

STATE OF CALIFORNIA AOD COUNSELOR CODE OF CONDUCT

(Version: September 1, 2019)

Signing this agreement confirms that the applicant agrees to abide by California Code of Regulations (CCR) Title 9, Section 13060. The current version of this regulation is displayed below and is subject to change as per California's regulatory process. This code of conduct does not replace CCAPP CODE OF CONDUCT FOR CREDENTIALLED ALCOHOL AND DRUG PROFESSIONALS. CCAPP certified counselors and registrants are governed by the CCAPP CODE OF CONDUCT FOR CREDENTIALLED ALCOHOL AND DRUG PROFESSIONALS and are held accountable to the provisions contained in the State of California AOD Counselor Code of Conduct. Where CCAPP standards are more stringent, CCAPP certified counselors and registrants will be held to the higher standard.

9 CCR § 13060

§ 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 choose 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.

Additional Prohibited Behavior:

Certified counselors and registrants are also prohibited from the following: (1) Securing a registration or certification by fraud, deceit, or misrepresentation. This includes: (A) Making a false statement on any application for registration or certification. (B) Withholding material information on any application for registration or certification. (C) Impersonating another registrant or AOD counselor, or permitting or allowing another person to use their registration or certificate for the purpose of providing AOD counseling services. (2) Engaging in an inappropriate relationship with a program participant. This includes: (A) Engaging in inappropriate social relationships, sexual relations or soliciting sexual relations with a client or with a former client within two years from the termination date of the counseling relationship. (B) Committing an act of sexual abuse, misconduct or an act punishable as a sexually related crime. (C) Engaging in a business relationship with clients, patients, program participants, residents and/or other persons significant to them within one year from the termination of the counseling relationship. (3) Violating, or assisting in, or abetting the violating of, or conspiring to violate any provision or term of, this Chapter. (4) Gross negligence or incompetence in the performance of alcohol and other drug counseling. This includes: (A) Failing to maintain records consistent with sound clinical judgment, the standards of the profession, and the nature of the services being rendered; and/or (B) Failing to report suspected child abuse or neglect (C) Intentionally or recklessly inflicting physical or emotional harm to any client; and/or (D) Performing professional services beyond the scope of practice for a registrant or AOD counselor. (5) Conviction of a crime, while a registrant or AOD counselor, which is substantially related to the qualifications, functions, and duties of a registrant or AOD counselor, including, crimes involving moral turpitude and sexual exploitation of a client or former client under Business and Professions Code Section 729(a). This includes A conviction after a plea of nolo contendere is a conviction within the meaning of this subdivision. (6) Providing any counseling services, attending any AOD program services or activities, or being present on AOD program premises, or acting within the scope of employment as a registrant or AOD counselor, while under the influence of any of the following: (A) Any amount of a controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code. (B) Any amount of any dangerous drug, as defined in Section 4022 of the Business and Professions Code. (C) Any amount of any alcoholic beverages. (7) The provisions of paragraphs (A) and (B) of subdivision (6) do not apply when the controlled substances or dangerous drugs are: (A) Prescribed by a licensed provider authorized to prescribe such drugs; and (B) Used in the dosage and frequency prescribed. (8) Engaging in misconduct against clients, family members of clients, and program staff members. This includes: (A) Physical, mental, or verbal abuse of clients, the family members of clients or staff members; and/or (B) Sexual harassment of clients, family members of clients or staff members; and/or (C) Discrimination against clients based on their race, religion, age, gender, disability, national origin, sexual orientation, or economic condition; and/or (D) Misappropriation of the property of clients, family members of clients or staff members; and/or (E) Intentionally violating the personal rights of a client as defined in Section 10569 of this Chapter. (9) Failing to maintain confidentiality of patient medical

information, except as disclosure is otherwise permitted or required by law. This includes violations of the following: (A) Title 42, Code of Federal Regulations, Part 2. (B) Section 11845.5 of the Health and Safety Code. (10) Failing to cooperate and participate in any Department investigation pending against a registrant or AOD counselor.

State Of California Information Notices:

CCAPP certified counselors and registrants are also required to abide by any and all duly published and posted Department of Health Care Services Mental Health Substance Use Disorder (MHSUD) Information Notices pertaining to the provision of addiction treatment services. These notices serve as regulation until administrative law procedures create permanent regulations and are fully enforceable as regulation until such time. By signing this agreement, you are agreeing that you understand and agree to abide by the following information notices:

MHSUDS INFORMATION NOTICE NO.: 18-056

Removal of Six (6) Month Registration Allowance

HSC 11833 rendered California Code of Regulations (CCR) Title 9, Section 13035(f) inoperative. Section 13035(f) allowed an individual to provide counseling services, within six (6) months of the date of hire, prior to registering with a certifying organization. 1 References to “the department” in HSC Section 11833 refer to DHCS. (See HSC, Section 11752.) This six (6) month time-period is no longer permissible. In accordance with HSC Section 11833(b)(1), any individual who provides counseling services in a licensed or certified alcohol and other drug (AOD) program, except for licensed professionals, must be registered or certified with a DHCS approved certifying organization prior to providing counseling services.

Requirement to Conduct Prior Revocation Checks

Pursuant to HSC Sections 11833(b)(2) and (c), all DHCS approved certifying organizations shall, prior to registering or certifying an individual, contact all other DHCS approved certifying organizations and the Department to determine whether the individual has ever had his or her registration or certification revoked. Contacting all other DHCS approved certifying organizations and the Department shall be done via email, telephone, or a review of the respective publically accessible database. The certifying organization shall deny a request for registration, certification, or renewal of certification of any individual whose previous registration or certification as a counselor was revoked. If a certifying organization denies a request for registration or certification, the certifying organization shall send the denied individual a written notice of denial. The notice of denial shall specify the applicant’s right to appeal the denial in accordance with CCR, Title 9, Section 13070.

MHSUDS INFORMATION NOTICE NO.: 19-002

Prohibition against patient brokering

SB 1228 adds Sections 11831.6 and 11831.7 to the California Health and Safety Code (HSC). Section 11831.6 prohibits licensed and/or certified alcoholism or drug abuse recovery and treatment facilities, owners, partners, directors, employees, and/or shareholders from giving or receiving anything of value for the referral of a person to a substance use disorder (SUD) treatment facility. This IN also notifies DHCS licensed and/or certified alcoholism or drug abuse recovery and treatment facilities of the passage of HR 6 on October 24, 2018. Subtitle J of Title VIII of HR 6, entitled “Eliminating Kickbacks in Recovery Act of 2018” adds Section 220 to Title 18 of the US Code. Section 220 imposes criminal penalties of up to \$200,000 and imprisonment

for 10 years for any individual who solicits or receives remuneration in return for referring a patient to a recovery home, clinical treatment facility, or laboratory. DHCS licensed and/or certified alcoholism or drug abuse recovery and treatment facilities are encouraged to review this new federal law and its application to their operations.

Examples of Conduct that Violates SB 1228 The following are examples of conduct by licensed or certified AOD programs or counselors that would violate Section 11831.6: 1) Soliciting or receiving any remuneration (including any kickback, bribe, or rebate) directly or indirectly, overtly or covertly, in cash or in kind, in return for referring a patient to a licensed and/or certified alcoholism or drug abuse recovery and treatment facility. 2) Any form(s) of commission or bonus paid to treatment facilities, owners, partners, directors, employees, and/or shareholders in exchange for a client referral to a licensed and/or certified alcoholism or drug abuse recovery and treatment facility. 3) Any form(s) of tangible or intangible compensation provided to a client for referral to a licensed and/or certified alcoholism or drug abuse recovery and treatment facility. This includes recruitment and payments to potential clients at Alcoholics Anonymous meetings, Narcotics Anonymous meetings, and any other recovery meetings. 4) Providing remuneration to any call center and/or company in exchange for a client referral. 5) Selling potential client information to bidders in order for the bidder to secure a potential client's enrollment at a licensed and/or certified alcoholism or drug abuse recovery and treatment facility. Penalties for Violation of SB 1228 Section 11831.7 allows DHCS to investigate allegations of violations of Section 11831.6, and, upon finding a violation, permits DHCS to impose the following potential penalties: 1. Assessment of a civil penalty of up to \$2,000 against a licensed and/or certified alcoholism or drug abuse recovery and treatment facility for each occurrence of a violation of section 11831.6; 2. Suspension of an alcoholism or drug abuse recovery and treatment facility's license or certification; 3. Revocation of an alcoholism or drug abuse recovery and treatment facility's license or certification; 4. Denial of any new application for licensure for a period of five (5) years from when the applicant is found to have violated HSC 11831.6; 5. Denial of an extension of the licensing period; 6. Denial of any applications for modification to a license; 7. Suspension of the registration or certification of a counselor or; 8. Revocation of the registration or certification of a counselor.

MHSUDS INFORMATION NOTICE NO.: 19-003

Services at the Residential Treatment Facility

HSC Section 11834.10 (AB 3162) All licensable treatment services must be provided by a residential treatment facility exclusively within the facility or within any facility identified on a single license by street address.

Medication Assisted Treatment

HSC Section 11834.26(c) (SB 992) A licensed residential treatment facility cannot deny admission to an individual based solely on the individual having a valid prescription from a licensed health care professional for a medication approved by the United States Food and Drug Administration (FDA) for the purpose of medication assisted treatment of substance use disorders.

The undersigned agrees to abide by the State of California AOD Counselor Code of Conduct and understands that this code does not supersede the CCAPP CODE OF CONDUCT FOR CREDENTIALLED ALCOHOL AND DRUG PROFESSIONALS .