

CHAPTER 2

Rules and Regulations for Substance Abuse Standards

Organizational Requirements

Section 1. Authority. These Rules are promulgated by the Wyoming Department of Health pursuant to W.S. § 9-2-2701 and the Wyoming Administrative Procedure Act at W.S. § 16-3-101, *et seq.*, to establish standards for community substance abuse prevention, early intervention, recovery support services and treatment services, and to provide a full continuum of quality, research-based, best practice substance abuse services to Wyoming citizens.

Section 2. General.

(a) Program Reporting Requirements.

(i) The program shall notify the Division in writing thirty (30) days prior to any proposed change in location, name, ownership, control of the facility, if the director of a program leaves or is put on administrative leave, or closure of a program. If there are circumstances that prevent this notice, notify the Division within one (1) business day of such changes with an explanation of the reason for the change.

(ii) If there is a change or transfer in ownership, the new owner(s) or controlling parties shall file an application for certification thirty (30) days prior to taking control. The application will be reviewed for completeness. If the application is complete, and a site visit finds that the minimum requirements are met, a six (6) month provisional certificate will be issued. If the application is not complete, it will be returned to the applicant to address such deficiencies noted. A provisional certificate will only be issued once the application is complete and approved and a site visit is conducted verifying minimum standards.

(iii) Any notice of hearing order or decision, which the Division issues to a facility prior to a transfer of ownership, shall be effective against the former owner or controlling party to such transfer, and, where appropriate, the new owner following such transfer unless said notice, order, or decision is modified or dismissed by the Division.

(iv) No program certification shall be transferable from one owner to another or from one facility to another. The program shall immediately notify the Division if the program is closing, including a plan to transfer clients to other services as indicated.

(v) The program shall immediately notify the Division electronically, by email or fax, of a client or staff death where death occurs on-site. The program shall notify the decedent's family or next of kin as soon as possible. The program shall have

written policies describing how critical incidents are handled and reviewed, including notification to the Division. The Division shall establish policies and procedures to ensure that in the case of a client or staff death that occurs on-site, the case is properly evaluated, documented, acknowledged, and handled in an appropriate manner.

(vi) The program shall notify the Division within one (1) business day of a critical fire, accident, or other incident resulting in the interruption of services at the location. The program shall have written policies describing how critical incidents are handled and reviewed, including notification to the Division. The Division shall establish policies and procedures to ensure that in the case of a critical incident that occurs on-site the case is properly evaluated, documented, acknowledged, and handled in an appropriate manner.

(vii) Legal proceedings. Every program shall report, in writing, to the Division any civil award against a program or any person while employed by the program which relates to the delivery of the service or which may impact the continued operation of the facility. In addition, every program shall report any felony conviction against the program or any person while employed by the program. The report shall be given to the Division within ten (10) calendar days of receipt of the conviction.

(b) Governing Board Protocols.

(i) The governing authority or legal owner of a program has the primary responsibility to create and maintain the organization's core values and mission via a well-defined annual plan. It assumes final authority over and responsibility for the accountability of all programs. The authority ensures compliance with applicable legal and regulatory requirements. It advocates for needed resources to carry out the mission of the organization and provides guidance to the management to ensure the success of day to day operations.

(ii) Each program shall have a governing body or other responsible person who is accountable for the development of policies and procedures to guide the daily operations. If a program is governed by a board of directors, minutes and records of all board of directors meetings shall be documented in accordance with the organizational by-laws. The governing board shall meet at a minimum quarterly. The program shall document that the program administrator has reported to the governing body or its designated representative at least one (1) time per quarter.

(iii) Each program shall keep, maintain, and make available to any employee or client an organizational chart and written policies that describe the organizational structure, including lines of authority, responsibility, communication, and staff assignments.

(iv) Each program will have a plan that monitors operations in the areas of organization, human resource, fiscal and services provided.

(c) Client Rights.

(i) Each program shall establish a written policy stating that the service will comply with the client rights requirements as specified in this section.

(ii) Each program shall establish written policies and procedures ensuring that services will be available and accessible where no person will be denied service or discriminated against on the basis of sex, race, color, creed, sexual orientation, handicap, or age, in accordance with Title VI of the Civil Rights Act of 1964, as amended, 42 USC 2000d, Title XI of the Education Amendments of 1972, 20 USC 1681-1686 and s. 504 of the Rehabilitation Act of 1973, as amended, 29 USC 794, and the Americans with Disabilities Act of 1990, as amended, 42 USC 12101-12213. Each program shall have policies that assure availability and accessibility for all persons regardless of cultural background, criminal history, drug of choice, and medical status among other factors. However, each program may impose reasonable programmatic restrictions that are intended to support therapeutic goals of the program, meet restrictions of government grants or funding, or required by limitations of the program to provide services specific to a person. Program staff shall receive training on these issues and they shall be documented in the personnel record.

(d) Emergency Procedure Requirements.

(i) During the hours services are provided, there shall be a plan for immediate access to first aid and emergency medical services. Residential programs must have at least one (1) trained staff in first aid and Cardio Pulmonary Resuscitation (CPR) on-site twenty four (24) hours, seven (7) days a week.

(ii) All programs shall have a written plan for emergency services to include potential emergencies, such as: fires, bomb threats, natural disasters, utility failures, medical emergencies, and safety during violent or other threatening situations. The plan will detail the protocols that will be followed in each situation, the chain of command, and the protocols for contacting emergency services. Documentation of staff training in emergency services is required and shall be documented in the personnel record.

(e) Tobacco Free Protocols.

(i) Use of all tobacco products, secondhand smoke, and tobacco litter must be prohibited throughout the entire facility, with no exceptions, including all indoor facilities, building entrances, offices, hallways, waiting rooms, restrooms, elevators, meeting rooms, and community areas under the control of the facility. An ashtray with a sign indicating that this is a no smoking area is permitted to allow for a person to extinguish a tobacco product safely. A treatment facility may designate out-of-doors smoking areas, so long as they are not in building entrances or other areas that permit

contamination of occupied areas by secondhand smoke or tobacco litter. This policy applies to all employees, clients, contractors, and visitors.

(ii) The program shall offer tobacco cessation programs either on-site or through referral, for both clients and staff.

(f) Legal Requirements.

(i) The program shall ensure that all its program(s), facilities, and services comply with all applicable federal, state, and local laws, regulations, codes and ordinances.

(ii) The program will obtain a local business license from the city or county if required.

(iii) Each program shall have general liability insurance including, physical, civil and professional insurance in an amount deemed sufficient by its owners or governing body when applicable. Programs providing prevention services do not have to carry liability insurance if no direct services are being provided. Funded providers with Governing Boards must carry governing board insurance in an amount deemed sufficient by its governing body.

Section 3. Certification Required for State Funds or Court-Ordered Clients.

(a) As set forth in W.S. § 9-2-2701(c), no program, provider, or facility may receive state funds for substance abuse prevention, early intervention recovery support services, or treatment services unless certified under these rules. Additionally, no substance abuse treatment program may receive court referred or ordered clients unless it is certified under these rules.

(b) All certified substance abuse service providers who are required to be certified shall meet the requirements set forth in these rules. Programs that sub-contract with providers for services must assure that the contractors are in compliance with these rules and thus the program will take full responsibility for these sub-contractors under the program's certification. Programs located outside of Wyoming may be certified, at the discretion of the Division, if they meet the applicable provisions of these rules.

(c) The Division can, under critical issues regarding safety of client, public or staff, conduct unannounced site visits to investigate such occurrences.

(d) If a program has a current recognized national accreditation for substance abuse treatment by specific level of care, applicable portions of this accreditation can be reviewed as part of the certification site visit at the discretion of the Division or its designee, utilizing the following processes.

(i) Applicable portions of the national accredited report by level of service that are congruent with these rules will be accepted in lieu of reviewing documentation for compliance with these rules.

(ii) Sections that are not congruent with these rules will be reviewed as part of the certification site visit. If Wyoming Standards exceed national accreditation standards, Wyoming Standards will be required and reviewed for compliance.

(iii) Records will be reviewed for compliance by level of service when national accreditation standards require state compliance for approval under the national standards.

(iv) Certification reports will reference portions that were viewed as congruent by level of service in the certification report and note compliance.

(e) Any program or provider seeking certification under these rules shall apply to the Division for certification on a form provided by the Division.

(f) Upon receipt of a completed application, the Division shall review the application for compliance with these rules. The review may include an on-site inspection. Within sixty (60) calendar days after receiving the completed application, the Division shall either approve or deny the application. Failure of the Division or its designee to meet this deadline shall not be construed as approval of the application.

(g) An application may be approved subject to conditions provided those conditions are fully set forth in the letter communicating them to the applicant. In the event an application is approved subject to conditions, the applicant must communicate its plan for complying with the condition within fifteen (15) business days of receiving the notification. If the applicant is unwilling to comply with the conditions, the application shall be deemed denied pending further negotiations.

(h) The Division or its designated contractor can conduct on-site certification reviews, including review of organization, personnel, fiscal and clinical records, to assure that programs are meeting compliance. Confidentiality of records will be kept per 42 CFR, Part 2, Federal Confidentiality, and 45 CFR Part 160 and 164, Health Insurance Portability and Accountability Act (HIPAA). The Division may issue a certification for any period not to exceed two (2) years based on compliance level resulting from the on-site certification review. The certification shall remain in effect for the period designated, unless suspended or revoked prior to expiration. Providers seeking renewal will complete a renewal application in a form approved by the Division.

(i) The program shall submit to the Division a written corrective action plan if the provider receives a certification report below the minimum compliance level as determined by Division policy. Other critical issues that put the client, staff or public at risk will result in corrective action even if overall minimum compliance is within the

acceptable range. The correction plan must be submitted to the Division within thirty (30) days of receipt of the request from the Division, unless requested in writing sooner.

(j) The Division shall review the corrective action plan and will notify the program of either the acceptance or rejection of the plan. An unacceptable plan must be amended and resubmitted within fifteen (15) business days of date of notice of rejection.

(k) Failure to make corrections pursuant to an approved correction plan may result in appropriate action under Chapter 2, Section 2(m)(ii), of these rules.

(l) Denial/Suspension/Revocation.

(i) The Division may deny an application to issue a certification if an applicant fails to meet all of the requirements of these rules, and may refuse to renew the certification if the applicant no longer meets or has violated any provision of these rules.

(ii) The Division may at any time upon written notification to a certified program or provider, suspend or revoke the certificate if the Division finds that the provider does not comply with these rules. The notice shall state the reasons for the action and shall inform the certificate holder of actions necessary to remedy the failures and of their right to a hearing under the Wyoming Administrative Procedure Act. In addition to revoking or suspending a certification, the Division may, in its discretion, place a program on probation under a specified, mutually agreeable written correction plan. If another state agency revokes a provider certification/license or terminates their contract, the Division may, after review of the reasons of such action and subsequent on-site investigation, revoke the certification of any services approved by the Division.

(iii) In the event a certification is suspended or revoked, notice shall be provided promptly by the Division to all courts that may refer persons to that program. Notice of final disposition of the matter shall also be promptly provided to those courts. If the Division denies, refuses to renew, suspends, or revokes a certification, the aggrieved party may request an administrative hearing under the Wyoming Administrative Procedure Act. A request for a hearing must be received by the Division within thirty (30) calendar days of the action from which the appeal is taken. If a timely request for hearing is not received by the Division, no hearing will be available. If a timely request for hearing is received, the action is stayed pending a decision on the appeal, except where the Division finds in writing that the health, safety, or welfare of clients requires that the action take effect immediately.

(m) Complaints.

(i) A complaint may be made by a program director or any person setting forth in writing the act done or omitted by the provider in violation of state and federal law, order, rule, or standard that the Division has jurisdiction over. If the complaint(s) are not under the jurisdiction of the Division, the person making the

complaint will be directed to the appropriate authority for review. The complaint shall state the following information: the name, address, and telephone number of the complaining party, and the party, person, or programs the complaint is against; a clear and complete statement of the alleged violation of the law, order, rule or standard complained of, together with the facts which will give the parties a clear and full understanding of the nature of the alleged violation. The allegations may be supported by sworn statements attached to the complaint, a statement of the relief requested, and the signature of the complaining party or his or her attorney.

(ii) The Division shall establish policies and procedures to ensure that complaints are properly evaluated, documented, acknowledged, and handled in a timely and appropriate manner. The allegations of the complaint shall determine the tasks required and the nature and scope of any investigation that may occur. The order and manner in which information is gathered depends on the type of complaint that is being investigated.

(iii) The Division, on its own initiative or following the receipt of a complaint, may conduct an investigation of a program. The purpose of an investigation is to endeavor to bring about satisfaction of the complaint and/or violation.

(iv) Upon initiation of an investigation, the Division shall provide the program director and the board of directors of the program a copy of the complaint and supporting materials in order to allow responding parties the opportunity to provide an informed response to the complaint. The investigation may include on-site inspection and collection of all available pertinent information concerning the operation of the program as it relates to the complaint being investigated. The Division may consult with the program director, the governing body of the program, the staff of the program, clients, parents or guardians of clients, and other pertinent and reliable sources of information about the program.

(v) The program director and other responding parties shall file a response to the complaint with the Division no later than twenty (20) calendar days after receipt of the complaint. For good cause shown, the Division may extend the time to respond to the complaint.

(vi) The investigation will begin upon the filing of the response. Within forty-five (45) calendar days of the initiation of an investigation, a preliminary report of the status of the investigation shall be issued to the complaining party and the responding parties. A final report of the investigation shall be issued within one hundred and twenty (120) calendar days of the initiation of the investigation. For good cause shown, the Division may extend the time of the investigation. The Division will provide a status summary every thirty (30) calendar days thereafter to the program director and the board president until the investigation process is complete.

(vii) After an investigation has been completed, the Division shall notify the program director, board president, if applicable, complaining party, and responding parties of the findings of the investigation. The Division may specify the necessary corrective action and the timeline for completion of the corrective action.

Section 4. Contract Requirements for Prevention, Early Intervention, Recovery Support Services and Substance Abuse Treatment Services.

(a) Any program or service seeking funds under these rules shall apply to the Division in a process developed by the Division as posted on the Webpage and/or sent through the mail.

(b) Eligibility for Contracts. Any public or private program or service may apply to the Division for available funds to contract to provide prevention, early intervention, recovery support services and treatment services and who comply with the rules of the contract.

(c) Preference. Those entities with which the Division contracted for substance abuse services in the year prior to the promulgation of these rules shall have a preference for initial contracts entered under these rules. The preference granted herein is intended only to extend to those specific services covered under the contract between the Division and the contractor prior to these rules. Notwithstanding any preference, all contractors are subject to suspension or revocation of certification for failure to comply with these rules. Preference may, in part, be based on the program meeting the scope of work deliverables of the previous contract.

(d) Continuum of Services. It is the objective of the Division to provide access to a continuum of prevention, early intervention, recovery support services and treatment services. Accordingly, the Division may contract with one or more applicants in a county or other geographic area in order to meet that objective.

(e) Application and submitting Letter of Intent for renewal of public funds and for the application of new public funds. The Division may, when appropriate, send a Request for Proposal (RFP) prior to contract expiration dates or when new funding is available for services. Programs or services interested in continuing to provide current services or applying for new services will submit a Letter of Intent and Application in accordance with the instructions in the RFP issued by the Division.

(f) Issuance of Contract. Once the Division has determined that a contract should be issued to a program or service, it may do so and contact the program in regard to the formal contract process. The contract shall comply with the provisions of Section 1 and 2 of Chapter VII, "The Contract of Funded Services of the Rules and Regulations of the Division of Behavioral Health," dated February 1984, and amended in October 1984 and February 1992.

Section 5. Financial Management Funded Programs and Services.

(a) Programs funded by the Division for substance abuse prevention, early intervention, recovery support services and treatment services shall keep and maintain, in accordance with state requirements and its by-laws, an accurate record of the finances of the facility.

(b) Programs funded by the Division for substance abuse prevention, early intervention, recovery support services and treatment services shall keep on file an annual operating budget with documentation of governing body approval. If the program does not have a governing board, the operating budget is still required, but governing body approval is not required. Such budgets shall categorize revenues by source of funds and expenses. In addition, a cash flow and variance report shall be submitted according to Division contract requirements.

(c) Programs funded by the Division for substance abuse prevention, intervention, treatment and recovery support services shall have policies and procedures for sliding fee arrangements with clients who are served through the use of those funds. Under these policies, publicly funded programs may not refuse to offer or provide services due to inability to pay. Fees shall be determined based on program costs using a justifiable and verifiable methodology that considers family income and size. Charges shall be consistently applied to persons seeking services. The availability of a sliding fee scale shall be posted in the program facilities in a manner conspicuous to persons seeking services. Policies and fee schedules shall be approved by the Division.

(d) Programs funded by the Division for substance abuse prevention, early intervention, recovery support and treatment services shall demonstrate financial capability to operate the facility for the period of certification, and shall annually submit a complete Independent Auditor's Report, including management letter, if applicable, to the Division. The Report shall be submitted within thirty (30) calendar days of its receipt by the program.

(e) If a funded program contracts and/or utilizes a fiscal agent to manage finances, the fiscal agent shall meet all of the requirements of this section and must allow review of supporting documentation as part of the provider's certification process.

Section 6. Financial Protocols, All Certified Programs.

(a) All programs shall establish written policies and procedures for all fiscal operations in accordance with Generally Accepted Accounting Principles.

(b) In the event of client non-payment, the program shall, at a minimum, prior to client discharge be allowed to make reasonable efforts to secure from a third-party payment source, including providing reasonable advocacy for the client with any third party payer; and offer a reasonable payment plan, which takes into account the client's

income, resources, and dependents. A client shall not be terminated for non-payment without it being addressed as part of treatment with a reasonable timeframe for resolution of the issue.

(c) All programs that contract and/or utilize a fiscal agent to manage finances shall meet all of the requirements of this section and must allow review of supporting documentation as part of the provider's certification process.

Section 7. Human Resource Management.

(a) A program shall keep, maintain, and make available to any employee or client an organizational chart and written policy that describe the organizational structure.

(b) A program shall have written policies and procedures stating that, in the selection of staff, consideration when possible will be given to each applicant's cultural competency of special populations that the program serves.

(c) A program that utilizes volunteers shall have written policies and procedures governing their activities and establishing appropriate training requirements. Volunteers must review all applicable policies and sign a form acknowledging that the policies were reviewed and agreed upon.

(d) A program shall have written policies and procedures for determining staff training needs, formulating individualized training plans, developing cross-training activities with other professional disciplines, and documenting the progress and completion of staff development goals. Personnel records shall contain a record of such activities. At a minimum, training shall include trauma assessment and management, cultural competency, rights of person served, family centered services, prevention of workplace violence, confidentiality requirements, professional conduct, ethics, and special populations served specific to services being provided.

(e) All programs with two (2) or more persons employed or under contract shall implement and enforce policies and procedures establishing a drug-free workplace. These policies and procedures shall require employees, including administrators, staff members, and volunteers, to undergo drug and/or alcohol testing whenever the program's governing board, legal owner, or administrator, has reason to believe a person may be illicitly using controlled substances or abusing alcohol. When test results are found to be positive, or whenever the program otherwise learns that an employee may be abusing alcohol or controlled substances, the program shall refer the person to a treatment program for assessment and treatment recommendations. Notwithstanding any provision of this paragraph, programs shall also report to the appropriate licensing board, if required to do so, pursuant to a contract or rules of the licensing board. The program may terminate any person who refuses to cooperate and follow recommendations for treatment or other interventions.

(f) A program shall have written policies and procedures to ensure compliance with 42 CFR, Part 2, Federal Confidentiality, and 45 CFR Part 160 and 164, Health Insurance Portability and Accountability Act (HIPAA), and other legal restrictions affecting confidentiality of alcohol and drug abuse client records. Each staff person must sign a statement acknowledging his or her responsibility to maintain confidentiality of client information.

(g) A program shall have an Executive Director appointed by the governing authority or legal owner. In the case of a sole proprietor, this is not required. The Executive Director is responsible for the day-to-day operation of the service delivery system, which includes a working knowledge of the programs provided, being accessible and available to clients and program personnel, and integrating the mission and core values of the organization. The Executive Director is responsible for gathering input needed for key decision making from clients, all levels of personnel, and other community stakeholders. A job description stating minimum qualifications and duties must be developed and signed by the Executive Director. At a minimum, the following elements are required: ensures sound fiscal management; ensures effective and efficient resource utilization; ensures program and facility safety for clients and staff; ensures demonstration of an organized system of information; ensures flow of pertinent information to appropriate parties and management; and ensures compliance with all applicable legal, ethical, and regulatory codes and requirements.

(h) All programs shall conduct such background information checks, which include the Wyoming Abuse and Neglect Central Registry, as maintained by the Division of Family Services, the sex offender registry maintained pursuant to W.S. § 7-19-303, and fingerprinting by the Division of Criminal Investigation (DCI) on all successful applicants for employment and persons with whom the program contracts, and others, including volunteers, who have direct, regular contact with clients. Each program may determine the type and scope of any background inquiry based on its needs and the duties of the person being employed. Applicants may, at the discretion of the program administrator, be provisionally employed pending the outcome of a background check.

(i) Personnel records must contain the following documentation: annual performance appraisal, background check results, current professional license, job description, resume and/or application and letters of reference or documented verbal reference checks completed by the program. I-9 Forms must be kept in a separate file in a secured location to assure confidentiality.

Section 8. Program Evaluation. A program must have an evaluation plan measuring the effectiveness of treatment and prevention services when requested by the Division.