsibilities

All CDTFs licensed under [Texas Health and Safety Code \(HSC\) Chapter 464](#) and [26 TAC Chapter 564](#), including facilities without residential programs,

must be able to provide in-person, face-to-face services to clients at the facility's licensed premises during the facility's hours of operation.

Additionally, only a CDTF that obtained the client's signed consent authorizing the facility to treat the client, as required under [26 TAC Section 564.802](#), may provide services to the client.

### **3.1 Facility Requirements for Providing Treatment by Electronic Means**

A CDTF licensed to provide outpatient chemical dependency treatment program services may provide outpatient treatment services by electronic means if the program meets the criteria outlined in [26 TAC Section 564.911](#).

While a licensed CDTF may offer telehealth services as permitted under [26 TAC Chapter 564](#), the facility must maintain a physical location to conduct the following in-person and face-to-face services upon client request:

- Client screenings<sup>1</sup>
- Client assessments<sup>2</sup>
- Treatment services<sup>3</sup>

#### **3.11 Maintaining a Physical Location**

In addition to maintaining a physical presence to provide certain in-person face-to-face services upon request, an outpatient CDTF must comply with existing requirements for a facility's physical environment under [26 TAC Chapter 564](#), including:

- A license for each physical location at which it provides residential services or outpatient services.<sup>4</sup>
- An appropriate, safe, clean, and well-maintained environment.<sup>5</sup>
- All general environment requirements<sup>6</sup> including:
  - Adequate space, furniture, and supplies.<sup>7</sup>

---

<sup>1</sup> [26 TAC Section 564.801\(h\)\(4\)](#).

<sup>2</sup> [26 TAC Section 564.803\(b\)\(4\)](#).

<sup>3</sup> [26 TAC Section 564.911\(e\)](#).

<sup>4</sup> [26 TAC Section 564.401\(b\)](#).

<sup>5</sup> [26 TAC Section 564.14](#).

<sup>6</sup> [26 TAC Section 564.505](#).

<sup>7</sup> [26 TAC Section 564.505\(e\)](#).

- A private space for confidential interactions including all group counseling sessions.<sup>8</sup>
- Legible copies of required documents posted in a prominent public location where the CDTF provides services.<sup>9</sup>
- Emergency numbers posted by all telephones.<sup>10</sup>
- Fully stocked, visible, labeled, and easily accessible first aid supplies.<sup>11</sup>
- Group counseling sessions limited to a maximum of 16 clients, and group education and life skills training sessions limited to a maximum of 35 clients.<sup>12</sup>

HHSC Health Care Regulation evaluates whether a CDTF meets these requirements when inspecting a facility applying for licensure and after the facility obtains a license from HHSC.

### **3.2 Improper Referral for Treatment by Electronic Means**

Per [26 TAC Section 564.911\(d\)](#), only a qualified credentialed counselor (QCC) or a counselor intern who has passed the chemical dependency counselor licensing exam and has more than 2,000 hours of supervised work experience may provide treatment services by electronic means.

Per [26 TAC Section 564.804\(a\)](#), the counselor and client work together to develop and implement a treatment plan. The client record must justify when identified needs are delayed or not addressed during treatment.<sup>13</sup> When the client needs services not offered by the facility, the facility shall make appropriate referrals and document the referrals in the client record.<sup>14</sup> This does not include referring a client for telehealth services delivered from a facility that has not admitted the client nor received the client's consent for treatment. A QCC or counselor intern may not provide services, including telehealth services, to a client who is receiving chemical dependency treatment or counseling services from another professional if the QCC or counselor intern has not received the client's consent for treatment.<sup>15</sup>

---

<sup>8</sup> [26 TAC Section 564.505\(f\)](#).

<sup>9</sup> [26 TAC Section 564.506](#).

<sup>10</sup> [26 TAC Section 564.707\(c\)](#).

<sup>11</sup> [26 TAC Section 564.707\(d\)](#).

<sup>12</sup> [26 TAC Section 564.901\(b\)](#).

<sup>13</sup> [26 TAC Section 564.804\(a\)\(2\)](#).

<sup>14</sup> [26 TAC Section 564.804\(a\)\(1\)](#).

<sup>15</sup> [25 TAC Section 140.423\(k\)\(1\)](#).

A client's consent for treatment is only valid if the informed consent is documented in the client's record held by the treating facility.<sup>16</sup>

Another facility may not provide telehealth services to the client without the client's consent, even if one entity owns the two separately licensed facilities. This restriction does not extend to a QCC or qualified counselor intern located at a satellite office or location operating under the supervision of a licensed outpatient care facility because services delivered at the satellite site fall within the scope of the outpatient care facility license.<sup>17</sup>

### 3.3 Proper Facility Closure

Per [26 TAC Section 564.406\(b\)](#), when a facility closes its physical location, the facility must do the following before the facility's clients may begin receiving treatment, including telehealth, from a different facility:

- Notify the [Health Facility Licensing Unit](#).
- Ensure all clients are appropriately discharged or transferred.
- Make appropriate arrangements for maintaining client records in compliance with federal and state law and HHSC rules.

### 4.0 Resources

Review 25 TAC Chapter 140, Subchapter I at:

[texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac\\_view=5&ti=25&pt=1&ch=140&sch=I&rl=Y](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=5&ti=25&pt=1&ch=140&sch=I&rl=Y).

Review 26 TAC Chapter 564 at:

[texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac\\_view=4&ti=26&pt=1&ch=564](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=4&ti=26&pt=1&ch=564).

Review HSC Chapter 464 at:

[statutes.capitol.texas.gov/Docs/HS/htm/HS.464.htm](http://statutes.capitol.texas.gov/Docs/HS/htm/HS.464.htm).

Review the HHSC Health Care Regulation Contact Page at:

[hhs.texas.gov/providers/health-care-facilities-regulation/contact-hcfr-program-staff](http://hhs.texas.gov/providers/health-care-facilities-regulation/contact-hcfr-program-staff).

To receive future updates, sign up for GovDelivery at:

[service.govdelivery.com/accounts/TXHHSC/subscriber/new](http://service.govdelivery.com/accounts/TXHHSC/subscriber/new).

---

<sup>16</sup> [HSC Section 462.009\(e\)\(3\)](#).

<sup>17</sup> [26 TAC Section 564.401\(a\)\(10\)](#).

## 5.0 Contact Information

If you have any questions about this letter, please contact the Policies and Rules Unit by email at: [HCR\\_PRU@hhs.texas.gov](mailto:HCR_PRU@hhs.texas.gov).