§ 32.39 Fiscal year report.

(a) Every provider of chemical dependence services which is required to have an operating certificate pursuant to this chapter shall within one hundred twenty days after the end of its fiscal year, file an annual report with the commissioner. Said report shall be in such form and shall contain such information as shall be prescribed in rule by the commissioner, including the following:

1. A balance sheet of the program as of the end of its fiscal year, setting forth assets and liabilities at such date, including all capital, surplus, reserve depreciation and similar accounts.

2. A statement of operations of the program for its fiscal year, setting forth all revenues, expenses, taxes, extraordinary items and other credits or charges.

3. To the extent known or reasonably ascertainable, the name and address of each of the following persons:

(i) the operator of the program;

(ii) any person who, directly or indirectly, beneficially owns any interest in the land in which the program is located;

(iii) any person who, directly or indirectly, beneficially owns any interest in the building in which the program is located;

(iv) any person who, directly or indirectly, beneficially owns any interest in or any mortgage, note, deed of trust or other obligation secured in whole or in part by the land on which or the building in which the program is located;

(v) any person who, directly or indirectly, has any interest as lessor or lessee in any lease or sub-lease of the land on which the building in which the program is located; and

(vi) if the names of any of the above are not known or reasonably ascertainable by the provider, then a statement explaining why such names are not ascertainable and a description of the efforts made to ascertain such information.

4. If the program or any person named in response to subparagraph (iii) of paragraph three of this subdivision is a partnership, then the

name and address of each partner.

5. If the program or any person named in response to the subparagraph (iii) of paragraph three of this subdivision is a corporation, other than a corporation whose shares are traded on a national securities exchange or are regularly quoted in an over-the-counter market or which is a commercial bank, savings bank or savings and loan association, then the name and address of each officer, director, stockholder, and, if known, each principal stockholder and controlling person of such corporation.

6. If any corporation named in response to subparagraph (iii) of paragraph three of this subdivision is a corporation whose shares are traded on a national securities exchange or are regularly quoted in an over-the-counter market or which is a commercial bank, savings bank or savings and loan association, then the name and address of the principal executive officers and each director and, if known, each principal stockholder of such corporation.

7. If the program paid or received an aggregate of five hundred dollars or more during the fiscal year in connection with transactions with any person named in response to subparagraph (iii), (iv), or (v) of paragraph three of this subdivision or any affiliate of said person, a description of the transactions, naming the parties thereto and describing the relationships which require the transactions to be described and the goods, services, payment or other consideration received by each party to the transactions.

8. If known, the nature and amount of any interest in, or relationship with, any other program for chemical dependence, held by any person named in response to subparagraph (iii) of paragraph three of this subdivision or by any affiliate of such person.

(b) The following definitions shall be applicable to this section and to any reports filed pursuant hereto:

1. "Affiliate" means:

(i) with respect to a partnership, each partner thereof;

(ii) with respect to a corporation, each officer, director, principal stockholder and controlling person thereof;

(iii) with respect to a natural person (A) each member of said person's immediate family, (B) each partnership and each partner thereof, and (C) each corporation in which said person or any affiliate of said person is an officer, director, principal stockholder or controlling person.

2. "Controlling person" of any corporation, partnership or other entity means any person who by reason of a direct or indirect ownership interest (whether of record or beneficial) has the ability, acting either alone or in concert with others with ownership interest, to direct or cause the direction of the management or policies of said corporation, partnership or other entity. Neither the commissioner nor any employee of the office nor any member of a local legislative body of a county or municipality, nor any county or municipal official shall by reason of his or her official position, be deemed a controlling person of any corporation, partnership or other entity nor shall any person who serves as an officer, administrator or other employee of any corporation, partnership or other entity or as a member of a board of directors or trustees of any corporation be deemed to be a controlling person of such corporation, partnership or other entity as a result of such position or his or her official actions in such position.

3. "Immediate family" means parent, spouse, child, brother, sister, first cousin, aunt and uncle of such person, whether such relationship arises by reason of birth, marriage or adoption.

4. "Principal stockholder" of a corporation means any person who beneficially owns, holds or has the power to vote, ten percent or more of any class of securities issued by said corporation.

(c) The commissioner shall develop such reporting forms as he or she deems necessary to carry out the provisions of this section and in developing such forms shall consider such criteria as program size, total operating budget and modality.

(d) Every report filed by a program pursuant to this section shall contain a written statement, sworn to by or on behalf of such facility

and the operator of such program, to the effect that the report is, to the best of such person's knowledge, true and complete and prepared in accordance with the provisions of this section.