

ORDINANCE #19

CHEMICAL DEPENDENCY TREATMENT LICENSING ORDINANCE OF THE MINNESOTA CHIPPEWA TRIBE

CHAPTER I: PURPOSE

Section 101. This Ordinance is for the purpose of establishing standards for American Indian chemical dependency treatment programs and centers located on Minnesota Chippewa Tribe Reservations, except those Reservations which are subject to a similar ordinance duly enacted by a Band governing body. This Ordinance mandates high standards of care and treatment for individuals in treatment due to chemical dependency. This Ordinance allows flexibility in program administration and operation while insuring the health and safety of the clients.

Section 102. This Ordinance supersedes all prior inconsistent ordinances, resolutions and policies or procedures of the Tribal Executive Committee including, but not limited to, Ordinances Nos. 4 and 18.

CHAPTER II: DEFINITIONS

Section 201. As used in this Ordinance and the Standards, the following terms have the meanings given to them.

Section 202. Administration of medications means performing a task to provide medications to a client, and includes the following tasks, performed in the following order:

202.1 Checking the client's medication record;

202.2 Preparing the medication for administration;

202.3 Administering the medication to the client;

202.4 Documenting the administration, or the reason for not administering medications as prescribed; and

202.5 Reporting information to a licensed practitioner or a nurse regarding problems with the administration of the medication or the client's refusal to take the medication.

Section 203. Adolescent means an individual less than 18 years of age.

Section 204. Alcohol and drug counselor means persons who are licensed Alcohol and Drug Counselors under Minn. Stat. ch. 148F, and individuals exempt under Minn. Stat. 148F.11, or

certified at level 3 through the Upper Midwest Indian Council on Addictive Disorders (UMICAD).

Section 205. Applicant means a Tribe or a tribal organization that applies for licensure under this Ordinance.

Section 206. Capacity management system means a database operated by the Minnesota Department of Human Services to compile and make information available to the public about the waiting list status and current admission capacity of programs serving intravenous drug abusers.

Section 207. Central registry means a database maintained by a license holder that collects identifying information from two or more programs about individuals applying for maintenance treatment or detoxification treatment for addiction to opiates for the purpose of avoiding an individual's concurrent enrollment in more than one program.

Section 208. Chemical means controlled substances as defined by Minn. Stat. §152.01, subd. 4, alcohol, solvents and other mood-altering substances.

Section 209. Client means an individual accepted by a license holder for assessment or treatment of chemical use problems. An individual remains a client until the license holder no longer provides or plans to provide the individual with treatment services.

Section 210. Co-occurring or co-occurring client means a diagnosis that indicates a client suffers both chemical abuse or dependency and a mental health problem.

Section 211. Division means the Human Services Division of the Minnesota Chippewa Tribe.

Section 212. Direct client contact means providing face-to-face care, training, supervision, counseling, consultation, or medication to persons served by a license holder.

Section 213. Education/Human Services Subcommittee or Subcommittee means that Subcommittee of the Minnesota Chippewa Tribe which is authorized to issue licenses under this Ordinance.

Section 214. Human Services Director means the Human Services Director of the Minnesota Chippewa Tribe.

Section 215. License means a certificate issued by the Subcommittee authorizing the license holder to provide a specific program for a specified period of time in accordance with the terms of the license and the rules of the Subcommittee and the Division.

Section 216. License holder means the entity that is legally responsible for the operation of a program licensed by the Subcommittee under this Ordinance.

Section 217. Licensed practitioner means a person who is authorized to prescribe as defined in Minn. Stat., §151.01, subd. 23, or a medical doctor, doctor of osteopathy, physician's assistant, or advanced nurse practitioner employed by the Indian Health Service or a tribe.

Section 218. Licensed professional in private practice means an individual who:

218.1 Is licensed under Minn. Stat., ch. 148F, or who is exempt from licensure under that chapter but is otherwise licensed to provide alcohol and drug counseling services;

218.2 Practices solely within the permissible scope of the individual's license as defined in the law authorizing licensure; and

218.3 Does not affiliate with other licensed or unlicensed professionals for the purpose of providing alcohol and drug counseling services. Affiliation does not include conferring with other professionals or making client referrals.

Section 219. Nurse means a person licensed and currently registered to practice professional or practical nursing as defined in Minn. Stat., §148.171, subd. 14 and 15, or a nursing school graduate employed by the Indian Health Service or a tribe.

Section 220. Paraprofessional means an employee, agent, or independent contractor of a license holder who assists others in providing treatment services. Paraprofessionals include technicians, case aides, or counselor assistants. Clients of the license holder may not be a paraprofessional in that program.

Section 221. Program serving intravenous drug abusers means a program with the primary purpose of providing agonist medication-assisted therapy to clients who are narcotic dependent (regardless of whether the client's narcotic use was intravenous or by other means).

Section 222. Target population means a group of individuals experiencing problems with chemical use and with specified characteristics that a license holder proposes to serve.

Section 223. Treatment means a process of assessment of a client's needs, development of planned interventions or services to address those needs, provision of services, facilitation of services provided by other service providers, and reassessment. The goal of treatment is to assist or support the client's efforts to alter the client's harmful pattern of chemical use.

Section 224. Treatment director means an individual who meets the qualifications specified under these standards, and is designated by the license holder to be responsible for all aspects of the delivery of treatment services.

Section 225. Treatment service means a therapeutic intervention or series of interventions.

CHAPTER III: LICENSURE - APPLICABILITY

Section 301. Except as provided in Sections 302 and 303, no person, corporation, partnership, voluntary association, controlling individual, or other organization may provide treatment services to five or more individuals who exhibit a pattern of chemical abuse or chemical dependency unless licensed pursuant to this Ordinance.

Section 302. This Ordinance does not apply:

302.1 To organizations whose primary functions are information, referral, diagnosis, case management, and assessment for the purposes of placement, education, support group services, or self-help programs.

302.2 To the activities of licensed professionals in private practice whose services are not paid for by the consolidated chemical dependency treatment fund.

Section 303. This Ordinance does not apply to chemical abuse or dependency treatment provided by hospitals licensed under Minn. Stat., ch. 62J, or Minn. Stat., §§144.50 to 144.56, unless the hospital accepts funds for chemical abuse or dependency treatment under the consolidated chemical dependency treatment fund under Minn. Stat., ch. 254B, medical assistance under Minn. Stat., ch. 256B, Minnesota Care or health care cost containment under Minn. Stat., ch. 256L, or general assistance medical care under Minn. Stat., ch. 256D.

CHAPTER IV: LICENSING REQUIREMENTS

Section 401. An applicant must comply with the requirements of the Standards established by this Ordinance. The Standards are attached hereto and incorporated herein and the Standards must meet or exceed the Rule 31 Standards adopted by the American Indian Advisory Council and as set out in Minnesota Rules 9530-6405 to 9530-6505.

Section 402. Prior to issuance of a license, an applicant must submit, on forms provided by the Human Services Director information that demonstrates:

402.1 Compliance with these Standards;

402.2 Compliance with applicable building, fire and safety codes, health rules, zoning ordinances, and other applicable rules and regulations or documentation that a valid waiver has been granted in accordance with applicable law; and

402.3 An application and letter of approval from an official authorized by the Band governing body of the Reservation.

Section 403. A license holder must notify the Human Services Director when it is reasonably foreseeable that one of the following events is likely to occur or is proposed:

403.1 A change in the licensure requirements of the program;

403.2 A change in the types of treatment services provided by the program; or

403.3 A change in location.

Section 404. Upon receipt of a notice under Section 403, the Human Services Director shall make such inquiries and require such information as may be necessary to ensure compliance with this Ordinance and may condition the license on such terms as may be reasonable and necessary to ensure compliance within a specified time.

CHAPTER V: LICENSE ISSUANCE, RENEWAL, SUSPENSION AND REVOCATION

Section 501. The Subcommittee shall have the authority to issue a license under this Ordinance upon a written finding that the applicant has submitted satisfactory evidence that the applicant meets the requirements of Chapter IV.

Section 502. Not less than thirty (30) days prior to the date a license is proposed to be issued, the Human Services Director shall advise the Subcommittee of the intent to license. The Director shall provide the name of the applicant, the name and location of the facility or program, a summary of services proposed to be provided, a copy of the finding required by Section 501, such other information as may from time to time be requested by the Subcommittee, and a recommendation that a license be issued, denied, or issued subject to conditions.

Section 503. The Subcommittee may at any time prior to issuance of the license direct that issuance of a license shall be held in abeyance pending review of the Director's recommendation to license or receipt of additional information required by the Subcommittee. The Subcommittee's decision upon review of a Director's recommendation to license shall be final. The Subcommittee may authorize issuance or renewal of a license upon such conditions as it deems necessary to ensure compliance with the standards adopted by this Ordinance.

Section 504. Existing facilities and programs must apply for an initial license under this Ordinance not less than one hundred and eighty (180) days after the effective date of this Ordinance. A request for an extension of not more than ninety (90) days may be granted by the Director provided the applicant demonstrates good cause and applies for the extension prior to the application deadline date.

Section 505. All licenses issued pursuant to this Ordinance are subject to the following conditions:

505.1 Licenses are non-transferable. If a license holder proposes to change the location of a program, a new application is required.

505.2 A license holder must designate the governing board or similar entity with decision-making authority for the program or facility. The names of persons comprising such board or entity shall be kept current and changes sent to the Human Services Director.

505.3 Licenses shall be valid for one (1) year from the date of issuance.

505.4 Licenses shall prescribe the maximum number of residents (if any) and the location of the program or facility.

505.5 Licenses shall set forth any exception, qualification, or condition to the license and describe the time within which the license holder must act to conform to the Standards. No exception, qualification, condition or waiver of a Standard shall be permitted unless there is specific representation by the applicant that there will be no threat to the health and safety of any client or staff member.

Section 506. The Human Services Director shall prescribe the time and manner for renewal applications and, subject to the provisions of Section 502, may recommend issuance of a renewal license.

Section 507. The Human Services Director or the Subcommittee shall be authorized to conduct inquiries and investigations, in cooperation with the duly authorized staff of a Band governing body, of allegations that any standard or requirement of this Ordinance has been violated. The investigation may include an on-site inspection and a review of such records as are reasonably necessary to determine compliance. Reports of the results of investigation shall be prepared and used or disclosed as permitted by the regulations at 42 CFR Part 2.

Section 508. The Human Services Director may issue a notice to suspend, modify, or revoke a license upon a finding that the license holder has failed to comply with the Standards. Any notice shall include a concise statement of the alleged violation or failure to comply. A license holder shall have up to thirty (30) days to cure said violation or failure or to appeal to the Subcommittee for the purpose of showing cause why the Director's proposal should not be implemented. The decision of the Subcommittee shall be final.

Section 509. The Subcommittee shall deny an application if he/she cannot determine compliance with the requirements of Chapter IV. The Director shall give the applicant a notice setting forth each deficiency. The applicant may resubmit an application with such information as is necessary to demonstrate that each deficiency has been cured or may appeal the denial (or any subsequent denial) to the Subcommittee. The Subcommittee shall provide the applicant an opportunity to be heard before it to explain why the decision of the Director is arbitrary, capricious, or not in accordance with this Ordinance. The decision of the Subcommittee shall be final.

Section 510. References to Minnesota Statutes and Minnesota Rules are to the statutes and rules in effect at the time this Ordinance is adopted. Unless expressly noted by the Subcommittee, this Ordinance shall be applied in accordance with the Minnesota Statutes and Rules referred to herein as they may be amended from time to time.

CHAPTER VI- COMPREHENSIVE ASSESSMENT

Section 601. A comprehensive assessment of the client's chemical use problems must be coordinated by an alcohol and drug counselor and completed within three calendar days after service initiation for a residential program or up to five sessions of the client's initiation to services for all other programs. The alcohol and drug counselor may rely on information provided by a referring agency or other sources when information is available. If the comprehensive assessment cannot be completed in the time specified, the treatment plan must indicate how and when it will be completed. The comprehensive assessment must include information about the client's problems that relate to chemical use and personal strengths that support recovery, including:

- A. age, sex, cultural background, tribal affiliation, enrollment status and/or spiritual/religious practices, sexual orientation, living situation, economic status, and level of education;
- B. circumstances of service initiation;
- C. previous attempts at treatment for chemical use or dependency, compulsive gambling, or mental illness;
- D. chemical use history including amounts and types of chemicals used, frequency of use, and period of abstinence;
- E. specific problem behaviors exhibited by the client when under the influence of chemicals;
- F. current family status, family history, including history or presence of physical or sexual abuse within the family or not in the family, level of family support, level of cultural support, significant losses, and chemical use, abuse, or dependency among family members and significant others;
- G. physical concerns or diagnoses that may influence the treatment plan;
- H. mental health history and current psychiatric status, including symptoms, disability, current treatment supports, and psychotropic medication needed to maintain stability;
- I. arrests and legal interventions related to chemical use;
- J. ability to function appropriately in a work and educational setting;
- K. ability to understand written treatment materials, including rules and client rights;
- L. risk-taking behavior, including behavior that puts the client at risk of exposure to blood borne or sexually transmitted diseases;
- M. social network in relation to expected support for recovery and leisure time activities that have been associated with chemical use; and
- N. a determination whether a client is a vulnerable adult as defined in Minnesota Statutes, section 626.5572, subdivision 21. An individual abuse prevention plan is required for all clients who meet the definition of "vulnerable adult."

Section 602. An alcohol and drug counselor must prepare an assessment summary within three calendar days for a residential program or within five treatment sessions of service initiation. The summary of the comprehensive assessment results:

- A. must be prepared by an alcohol and drug counselor; and
- B. contain information relevant to treatment planning including:
 - (1) acute intoxication and withdrawal potential;
 - (2) biomedical conditions and complications;
 - (3) emotional and behavioral conditions and complications;
 - (4) treatment acceptance and resistance;
 - (5) relapse and continued use potential; and
 - (6) recovery environment.

CHAPTER VII- INDIVIDUAL TREATMENT PLANS

Section 701. Individual treatment plans for clients in treatment must continually be updated, based on new information gathered about the client's condition and on whether planned treatment interventions have had the intended effect. Treatment planning must include a cycle, repeating until service termination, of assessment, priority setting, planning, implementation, and reassessment based on progress, revised priorities, and revised plan. The plan must provide for the involvement of the client's family and those people selected by the client as being important to the success of the treatment experience at the earliest opportunity, consistent with the client's treatment needs and written consent. The plan must be developed after completion of the comprehensive assessment and is subject to amendment until services to the client are terminated. The client must have an opportunity to have active, direct involvement in selecting the anticipated outcomes of the treatment process and in developing the individual treatment plan. The individual treatment plan must be signed by the client and the alcohol and drug counselor.

Section 702. An individual treatment plan must include:

- A. treatment goals addressing each problem identified in the assessment summary prepared pursuant to these standards;
- B. specific methods to be used to address identified problems, including amount, frequency, and anticipated duration of treatment service. The methods must be appropriate to the client's language, reading skills, cultural background, and strengths;
- C. resources to which the client is being referred for problems when problems are to be addressed concurrently by another provider; and
- D. goals the client must reach to complete treatment and have services terminated.
- E. any extension for client should be approved by funding source.

Section 703. Progress notes and plan review.

A. Progress notes must be entered in a client's file weekly or after each treatment service, whichever is less frequent, by the staff person providing the service. The note must reference the treatment plan. Progress notes must:

- (1) be entered immediately following any significant event. Significant events include those events which have an impact on the client's relationship with other clients, staff, the client's family, or the client's treatment plan;
- (2) indicate the type and amount of each treatment service the client has received;
- (3) include monitoring of any physical and mental health problems and the participation of others in the treatment plan;
- (4) document the participation of others; and
- (5) document that the client has been notified of each treatment plan change and that the client either does or does not agree with the change.

B. Treatment plan review must:

- (1) occur weekly or after each treatment service, whichever is less frequent;
- (2) address each goal in the treatment plan that has been worked on since the last review; and
- (3) address whether the strategies to address the goals are effective, and if not, must include changes to the treatment plan.

C. All entries in a client's record must be legible, signed, and dated. Late entries must be clearly labeled "late entry." Corrections to an entry must be made in a way in which the original entry can still be read.

Section 704. An alcohol and drug counselor must write a discharge summary for each client. The summary must be completed within five days of the client's service termination or within five days from the client's or program's decision to terminate services, whichever is earlier.

A. The summary at termination of services must include the following information:

- (1) client's problems, strengths, and needs while participating in treatment, including services provided;
- (2) client's progress toward achieving each of the goals identified in the individual treatment plan; and
- (3) reasons for and circumstances of service termination.

B. For clients who successfully complete treatment, the summary must also include:

- (1) living arrangements upon discharge;
- (2) continuing care recommendations, including referrals made with specific attention to continuity of care for mental, physical and spiritual health problems, as needed;
- (3) service termination diagnosis; and
- (4) client's prognosis.

CHAPTER VIII- TREATMENT SERVICES

Section 801. Treatment services provided by license holder.

A. A license holder must provide treatment services including:

- (1) individual and group counseling to help the client identify and address problems related to chemical use and develop strategies to avoid inappropriate chemical use after discharge;
- (2) client education strategies to avoid inappropriate chemical use and health problems related to chemical use and the necessary changes in lifestyle to regain and maintain health. Client education (i.e. film, nurse presentation, state of Minnesota or other expert presentation, Indigenous Peoples Task Force presentation, etc.) must include information concerning the human immunodeficiency virus(HIV), according to Minnesota Statutes, section 245A.19, other sexually transmitted diseases, drug and alcohol use during pregnancy, hepatitis, and tuberculosis;
- (3) transition services to help the client integrate gains made during treatment into daily living and to reduce reliance on the license holder's staff for support; and
- (4) services to address issues related to co-occurring mental illness,(i.e. Mental Health staff and psychologist) including education for clients on basic symptoms of mental illness, the possibility of comorbidity, and the need for continued medication compliance while working on recovery from chemical abuse or dependency. Groups must address co-occurring mental illness

issues, as needed. When treatment for mental health problems is indicated, it is integrated into the client's treatment plan.

B. Treatment services provided to individual clients must be provided according to the individual treatment plan and must address cultural differences and special needs of all clients.

Section 802. A license holder may provide or arrange the following additional treatment services:

A. case management services to help the client obtain the services and support the client needs to establish a lifestyle free of the harmful effects of chemical abuse or dependency;

B. relationship counseling provided by a qualified professional to help the client identify the impact of inappropriate chemical use on others and to help the client and persons in the client's support structure identify and change behaviors that contribute to inappropriate chemical use;

C. therapeutic recreation to provide the client with an opportunity to participate in recreational activities without the use of mood-altering chemicals and to learn to plan and select leisure activities that do not involve the inappropriate use of chemicals;

D. stress management and physical well-being to help the client reach and maintain an acceptable level of health, physical fitness, and well-being;

E. living skills development to help the client learn basic skills necessary for independent living;

F. employment or educational services to help the client become financially independent;

G. socialization skills development to help the client live and interact with others in a positive and productive manner; and

H. room, board, and supervision provided at the treatment site to give the client a safe and appropriate environment in which to gain and practice new skills.

Section 803. Treatment services, including therapeutic recreation, must be provided by alcohol and drug counselors qualified according to these standards, unless the individual providing the service is specifically qualified according to the accepted standards of that profession.

Therapeutic recreation does not include planned leisure activities.

Section 804. Except for services under section 802, items A, C, and F, a client of a license holder may only receive services at any of the license holder's licensed locations or at the client's home.

CHAPTER IX- HEALTH CARE SERVICES

Section 901. An applicant or license holder must maintain a complete description of the health care services, nursing services, dietary services, and emergency physician services offered by the license holder.

Section 902. In addition to the requirements under section 1, the applicant or license holder must have a written procedure approved by a physician licensed under Minnesota Statutes, chapter 147 or the Indian Health Service for obtaining medical interventions when needed for any client. The license holder must have access to and document the availability of a licensed mental health professional to provide diagnostic assessment and treatment planning assistance.

Section 903. A license holder must meet the following requirements if services include medication administration:

A. a staff member, other than a licensed practitioner, or nurse, who is delegated by a licensed practitioner or a registered nurse the task of administration of medication or assistance with self medication must:

(1) document that the staff member has successfully completed a medication training program for unlicensed personnel through an accredited Minnesota postsecondary educational institution. Completion of the course must be documented in writing and placed in the staff member's personnel file;

(2) be trained according to a formalized training program which is taught by a registered nurse and offered by the license holder. Completion of the course must be documented in writing and placed in the staff member's personnel records; or

(3) demonstrate to a registered nurse competency to perform the delegated activity.

B. A registered nurse must be employed or contracted to develop the policies and procedures for medication administration or assistance with self-administration of medication or both. A registered nurse must provide supervision as defined in Minnesota Rules, part 6321.0100. The registered nurse supervision must include onsite supervision at least monthly or more often as warranted by client health needs. The policies and procedures must include:

(1) a provision that delegations of administration of medication are limited to administration of those medications which are oral, suppository, eye drops, ear drops, inhalant, or topical;

(2) a provision that each client's file must include documentation indicating whether staff will be administering medication or the client will be doing self-administration or a combination of both;

(3) a provision that clients may carry emergency medication such as nitroglycerin as instructed by their physician;

(4) a provision for medication to be self-administered when a client is scheduled not to be at the facility;

(5) a provision that if medication is to be self-administered at a time when the client is present in the facility, medication will be self-administered under observation of a trained staff person;

(6) a provision that if the license holder serves clients who are parents with children, the parent must administer medication to the child under staff supervision;

(7) requirements for recording the client's use of medication, including staff signatures with date and time;

(8) guidelines for when to inform a registered nurse of problems with self-administration, including failure to administer, client refusal of a medication, adverse reactions or errors; and

(9) procedures for acceptance, documentation and implementation of prescriptions, whether written verbal, telephonic or electronic.

Section 904. A license holder must have in place and implement written policies and procedures developed by a registered nurse that contains the following provisions:

A. a requirement that all drugs must be stored in a locked compartment. Schedule II drugs, as defined by Minnesota Statutes, section 152.02, must be stored in a separately locked compartment, permanently affixed to the physical plant or medication cart;

B. a system which accounts for all scheduled drugs each shift;

C. a procedure for recording the client's use of medication, including the signature of the administrator of the medication with the time and date;

D. a procedure for destruction of discontinued, outdated or deteriorated medications;

- E. a statement that only authorized personnel are permitted to have access to the keys to the locked drug compartments; and
- F. a statement that no legend drug supply for one client will be given to another client.

CHAPTER X- CLIENT RECORDS

Section 1001. A license holder must maintain a file of current client records on the premises where the treatment services are provided or coordinated. The content and format of client records must be uniform and entries in each case must be signed and dated by the staff member making the entry. The license holder must maintain a record that documents compliance with part 9530.6445, subpart 4. Client records must be protected against loss, tampering, or unauthorized disclosure in compliance with Minnesota Statutes, Code of Federal Regulations, title 42, chapter 1, part 2, subpart B, sections 2.1 to 2.67.

Section 1002. Records of discharged clients must be retained by a license holder for seven years. License holders that cease to provide treatment services must retain client records for seven years from the date of facility closure and must notify the commissioner of the location of the records and the name of a person responsible for maintaining the records.

Section 1003. Client records must contain the following:

- A. documentation that the client was given information on client rights, responsibilities, grievance procedures, tuberculosis, and HIV, and that the client was provided an orientation to the program abuse prevention plan as required under Minnesota Statutes, section 245A.65, subdivision 2, paragraph (a)(4);
- B. a comprehensive assessment completed according to these standards;
- C. an individual abuse prevention plan that complies with these standards, when applicable;
- D. an individual treatment plan, as required under these standards;
- E. progress notes, as required in these standards; and
- F. a summary of termination of services, written according to these standards.

Section 1004. A license holder who intends to use electronic record keeping or electronic signatures to comply with these standards must first obtain written permission from the commissioner. Both the Chairman of the Subcommittee and the Human Services Director must grant permission after the license holder provides documentation demonstrating the license holder's use of a system for ensuring security of electronic records. Use of electronic record keeping or electronic signatures does not alter the license holder's obligations under state or federal law, regulation or rule.

CHAPTER XI- STAFFING REQUIREMENTS

Section 1101. A license holder must have a treatment director.

Section 1102. A license holder must employ an alcohol and drug counselor supervisor who meets the requirements under these standards. An individual may be simultaneously employed as a treatment director, alcohol and drug counselor supervisor, and an alcohol and drug counselor if

the individual meets the qualifications for each position. If an alcohol and drug counselor is simultaneously an alcohol and drug counselor supervisor or treatment director, that individual must be considered a 0.5 full-time equivalent alcohol and drug counselor for purposes of meeting the staffing requirements under section 4.

Section 1103. A treatment director must designate a staff member who, when present in the facility, is responsible for the delivery of treatment services. A license holder must have a designated staff person during all hours of operation. A license holder providing room and board and treatment at the same site must have a responsible staff person on duty 24 hours a day. The designated staff person must know and understand the implications of these standards.

Section 1104. At least 25 percent of a counselor's scheduled work hours must be allocated to indirect services, including documentation of client services, coordination of services with others, treatment team meetings, and other duties. A counseling group shall not exceed an average of 16 clients. It is the responsibility of the license holder to determine an acceptable group size based on the client's needs. A counselor in a program treating intravenous drug abusers must not supervise more than 50 clients.

Section 1105. When clients are present, a license holder must have at least one staff person on the premises who has a current American Red Cross standard first aid certificate or an equivalent certificate and at least one staff person on the premises who has a current American Red Cross community, American Heart Association, or equivalent CPR certificate. A single staff person with both certifications satisfies this requirement.

CHAPTER XII- STAFF QUALIFICATIONS

Section 1201. All staff members who have direct client contact must be at least 18 years of age. At the time of hiring, all staff members must meet the qualifications in item A, B or C.

A. Treatment directors, supervisors, nurses, counselors and other professionals must be free of chemical use problems for at least the two years immediately preceding their hiring and must sign a statement attesting to that fact.

B. Paraprofessionals and all other staff members with direct client contact must be free of chemical use problems for at least one year immediately preceding their hiring and must sign a statement attesting to that fact.

C. Other qualifications recognized by the **reservation's employment policies**.

Section 1202. Staff members with direct client contact must be free from chemical use problems as a condition of employment, but are not required to sign additional statements. Staff members with direct client contact who are not free from chemical use problems must be removed from any responsibilities that include direct client contact for the time period specified in subpart 1. The time period begins to run on the date the employee begins receiving treatment services or the date of the last incident as described in the list developed according to these standards.

Section 1203. In addition to meeting the requirements of Section 1, a treatment director must know and understand the implications of these standards. A treatment director must:

- A. have at least one year of work experience in direct service to individuals with chemical use problems or one year of work experience in the management or administration of direct service to individuals with chemical use problems; and
- B. have a baccalaureate degree or three years of work experience in administration or personnel supervision in human services.

Section 1204. In addition to meeting the requirements of Section 1, an alcohol and drug counselor supervisor must meet the following qualifications:

- A. the individual is competent in the areas specified in section 5;
- B. the individual has three or more years of experience providing individual and group counseling to chemically dependent clients except that, prior to the effective date of parts of these standards, an individual employed in a program formerly licensed under Rule 9530.5000 to 9530.6400, previous Minnesota Chippewa Tribe Licensure or Reservation as determined by the Department, is required to have one or more years experience; and
- C. the individual knows and understands the implications of these standards.

Section 1205. In addition to meeting the requirements of Section 1, an alcohol and drug counselor must be either licensed or exempt from licensure under Minnesota Statutes, chapter 148C, or certified by UMICAD. An alcohol and drug counselor must document competence in screening for and working with clients with mental health problems, through education, training, and experience.

A. Alcohol and drug counselors licensed under Minnesota Statutes, chapter 148C, must comply with rules adopted under Minnesota Statutes, chapter 148C.

B. Counselors exempt under Minnesota Statutes, chapter 148C, must be competent, as evidenced by one of the following:

- (1) completion of at least a baccalaureate degree with a major or concentration in social work, nursing, sociology, human services, or psychology, or licensure as a registered nurse; successful completion of a minimum of 120 hours of classroom instruction in which each of the core functions listed in Minnesota Statutes, chapter 148C, is covered; and successful completion of 440 hours of supervised experience as an alcohol and drug counselor, either as a student or as a staff member;
- (2) completion of 270 hours of alcohol and drug counselor training in which each of the core functions listed in Minnesota Statutes, chapter 148C, is covered, and successful completion of 880 hours of supervised experience as an alcohol and drug counselor, either as a student, or as a staff member;
- (3) current certification as an alcohol and drug counselor or alcohol and drug counselor reciprocal, through the evaluation process established by the International Certification and Reciprocity Consortium Alcohol and Other Drug Abuse, Inc., and published in the Case Presentation Method Trainer's Manual, copyright 1993. The manual is incorporated by reference. It is available at the State Law Library, Judicial Center, 25 Reverend Dr. Martin Luther King Jr. Blvd., St. Paul, Minnesota 55155;
- (4) completion of a bachelor's degree including 480 hours of alcohol and drug counseling education from an accredited school or educational program and 880 hours of alcohol and drug counseling practicum; or
- (5) employment in a program formerly licensed under parts 9530.5000 to 9530.6400 and successful completion of 6,000 hours of supervised work experience in a licensed program as an alcohol and drug counselor prior to the effective date of

parts 9530.6405 to 9530.6590.

(6) other qualifications recognized by the Reservation.

Section 1206. A paraprofessional must comply with Section 1 and have knowledge of client rights, as outlined in the UMICAD Code of Ethical Behavior. A paraprofessional may not admit, transfer, or discharge clients but may be the person responsible for the delivery of treatment services as required in these standards.

Section 1207. Volunteers may provide treatment services when they are supervised and can be seen or heard by a staff member meeting the criteria in Section 4 or 5, but may not practice alcohol and drug counseling unless qualified under Section 5.

Section 1208. A qualified staff person must supervise and be responsible for all treatment services performed by student interns and must review and sign all assessments, progress notes, and treatment plans prepared by the intern.

CHAPTER XIII- PROVIDER POLICIES AND PROCEDURES

Section 1301. License holders must develop a written policy and procedures manual. The manual must contain the following materials:

- A. assessment and treatment planning policies, which include screening for mental health concerns, and the inclusion of treatment objectives related to identified mental health concerns in the client's treatment plan;
- B. policies and procedures regarding HIV that comply with Minnesota Statutes, section 245A.19;
- C. the methods and resources used by the license holder to provide information on tuberculosis and tuberculosis screening to all clients and to report known cases of tuberculosis infection according to Minnesota Statutes, section 144.4804;
- D. personnel policies that comply with these standards;
- E. policies and procedures that protect client rights as required under these standards;
- F. a medical services plan that complies with these standards;
- G. emergency procedures that comply with these standards;
- H. policies and procedures for maintaining client records per these standards;
- I. a description of treatment services including the amount and type of client services provided;
- J. the methods used to achieve desired client outcomes; and
- K. the hours of operation and target population served.

CHAPTER XIV- PERSONNEL POLICIES AND PROCEDURES

Section 1401. License holders must have written personnel policies and must make them available to each staff member. The policies must:

- A. assure that staff member retention, promotion, job assignment, or pay are not affected by a good faith communication between a staff member and the Minnesota Chippewa Tribe, Tribal Council or their designee, Agency, or local agencies for the investigation of complaints regarding a client's rights, health, or
- B. safety;

- B. contain job descriptions for each position specifying responsibilities, degree of authority to execute job responsibilities, and qualifications;
- C. provide for job performance evaluations based on standards of job performance to be conducted on a regular and continuing basis, including a written annual review;
- D. describe behavior that constitutes grounds for disciplinary action, suspension or dismissal, including policies that address chemical use problems and meet the requirements of these standards.
- E. list behaviors or incidents that are considered chemical use problems. The list must include:
 - (1) receiving treatment for chemical use within the period specified for the position in the staff qualification requirements;
 - (2) chemical use that has a negative impact on the staff member's job performance;
 - (3) chemical use that affects the credibility of treatment services with clients, referral sources, or other members of the community; and
 - (4) symptoms of intoxication or withdrawal on the job;
- F. include a chart or description of the organizational structure indicating lines of authority and responsibilities; and
- G. include orientation for all new staff based on a written plan that, at a minimum, must provide for training related to the specific job functions for which the staff member was hired, policies and procedures, and client needs.

Section 1402. A license holder must ensure that each staff person has the training required in items A to E.

- A. All staff must be trained every two years in client confidentiality rules and regulations and client ethical boundaries.
- B. All staff must be trained every two years in emergency procedures and client rights as specified in the UMICAD Client Bill of Rights
- C. All staff with direct client contact must be trained every year covering the facility's policies concerning obtaining client releases of information.
- D. All staff with direct client contact must receive training upon hiring and annually thereafter on the human immunodeficiency virus minimum standards according to Minnesota Statutes, section 245A.19.
- E. Treatment directors, supervisors, nurses, and counselors must obtain 12 hours of training in co-occurring mental health problems and chemical abuse or dependency that includes competencies related to philosophy, screening, assessment, diagnosis and treatment planning, documentation, programming, medication, collaboration, mental health consultation, and discharge planning. Staff employed by a license holder on the date this rule is adopted must obtain the training within 12 months of the date of adoption. New staff who have not obtained such training must obtain it within 12 months of the date this rule is adopted or within six months of hire, whichever is later. Staff may request, and the license holder may grant credit for, relevant training obtained prior to the effective date of this rule.

Section 1403. The license holder must maintain a separate personnel file for each staff member. At a minimum, the personnel file must be maintained to meet the requirements under these standards and contain the following:

- A. a completed application for employment signed by the staff member and containing the staff member's qualifications for employment;

- B. for staff members who will be providing psychotherapy services, employer names and addresses for the past five years for which the staff member provided psychotherapy services, and documentation of an inquiry made to these former employers regarding substantiated sexual contact with a client as required by Minnesota Statutes, chapter 148A;
- D. documentation of completed orientation and training;
- E. documentation demonstrating compliance with these standards; and
- F. documentation demonstrating compliance with these standards, for staff members who administer medications.

CHAPTER XV- SERVICE INITIATION AND SERVICE TERMINATION POLICIES

Section 1501. A license holder must have a written service initiation policy containing service initiation preferences which comply with this rule and Code of Federal Regulations, title 45, part 96.131, and specific service initiation criteria. The license holder must not initiate services for individuals who do not meet the service initiation criteria. The service initiation criteria must be either posted in the area of the facility where services for clients are initiated, or given to all interested persons upon request. Titles of all staff members authorized to initiate services for clients must be listed in the services initiation and termination policies. A license holder that serves intravenous drug abusers must have a written policy that provides service initiation preference as required by Code of Federal Regulations, title 45, part 96.131.

Section 1502. A license holder has specific responsibilities when terminating services or denying treatment service initiation to clients for reasons of health, behavior, or criminal activity.

- A. The license holder must have and comply with a written protocol for assisting clients in need of care not provided by the license holder, and for clients who pose a substantial likelihood of harm to themselves or others, if the behavior is beyond the behavior management capabilities of the staff. All service terminations and denials of service initiation which pose an immediate threat to the health of any individual or require immediate medical intervention must be referred to a medical facility capable of admitting the individual.
- B. All service termination policies and denials of service initiation that involve the commission of a crime against a license holder's staff member or on a license holder's property, as provided under Code of Federal Regulations, title 42, section 2.12(c)(5), must be reported to a law enforcement agency with proper jurisdiction.

Section 1503. A license holder must have a written policy specifying the conditions under which clients must be discharged. The policy must include:

- A. procedures for individuals whose services have been terminated under subpart 2;
- B. a description of client behavior that constitutes reason for a staff-requested service termination and a process for providing this information to clients;
- C. procedures staff must follow when a client leaves against staff or medical advice and when the client may be dangerous to self or others;
- D. procedures for communicating staff-approved service termination criteria to clients, including the expectations in the client's individual treatment plan according to these standards; and
- E. titles of staff members authorized to terminate client services must be listed in the service initiation and termination policies.

CHAPTER XVI- POLICIES AND PROCEDURES THAT PROTECT CLIENT RIGHTS

Section 1601. The license holder must give each client upon service initiation a written statement of client's rights and responsibilities. Staff must review the statement with clients at that time.

Section 1602. Upon service initiation, the license holder must explain the grievance procedure to the client or their representative. The grievance procedure must be posted in a place visible to clients, and made available upon a client's request. The grievance procedure must also be made available to former clients upon request. The grievance procedure must require that:

- A. staff help the client develop and process a grievance;
- B. telephone numbers and addresses of the Human Services Director, Board of Behavioral Health and Therapy, office of alcohol and drug counselor licensing program, and UMICAD, be made available to clients; and
- C. a license holder be obligated to respond to the client's grievance within three days of a staff member's receipt of the grievance, and must permit the client to bring the grievance to the highest level of authority in the program if not resolved by other staff members.

Section 1603. All photographs, video tapes, and motion pictures of clients taken in the provision of treatment services are considered client records. Photographs for identification and recordings by video and audio tape for the purpose of enhancing either therapy or staff supervision may be required of clients, but may only be available for use as communications within a program. Clients must be informed when their actions are being recorded by camera or tape, and have the right to deny any taping or photography, except as authorized by this subpart.

CHAPTER XVII- EMERGENCY PROCEDURES

Section 1701. A license holder or applicant must have written procedures that staff must follow when responding to a client who exhibits behavior that is threatening to the safety of the client or others. The procedures must include:

- A. a plan designed to prevent the client from hurting themselves or others;
- B. contact information for emergency resources that staff must consult when a client's behavior cannot be controlled by the procedures established in the plan;
- C. types of procedures that may be used;
- D. circumstances under which emergency procedures may be used; and
- E. staff members authorized to implement emergency procedures.

Section 1702. Emergency procedures must not be used to enforce facility rules or for the convenience of staff. Emergency procedures must not be part of any client's treatment plan, or used at any time for any reason except in response to specific current behaviors that threaten the safety of the client or others. Emergency procedures may not include seclusion or restraint.

CHAPTER XVIII- EVALUATION

Section 1801. License holders must participate in the drug and alcohol abuse normative evaluation system (DAANES) by submitting information about each client to the Department of Human Services on forms specified by the Department of Human Services. The information must include demographic data about the client, including the client's chemical use history, previous treatment services related to chemical use, other problems associated with chemical use, and status at the time of service termination.

Section 1802. A license holder must submit additional information requested by the Department of Human Services that is necessary to meet statutory or federal funding requirements.

CHAPTER IXX- ADDITIONAL REQUIREMENTS FOR LICENSE HOLDERS SERVING ADOLESCENTS

Section 1901. A residential treatment program that serves persons under 18 years of age must be licensed as a residential program for children in out-of-home placement by the department unless the license holder is exempt under Minnesota Statutes, section 245A.03, subdivision 2.

Section 1902. In addition to the requirements specified in these standards, an alcohol and drug counselor providing treatment services to adolescents must have:

- A. an additional 30 hours of classroom instruction or one three-credit semester college course in adolescent development. This training need only be completed one time; and
- B. at least 150 hours of supervised experience as an adolescent counselor, either as a student or as a staff member.

Section 1903. At least 25 percent of a counselor's scheduled work hours must be allocated to indirect services, including documentation of client services, coordination of services with others, treatment team meetings, and other duties. A counseling group consisting entirely of adolescents must not exceed 16 clients. It is the responsibility of the license holder to determine an acceptable group size based on the needs of the clients.

Section 1904. Clients who are required to attend school must be enrolled and attending an educational program that has been approved by the Minnesota Department of Education.

Section 1905. In addition to the requirements specified in the client's treatment plan under these standards, programs serving adolescents must include the following:

- A. coordination with the school system to address the client's academic needs;
- B. when appropriate, a plan that addresses the client's leisure activities without chemical use; and
- C. a plan that addresses family involvement in the adolescent's treatment.

CHAPTER XX- ADDITIONAL REQUIREMENTS FOR LICENSE HOLDERS SERVING CLIENTS WITH CHILDREN.

Section 2001. In addition to the requirements of these standards, all license holders that offer supervision of children of clients are subject to the requirements of this part. License holders providing room and board for clients and their children may have an appropriate facility license from the Minnesota Department of Health.

Section 2002. Supervision of children" means a caregiver is within sight or hearing of an infant, toddler, or preschooler at all times so that the caregiver can intervene to protect the health and safety of the child. For the school age child it means a caregiver is available to help and care for the child so that the child's health and safety is protected.

Section 2003. License holders must meet the following requirements:

- A. license holders must have a policy and schedule delineating the times and circumstances under which the license holder is responsible for supervision of children in the program and when the child's parents are responsible for child supervision. The policy must explain how the program will communicate its policy about child supervision responsibility to the parents; and
- B. license holders must have written procedures addressing the actions to be taken by staff if children are neglected or abused including while the children are under the supervision of their parents.

Section 2004. During the times the license holder is responsible for the supervision of children, the license holder must meet the following or similar standards:

- A. child and adult ratios in part 9502.0367;
- B. day care training in part 9502.0385;
- C. behavior guidance in part 9502.0395;
- D. activities and equipment in part 9502.0415;
- E. physical environment in part 9502.0425; and
- F. water, food, and nutrition in part 9502.0445, unless the license holder has a license from the Minnesota Department of Health.

CHAPTER XXI- ADDITIONAL REQUIREMENTS FOR LICENSE HOLDERS WHO
SPECIALIZE IN TREATMENT OF PERSONS WITH CHEMICAL ABUSE OR
DEPENDENCY AND MENTAL HEALTH DISORDERS

Section 2101. In addition to meeting the requirements of these standards, license holders specializing in the treatment of persons with chemical abuse or dependency and mental health problems must:

- A. demonstrate that staffing levels are appropriate for treating clients with chemical abuse or dependency and mental health problems, and that there is adequate staff with mental health training;
- B. have continuing access to a medical provider with appropriate expertise in prescribing psychotropic medications;
- C. have a licensed mental health professional available for staff supervision and consultation;
- D. determine group size, structure, and content with consideration for the special needs of those with chemical abuse or dependency and mental health disorders;

- E. have documentation of active interventions to stabilize mental health symptoms present in treatment plans and progress notes;
- F. have continuing documentation of collaboration with continuing care mental health providers, and involvement of those providers in treatment planning meetings;
- G. have available program materials adapted to individuals with mental health problems;
- H. have policies that provide flexibility for clients who may lapse in treatment or may have difficulty adhering to established treatment rules as a result of a mental illness, with the goal of helping clients successfully complete treatment; and
- I. have individual psychotherapy and case management available during the treatment process.

CHAPTER XXII ADDITIONAL REQUIREMENTS FOR METHADONE PROGRAMS SERVING INTRAVENOUS DRUG ABUSERS

Section 2201. In addition to the requirements of these standards, programs serving intravenous drug abusers must comply with the requirements of this part.

Section 2202. A program serving intravenous drug abusers must notify the department within seven days of when the program reaches both 90 and 100 percent of the program's capacity to care for clients. Each week, the program must report its capacity, current enrolled dosing clients, and any waiting list. A program reporting 90 percent of capacity must also notify the department when its census has increased or decreased from the 90 percent level.

Section 2203. A program serving intravenous drug abusers must have a waiting list system. Each person seeking admission must be placed on the waiting list if the person cannot be admitted within 14 days of the date of application, unless the applicant is assessed by the program and found not to be eligible for admission according to these standards, and Code of Federal Regulations, title 42, part 1, subchapter A, section 8.12(e). The waiting list must assign a unique patient identifier for each intravenous drug abuser seeking treatment, while awaiting admission. An applicant on a waiting list who receives no services under these standards, must not be considered a "client" as defined in these standards.

Section 2204. Programs serving intravenous drug abusers must consult the capacity management system so that persons on waiting lists are admitted at the earliest time to a program providing appropriate treatment within a reasonable geographic area. If the patient has been referred through a public payment system and if the program is not able to serve the client within 14 days of the date of application for admission, the program must contact and inform the referring agency of any available treatment capacity listed in the state capacity management system.

Section 2205. Programs serving intravenous drug abusers must carry out activities to encourage individuals in need of treatment to undergo treatment. The program's outreach model must:

- A. select, train, and supervise outreach workers;
- B. contact, communicate, and follow up with high risk substance abusers, their associates, and neighborhood residents within the constraints of federal and state confidentiality requirements, including Code of Federal Regulations, title 42, sections 2.1 to 2.67;

- C. promote awareness among injecting drug abusers about the relationship between injecting drug abuse and communicable diseases such as HIV; and
- D. recommend steps that can be taken to ensure that HIV transmission does not occur.

Section 2206. Programs serving intravenous drug abusers must comply with requirements to submit information and necessary consents to the state central registry for each client admitted, as specified by the Department of Human Services, Chemical Health Division. The client's failure to provide the information will prohibit involvement in an opiate treatment program. The information submitted must include the client's:

- A. full name and all aliases;
- B. date of admission;
- C. date of birth;
- D. social security number or INS number, if any;
- E. enrollment status in other current or last known opiate treatment programs;
- F. government-issued photo-identification card number; and
- G. driver's license number, if any.

This information in items A to G must be submitted in a format prescribed by the Department of Human Services, Chemical Health Division, with the original kept in the client's chart, whenever a client is accepted for treatment, the client's type or dosage of a drug is changed, or the client's treatment is interrupted, resumed or terminated.

CHAPTER XXIII ADDITIONAL REQUIREMENTS FOR LICENSE HOLDERS ALSO PROVIDING SUPERVISED ROOM AND BOARD

Section 2301. A license holder who provides supervised room and board at the licensed program site as a treatment component is defined as a residential program according to these standards

Section 2302. Clients must be allowed to receive visitors at times prescribed by the license holder. The license holder must set and post a notice of visiting rules and hours, including both day and evening times. A client's right to receive visitors other than a personal physician, religious advisor, county case manager, parole or probation officer, or attorney may be subject to visiting hours established by the license holder for all clients. The treatment director or designee may impose limitations as necessary for the welfare of a client provided that limitations and the reasons for them are documented in the client's file. Clients must be allowed to receive visits at all reasonable times from their personal physicians, religious advisors, county case managers, parole or probation officers, and attorneys.

Section 2303. A license holder who provides room and board and treatment services to clients in the same facility and any license holder that accepts client property must meet the requirements in these standards for handling resident funds and property. In the course of client property management, license holders:

- A. may establish policies regarding the use of personal property to assure that treatment activities and the rights of other patients are not infringed;
- B. may take temporary custody of property for violation of facility policies;
- C. must retain the client's property for a minimum of seven days after discharge if

the client does not reclaim property upon service termination, or for a minimum of 30 days if the client does not reclaim property upon service termination and has received room and board services from the license holder; and

D. must return all property held in trust to the client upon service termination regardless of the client's service termination status, except:

(1) drugs, drug paraphernalia, and drug containers that are forfeited under Minnesota Statutes, section 609.5316, must be destroyed by staff or given over to the custody of a local law enforcement agency, according to Code of Federal Regulations, title 42, chapter 1, part 2, subpart B, sections 2.1 to 2.67-1;

(2) weapons, explosives, and other property which can cause serious harm to self or others must be given over to the custody of a local law enforcement agency, and the client must be notified of the transfer and of the right to reclaim any lawful property transferred; and

(3) medications that have been determined by a physician to be harmful after examining the client, except when the client's personal physician approves the medication for continued use.

Section 2304. A license holder who provides room and board and treatment services in the same facility must have the appropriate license deemed necessary by the Licensing Authority.

Section 2305. A license holder must establish and enforce an ongoing facility abuse prevention plan consistent with these standards.

Section 2306. A license holder must prepare an individual abuse prevention plan for each client as specified in these standards.

Section 2307. License holders must have written procedures for assessing and monitoring client health, including a standardized data collection tool for collecting health related information about each client. The policies and procedures must be approved and signed by a registered nurse.

Amended
February 8, 2017

Kevin R. Dupuis, Sr. President
The Minnesota Chippewa Tribe

Melanie Benjamin, Secretary
The Minnesota Chippewa Tribe