



ISSUE MEMORANDUM

DATE	September 2009
TO	SB 1441 Substance Abuse Coordination Committee
FROM	SB 1441 Uniform Standards Staff Working Group Presented by: Carol Stanford, Board of Registered Nursing
SUBJECT	SB 1441 Uniform Standard # 13

(13) SB 1441 REQUIREMENT

If a board uses a private-sector vendor that provides diversion services, (1) standards for immediate reporting by the vendor to the board of any and all noncompliance with any term of the diversion contract or probation; (2) standards for the vendor's approval process for providers or contractors that provide diversion services, including, but not limited to, specimen collectors, group meeting facilitators, and worksite monitors; (3) standards requiring the vendor to disapprove and discontinue the use of providers or contractors that fail to provide effective or timely diversion services; and (4) standards for a licensee's termination from the program and referral to enforcement.

DRAFT UNIFORM STANDARD #13.

1. A vendor must report to the board, any noncompliance with any term of the diversion contract or probation as follows:

Whenever a licensee commits a minor violation, the contractor shall notify the Board within five (5) business days. Minor violations include, but are not limited to:

1. Untimely receipt of required documentation;
2. Non-attendance at group meetings;
3. Failure to contact a monitor when required;
4. Any other violations that do not present an immediate threat to the violator or to the public.

Whenever a licensee commits a major violation, the contractor shall notify the Board within one (1) business day. Major violations include, but are not limited to:

1. Failure to complete a board-ordered program;
2. Failure to undergo a required clinical diagnostic evaluation;
3. Multiple minor violations;
4. Treating patients while under the influence of drugs or alcohol;

5. Any drug/alcohol related act which would constitute a violation of the practice act or state or federal laws;
 6. Failure to obtain biological testing for substance abuse.
2. **A vendor's approval process for providers or contractors that provide diversion services, including, but not limited to, specimen collectors, group meeting facilitators, and worksite monitors is as follows:**

Specimen Collectors:

1. The provider or subcontractor shall possess all the materials, equipment, and technical expertise necessary to provide all the services.
2. The provider or subcontractor shall be able to scientifically test for urine, blood, and hair specimens for the detection of alcohol, illegal, and controlled substances.
3. The provider or subcontractor must provide collection sites that are located in areas throughout California.
4. The provider or subcontractor must have an automated 24-hour toll-free telephone system and/or a secure on-line computer database that allows the participant to check in daily for testing.
5. The provider or subcontractor must have or be subcontracted with operating collection sites that are engaged in the business of collecting urine, blood, and hair follicle specimens for the testing of drugs and alcohol within the State of California.
6. The provider or subcontractor must have a secure, HIPAA compliant, website or computer system to allow staff access to drug test results and compliance reporting information that is available 24 hours a day.
7. The provider or subcontractor shall employ or contract with toxicologists that are licensed physicians and have knowledge of substance abuse disorders and the appropriate medical training to interpret and evaluate laboratory drug test results, medical histories, and any other information relevant to biomedical information.

Group Meeting Facilitators:

A group meeting facilitator for any facilitated group must have a minimum of three (3) years experience in the treatment and rehabilitation of substance abuse.

Work Site Monitors:

1. The worksite monitor must meet the following qualifications:
 - Shall not have financial, personal, or familial relationship with the licensee, or other relationship that could reasonably be expected to compromise the ability of the monitor to render impartial and unbiased reports to the Board. This provision may be waived by the Board on a case-by-case basis.
 - The monitor's licensure scope of practice shall include the scope of practice of the licensee that is being monitored or be another health care professional approved by the board.
 - Shall have an active unrestricted license, with no disciplinary action within the last five years.

- Shall sign an affirmation that he or she has reviewed the terms and conditions of the licensee's disciplinary order and/or contract and agrees to monitor the licensee as set forth by the Board.
2. The worksite monitor must adhere to the required methods of monitoring the licensee:
 - Have face-to-face contact with the licensee in the work environment on a frequent basis as determined by the Board.
 - Interview other staff in the office regarding the licensee's behavior, if applicable.
 - Review the licensee's work attendance
 3. The worksite monitor must report to the contractor and the Board:
 - Any suspected substance abuse must be verbally reported to the Board and the licensee's employer within one hour of occurrence. If occurrence is not during the Board's normal business hours the report must be within one hour of the next business day. A written report shall be submitted to the Board within 48 hours of occurrence.
 4. The worksite monitor shall complete and submit a written report monthly or as directed by the Board. The report shall include:
 - the licensee's name;
 - license number;
 - worksite monitor's name and signature;
 - worksite monitor's license number;
 - worksite location(s);
 - dates licensee had face-to-face contact with monitor;
 - staff interviewed, if applicable;
 - attendance report;
 - any change in behavior and/or personal habits;
 - any indicators that can lead to suspected substance abuse.

Treatment Providers

1. Treatment facility staff and services must have:
 - Licensure and/or accreditation by appropriate regulatory agencies;
 - Sufficient resources available to adequately evaluate the physical and mental needs of the client, provide for safe detoxification, and manage any medical emergency;
 - Professional staff who are competent and experienced members of the clinical staff;
 - Treatment planning involving a multidisciplinary approach and specific aftercare plans;
 - Means to provide treatment/progress documentation to the provider.

3. The vendor shall disapprove and discontinue the use of providers or contractors that fail to provide effective or timely diversion services as follows:

The vendor is fully responsible for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by any of them. No subcontract shall relieve the vendor of its responsibilities and obligations. All state policies, guidelines, and requirements apply to all subcontractors.

1. If a subcontractor fails to provide effective or timely services as listed above, but not limited to any other subcontracted services, the vendor will terminate services of said contractor within 30 business days of notification of failure to provide adequate services.
2. The vendor shall notify the appropriate Board within 5 business days of termination of said subcontractor.

4. A licensee's termination from the program and referral to enforcement shall be determined as follows:

Whenever a licensee commits a major violation, the vendor shall notify the Board within one (1) business day. The violation will be reviewed by the Board on a case by case basis for termination from the program and referral to enforcement.

DISCUSSION

Most of the staff agreed that this standard was difficult to interpret and required dissecting and reviewing for the intent of the requirements listed. Some of the components of this standard had been addressed in some of the previous uniform standards by staff and have been incorporated into the body of this standard. Legal assisted with some of the language which was added during the drafting process.

PROS

- Private contractors are not as susceptible to the ebbs and flows of the state budget; or furloughs, thereby protecting the public by continuing the monitoring of licensees without interruption.
- Private contractor is able to provide staff with exceptional training and experience in chemical dependency and mental illness and state of the art equipment to assist in treatment referral and monitoring of licensees.
- Specific requirements and sanctions can be written into a private vendor contract that can provide added quality, value, and enhancement of a referral and monitoring program. This ultimately leads to greater protection of the public which is more difficult to accomplish by a State run program due to the State's complex bureaucratic processes and financial limitations.

CONS

Most of the staff agreed that this standard was difficult to interpret. It had too many components mixed together. The vendor's requirements were mixed in with the requirements for the licensee.

PUBLIC COMMENT

List of stakeholders who presented comments at the public forum.