Texas Administrative Code

TITLE 25	HEALTH SERVICES
PART 1	DEPARTMENT OF STATE HEALTH SERVICES
CHAPTER 448	STANDARD OF CARE
SUBCHAPTER I	TREATMENT PROGRAM SERVICES
RULE §448.911	Treatment Services Provided by Electronic Means

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(a) A licensed treatment program may provide outpatient chemical dependency treatment program services by electronic means provided the criteria outlined in this section are addressed.

(1) Services may be provided to adult and adolescent clients to the extent allowed by the facility's license; and

(2) Services shall be provided by a qualified credentialed counselor (QCC) or by a counselor intern with more than 2,000 hours of supervised work experience who has passed the chemical dependency counselor licensing exam.

(b) All treatment sessions shall have two forms of access control as follows:

(1) all on-line contact between a QCC and clients must begin with a verification of the client through a name, password or pin number; and

(2) security as detailed in the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

(c) A facility must implement adequate security and encryption measures to ensure all patient communications, recordings and records are protected and are in adherence with federal and state privacy laws, including HIPAA and Texas Health and Safety Code Chapters 181, 464, and 466.

(d) Programs shall maintain compliance with HIPAA and Title 42 of the Code of Federal Regulations (CFR) Part 2.

(e) Programs shall not use e-mail communications containing client identifying information.

(f) Programs shall use audio and video in real time.

(g) Programs shall ensure timely access to individuals qualified in the technology as backup for systems problems.

(h) Programs shall develop a contingency plan and maintain alternate means of communication for clients when technical problems occur during the provision of services.

(i) Programs shall provide a description of all services offered.

(j) Programs shall provide develop criteria, in addition to DSM, to assess clients for appropriateness of utilizing electronic services.

(k) Programs shall provide appropriate referrals for clients who do not meet the criteria for services.

(l) Programs shall develop a grievance procedure and provide a link to the Texas Health and Human Services Commission (HHSC) for filing a complaint when using the Internet or HHSC's toll-free number when counseling by telephone.

(m) Prior to clients engaging in Internet services, programs shall describe and provide in writing the potential risks to clients. The risks shall address at a minimum these areas:

(1) clinical aspects;

(2) security; and

(3) confidentiality.

(n) Programs shall create safeguards to ensure adolescents receive treatment services separately from adults and verify a client's identity and the identity of any authorized participant.

(o) Programs shall provide clients with information to access online or a copy of the current version of the following chemical dependency treatment facility (CDTF) rules, statutes, and federal regulations to notify clients of applicable rules and laws regarding CDTFs:

(1) This chapter;

(2) Texas Health and Safety Code Chapter 464; and

(3) 42 CFR Part 2.

(p) Programs shall provide the program's emergency contact information to the client.

(q) Programs shall maintain resource information for the local area of the client.

(r) Programs shall provide reasonable Americans with Disabilities Act of 1990 (ADA) accommodations for clients upon request.

(s) Programs must reside and perform services in Texas.

(t) HHSC maintains the authority to regulate the program regardless of the location of the client.

(u) The facility shall provide the facility's emergency contact information to the client.

(v) The facility shall maintain resource information for the local area of the client.

Source Note: The provisions of this §448.911 adopted to be effective September 1, 2004, 29 TexReg 2020; transferred effective September 1, 2004, as published in the Texas Register September 10, 2004, 29 TexReg 8842; amended to be effective March 3, 2022, 47 TexReg 655