

FOND DU LAC BAND OF LAKE SUPERIOR CHIPPEWA

ORDINANCE #03/03, AMENDED

LICENSING OF CHEMICAL DEPENDENCY
OUT-PATIENT PROGRAMS

Adopted by Resolution #1102/03 of the Fond du Lac Reservation
Business Committee on May 8, 2003.

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CHAPTER 1

AUTHORITY, PURPOSE AND SCOPE

Section 101 Authority

This Ordinance is enacted pursuant to the inherent sovereign authority of the Fond du Lac Reservation Business Committee, as the governing body of the Fond du Lac Band of Lake Superior Chippewa, as recognized under Section 16 of the Indian Reorganization Act, 25 U.S.C. § 476, the Indian Self-Determination and Education Assistance Act, 25 U.S.C. § 450 et seq., the Indian Health Care Improvement Act, 25 U.S.C. § 1601 et seq., the Tribal Self-Governance Act of 1994, 25 U.S.C. § 458aa et al., and Article VI of the Revised Constitution of the Minnesota Chippewa Tribe.

Section 102 Purpose

The purpose of this Ordinance is to establish a system for licensing chemical dependency programs in order to foster excellence in chemical dependency patient care and in outpatient treatment programs on the Fond du Lac Reservation through the following:

- a. Establishment of uniform standards for chemical dependency out-patient services provided by the Fond du Lac Band which reflect the highest quality, professionalism, and appropriate cultural sensitivity to the community;
- b. Definition of the scope of practice of chemical dependency counselors in the total therapeutic management of the patient; and
- c. Establishment of required credentials for chemical dependency treatment providers who serve under the authority of the Fond du Lac Reservation Business Committee.

Section 103 Scope

The requirements and standards established by this Ordinance apply to any individual who provides chemical dependency counseling services as part of a rehabilitation program operated by the Fond du Lac Band which serves five or more chemically dependent clients at one time.

Section 104 Reservation of Rights

The Reservation Business Committee reserves the right to amend or repeal all or any part of this Ordinance at any time. There shall be no vested private right of any kind created by this Ordinance. All the rights, privileges, or immunities conferred by this Ordinance or by acts done pursuant thereto shall exist subject to the power of the Reservation Business Committee. Nothing in this Ordinance shall be construed to constitute a waiver of the sovereign immunity of the Fond du Lac Band or a consent to jurisdiction by any government or forum not expressly authorized to exercise jurisdiction under this Ordinance.

CHAPTER 2

DEFINITIONS AND INTERPRETATION

Section 201 General Definitions

The following terms have the meanings given them.

- a. Access Services. "Access Services" refers to the provision of childcare and transportation services which enable client participation in Fond du Lac out-patient chemical dependency treatment programs
- b. Accreditation and Evaluation Coordinator. "Accreditation and Evaluation Coordinator" shall mean the position within the Human Services Division that is assigned by the Reservation Business Committee to review and monitor compliance with Fond du Lac Reservation health care and human service law, ordinances, policies, procedures, accreditations, and licensure.
- c. Addiction. "Addiction" refers to the physical and psychological dependency on alcohol and/or other drugs. Further, it means that the person with an addiction has a history of abusing said chemical(s) to the degree that the addiction is causing problems in living for the addicted person and his/her significant others.
- d. Adolescent. "Adolescent" means an individual under 18 years of age.
- e. Applicant. "Applicant" means an individual, organization, partnership, voluntary association, corporation, or other public or private organization that submits an application for licensure.
- f. Behavioral Health Department. "Behavioral Health Department" shall mean the Behavioral Health Department of the Fond du Lac Human Services Division.
- g. Category II, III, and V Programs: A category II program provides at least 30 hours of out patient chemical dependency services per week per client - including group and individual counseling, client education and other services specific to chemical dependency rehabilitation. A category III program provides an average of 15 hours of out patient services per

week per client. The services include group and individual counseling and client education. This category is a combination of out-patient services and community ancillary resources. A category V program provides at least five hours of out patient services per week per client. The services include individual counseling, group counseling and community ancillary services. A category V program may be known as level III within an AODA program and/or Aftercare.

- h. Chemical. "Chemical" means alcohol, solvents, and other mood altering substances, including controlled substances.
- i. Chemical abuse. "Chemical abuse" means a pattern of inappropriate and harmful chemical use. Chemical abuse includes inappropriate and harmful patterns of chemical use that are linked to specific situations in an individual's life such as loss of a job, death of a loved one, or sudden change in life circumstances. Chemical abuse does not involve a pattern of pathological use, but it may progress to pathological use.
- j. Chemical dependency. "Chemical dependency" means a pattern of pathological use as defined in subpart 18, accompanied by the physical manifestations of increased tolerance to the chemical or chemicals being used or withdrawal syndrome following cessation of chemical use. Chemical dependency includes a pattern of pathological use. Accompanied by the physical manifestations of increased tolerance to the chemical or chemicals being used or withdrawal, which has been interrupted by a period of incarceration or hospitalization.
- k. Chemical dependency counselor. "Chemical dependency counselor" means a staff person of a rehabilitation program who meets the qualifications.
- l. Chemical Dependency Services. "Chemical dependency services" refers to access services, individual and group counseling, individual and group education on chemical use and co-existing mental health conditions, addiction, relapse and other aspects of chemical dependency, as well as education on a healthy lifestyle - such as education on nutrition, exercise, and community services.
- m. Chemical Dependency Treatment Providers. "Chemical Dependency Treatment Providers" refers to five types of providers within Fond du Lac Chemical Dependency Treatment Programs:
 - (1) Licensed Alcohol and Other Drug Counselor/Supervisor. This is a licensed alcohol and drug counselor with additional experience in supervising other licensed alcohol and drug counselors.

- (2) Licensed Alcohol and Drug Counselor. A licensed alcohol and drug counselor (LADC) licensed per Minnesota Statutes; per Fond du Lac Reservation Chemical Dependency Program Licensing Board; or per any other licensing board approved by the Fond du Lac Reservation Business Committee.
 - (3) Indigenous Alcohol and Drug Counselor. A chemical dependency counselor with many years of practice prior to the requirement of a college education for the position and who has been exempted from the education requirement by the authority of the Fond du Lac Reservation Chemical Dependency Program Licensing Board.
 - (4) Case Manager. A case manager assists the client and the client's treatment tech by linking the client to the resources needed to fulfill the clients treatment plan.
 - (5) Technician. A technician is a chemical dependency program employee who performs in support of the provision of services, especially arranging access services.
 - (6) Rule 25 Assessor. A licensed or certified counselor with specialized training in conducting CD assessment for placement and funding.
 - (7) Chemical Dependency Intake worker. An intake worker is responsible for the intake/admission of Tagwii clients.
 - (8) Childcare Provider. A licensed Child Care or Day Care Provider contracted by the Fond du Lac Human Services to provide childcare for Tagwii clients during group or individual sessions.
- n. Client. "Client" means an individual who seeks or obtains chemical dependency rehabilitation services.
- o. Client Property: "Client property" means those items that are privately owned or in the possession of a FDL Chemical Dependency Program client. The FDL chemical dependency program Policy and Procedures Manual shall describe action to be taken by staff when a client brings personal property that holds the potential to do harm to self or others. Procedures must address:
- (1) Whether staff can accept client property;
 - (2) What staff members are to do if a client brings a gun/firearm, knife or other weapon on program premises. This includes weapons stored in client vehicles.

- (3) When and how Client notification of this policy occurs and how the policy will be clearly posted on the program premises.
- p. Collaboration Process. "Collaboration Process" refers to a working relationship within and between departments of the Fond du Lac Reservation Human Services Division in order to provide holistic treatment of chemically dependent clients. Further, it refers to a working relationship between the FDL Human Services Division and other FDL Divisions, so as to promote holistic treatment of chemically dependent clients. Finally, it refers to a working relationship between FDL Reservation Divisions and non-FDL agencies to promote holistic treatment and recover for FDL Chemical Dependency Program clients.
- q. Co-Morbid Condition. A "co-morbid" condition means a client has been diagnosed with both chemical dependency and a mental health problem. Co-morbid conditions are also referred to as co-occurring or dual disorders.
- r. Credentials. "Credentials" refer to professional licensure/certification; the assurances that the license holder has successfully completed the required course work, internship(s); and has passed professional board licensing/certification exams, and is thereby competent to provide chemical dependency treatment services.
- s. Cultural Sensitivity and Competence. "Cultural Sensitivity" and "Cultural Competence" refers to a serious commitment to cultural learning, skill development, and cognitive understanding so that services are more sensitive and thus more effective when they are provided within the cultural context of the people being served.
- t. Detoxification program. "Detoxification program" has the meaning given it in Minnesota Statutes § 254A.08, subdivision 2. It may also be known as a Category I program.
- u. Drug Test. A technical analysis of a biological specimen, for example, urine, hair, blood, sweat, or oral fluid/saliva, to determine the presence or absence of specified parent drugs or their metabolites.
- v. Fond du Lac Band "Fond du Lac Band" shall mean the Fond du Lac Band of Lake Superior Chippewa.
- w. Fond du Lac Reservation "Fond du Lac Reservation" shall mean all land owned by the Fond du Lac Band or lying within the boundaries of the Fond du Lac Reservation.

- x. Fond du Lac Reservation Business Committee. "Fond du Lac Reservation Business Committee" shall mean the governing body of the Fond du Lac Reservation.
- y. Fond du Lac Reservation Chemical Dependency Program Licensing Board "Fond du Lac Reservation Chemical Dependency Program Licensing Board" shall mean the Fond du Lac Reservation Business Committee or other body designated by the Reservation Business Committee to undertake inspections, evaluations and issue licensure under this Ordinance.
- z. Health assessment. "Health assessment" means the process of evaluating a client's physical condition to determine the level and type of care required and the immediacy of service needs.
- aa. Health Monitoring: All FDL chemical dependency outpatient programs will coordinate with the client's Health Care Provider, Public Health Nurse, Nutritionist, and Physical Trainer to assure the highest level of care. At intake all clients will complete a comprehensive intake assessment before his or her medical physical. The intake assessment will include a history of high-risk behaviors that put the client at risk for HIV/AIDS, Hepatitis, or other communicable diseases. All information will be forwarded to the medical physician. Any high-risk behaviors identified after intake requires referral of the client to his/her Physician, Public Health Nurse or Other Qualified Professional. The intake assessor will complete and forward the Patient Referral Form to the referral source and place a copy in the client file. Health Monitoring may require the client's participation in physical exercise and nutrition sessions.
- bb. Holistic Therapeutic Treatment. "Holistic therapeutic treatment" shall mean a comprehensive approach to treatment that addresses the physical, psychological, emotional, behavioral, social and spiritual well-being of chemically dependent clients.
- cc. Human Service Division. "Human Services Division" shall mean the Fond du Lac Human Services Division, through which the FDL Reservation Business Committee administers the health care and human/social services provided by the Fond du Lac Band of Ojibwe.
- dd. Individual treatment plan. "Individual treatment plan" means a written plan of treatment developed by a chemical dependency counselor, in consultation with the client, on the basis of the client's evaluation results and reviewed at scheduled intervals.

- ee. Inappropriate and harmful use. "Inappropriate and harmful use" means use of a chemical that exceeds social or legal standards of acceptability, the outcome of which is characterized by three or more of the following:
- (1) Weekly use to intoxication;
 - (2) Inability to function in a social setting without becoming intoxicated;
 - (3) Driving after consuming sufficient chemicals to be considered legally impaired under applicable law, whether or not an arrest takes place;
 - (4) Excessive spending on chemicals that results in an inability to meet financial obligations;
 - (5) Loss of friends due to behavior while intoxicated; or
 - (6) Chemical use that prohibits the individual from meeting work, school, family, or social obligations.
- ff. Integrated Treatment. When a client is diagnosed with both Mental Health and Chemical Dependency issues and services are delivered concurrently for both disorders.
- gg. Intoxicated individual. "Intoxicated individual" means an individual who has a blood alcohol content of 0.10 or greater, or whose mental or physical functioning is substantially impaired as a result of the physiological presence of a chemical.
- hh. License. "License" has the meaning given it by Fond du Lac Board.
- ii. License holder. "License holder" means the individual, corporation, partnership, voluntary association, or other public or private organization legally responsible for and licensed to operate a rehabilitation program.
- jj. Licensed Alcohol and Drug Counselor. A "Licensed Alcohol and Drug Counselor" (LADC) means a chemical dependency treatment provider has met the licensing criteria of the State of Minnesota and/or the Fond du Lac Reservation Chemical Dependency Program Licensing Board.
- kk. Program design. "Program design" means the number and type of client services a program provides, the methods used to achieve desired client outcomes, and the schedule of program services.

- ll. Program director. "Program director" means the Behavioral Health Department Coordinator, as designated by the license holder to be responsible for all operations of a FDL Reservation chemical dependency rehabilitation program.
- mm. Program supervisor. This is a licensed alcohol and drug counselor with additional experience in supervising other licensed alcohol and drug counselors.
- nn. Rehabilitation program. "Rehabilitation program" means a program of chemical dependency rehabilitation provided in a residential facility and offering a program of rehabilitation services to five or more chemically dependent clients on a 24 hour basis. A rehabilitation program must be at least one of the following four types of programs:
- (1) A Category I rehabilitation program is a licensed detoxification program that provides short-term care for the purpose of detoxifying and evaluating intoxicated clients and that provides clients access into appropriate care and treatment according to an individual client's needs.
 - (2) A Category II rehabilitation program is a licensed chemical dependency rehabilitation program that provides intensive, primary therapeutic services to clients who do not require detoxification. Category II programs provide at least 30 hours a week per client of chemical dependency services including group and individual counseling, client education, and other services specific to chemical dependency rehabilitation.
 - (3) A Category III rehabilitation program is a licensed chemical dependency rehabilitation program that offers an extended, long-term combination of in house chemical dependency services and community ancillary resources. Category III programs provide an average of 7 to 15 hours a week per client of chemical dependency services including group and individual counseling, client education, and other services specific to chemical dependency rehabilitation.
 - (4) A Category IV rehabilitation program is a licensed chemical dependency rehabilitation program that is offered in a halfway house or transitional semi-independent living arrangement with an emphasis on aftercare, community ancillary services, and securing employment. Category IV programs provide at least five hours a week per client of rehabilitation services which may include group counseling, employment counseling, and individual counseling.

- oo. Rehabilitation services. "Rehabilitation services" means a group of services arranged and provided by a chemical dependency out-patient program to address the individual needs of a chemically dependent client. The goal of out-patient chemical dependency services is to alter the client's pattern of chemical use by assisting the client in recognizing the harmful effects of chemicals on themselves and others, to develop the skills necessary for abstinence and to identify alternative methods of meeting the needs previously met by chemical use.
- pp. Security/Safety: "Security and Safety" refers to physical and psychological/emotional well-being in the out patient treatment program. The chemical dependency program Policy and Procedures Manual shall provide a description and a procedure for the following security and safety measures:
- (1) Protocol and procedures to call law enforcement;
 - (2) Physical security of program premise;
 - (3) Security and safety for staff or guest speakers who are facilitating groups or conducting individual or co-joint counseling sessions after regular work day hours;
 - (4) Physical arrangement of offices that assures staff have direct access to a door;
 - (5) Transportation of clients;
 - (6) Crisis Intervention training for staff.
 - (7) Physical intervention with a client who is threatening bodily harm to self or to others.
 - (8) Protocol to address community security issues.
- qq. Target population. "Target population" means that portion of chemically dependent individuals with specific, identified characteristics that a rehabilitation program proposes to serve.
- rr. Treatment. "Treatment" means a process of assessment of a client's needs, development of planned interventions or services to address those needs, the provision of services, facilitation of services provided by other service providers, and reassessment. The goal of treatment is to assist and support the client's efforts to alter the client's harmful pattern of chemical use.

- ss. Treatment System. A "treatment system" means a structured and regulated series of out patient chemical dependency programs that are interdependent in their facilitation of services provided by licensed/certified professionals that assist and support the well-being of clientele.
- tt. Uniform Treatment Standards. "Uniform treatment standards" shall mean conformity with the chemical dependency out patient program standards within and between FDL out patient programs and service providers hired to fill positions within those chemical dependency programs.

Section 202 Interpretation

The provisions of this Ordinance shall be interpreted and administered in a manner which is intended to improve the quality of chemical dependency counseling services provided by the Fond du Lac Band through its Human Services Division.

CHAPTER 3

ESTABLISHMENT OF THE FOND DU LAC RESERVATION
CHEMICAL DEPENDENCY PROGRAM LICENSING BOARD;
APPLICATION PROCESS

Section 301 Establishment and Composition of the Fond du Lac
Reservation Chemical Dependency Program Licensing
Board

The Fond du Lac Reservation Chemical Dependency Program Licensing Board is hereby established, and shall be comprised of the incumbent members of the Reservation Business Committee or other individuals duly appointed by resolution of the Reservation Business Committee. There shall be no proxy members of the Licensing Board.

Section 302 Meetings of the Licensing Board

- a. The Licensing Board shall hold meetings in the same manner as the Reservation Business Committee in Executive Session, except that such meetings shall be specifically convened as a meeting of the Licensing Board, and minutes of the Licensing Board shall be taken and maintained separately from those of the Reservation Business Committee.
- b. At least five (5) days prior to each meeting of the Licensing Board, copies of all application materials to be considered shall be distributed to the Board members by the Medical Services Director of the Human Services Division, who shall maintain all records required under this Ordinance.

Section 303 Licensing Board Consultation with Human Services
Division Director and Behavioral Health Department
Coordinator

The Licensing Board shall consult with the Human Services Director and Behavioral Health Department Coordinator of the Fond du Lac Human Services Division in its determination of qualifications of any program which is licensed under this Ordinance.

Section 304 Applications

- a. Submission; documentation of compliance. Applications for licensure under this Ordinance shall be submitted in writing to the Licensing Board and shall include certification by the Accreditation and Evaluation Coordinator that the program meets all applicable requirements set forth in Chapters 4 and 5 of this Ordinance.

- b. Retention of applications. A file containing the completed application and any related documents will be retained for a period of at least 5 years. There shall be an individual file for each application, and all files shall be kept in a lockable filing cabinet with the Compliance Coordinator of the Fond du Lac Human Services Division.

Section 305 Licensing Decisions by the Licensing Board

- a. Completed applications shall be presented to the Licensing Board by the Human Services Director within 30 days of submission.

- b. Notification of the Board's decision shall be given within 30 days of the Board meeting.

- c. Applicants denied licensure by the Board will receive a detailed written explanation of the denial from the Chair of the Licensing Board, and shall have the right to appeal as set forth under Section 309.

Section 306 Duration of License and Relicensing Requirements

Each license issued under this Ordinance shall be valid for a period not to exceed three (3) years from its issuance. Applications for relicensure must be submitted by a program prior to the expiration of a license, and in the same manner as set forth under Section 304.

Section 307 Licensure Limitations

Licensure granted under this Ordinance is limited and shall be used solely for the purposes of providing the delivery of chemical dependency services through the Fond du Lac Human Services Division to the population entitled to services from the Fond du Lac Band. A license is not transferrable and shall automatically be revoked upon the termination of the program.

Section 308 License Display

Each program which is issued a license under this Ordinance shall display the license at the program's principal place of business.

Section 309 Appeals

- a. An applicant which is denied licensure under this Ordinance may address a written appeal of the decision to the Chairman of the Reservation Business Committee. The appeal should set forth the specific error which was made in the licensing determination, and should include as attachments the documentation demonstrating such error.

- b. Following the receipt of an appeal, the Chairman shall place the matter on the agenda of the Reservation Business Committee for a review of the initial licensing decision and any new information that has been submitted. The Human Services Director shall provide an opinion to the Reservation Business Committee as to whether the initial denial of licensure should be reversed.

CHAPTER 4

LICENSING REQUIREMENTS FOR
OUT-PATIENT CHEMICAL DEPENDENCY TREATMENT PROGRAMS

Section 401 Licensing of Programs

Any chemical dependency out-patient program operated by the Fond du Lac Band shall possess a current valid license or provisional license as required under this Ordinance. An applicant or license holder applying for more than one program license may reference in the second application the materials submitted with the applicant's or license holder's first application.

Section 402 Contents of Application

An applicant shall submit the following to the Licensing Board prior to issuance of a license:

- a. Documentation that it has completed an assessment of need for a new or expanded program; and
- b. Type of services provided, the hours of services provided, counseling and other rehabilitative client services.

Section 403 Chemical Dependency Out-Patient Facility Licenses

- a. All FDL Chemical Dependency Out-Patient Treatment Programs shall be licensed. Services will be designed in the following programs:
 - a. Tagwii Outpatient Treatment Program.
 - b. Fond du Lac Adolescent Outpatient Treatment Program.

Section 404 Change in license terms

- a. In addition to other applicable requirements, a license holder must apply to the Fond du Lac Reservation Chemical Dependency Program Licensing Board and a new license must be issued before the license holder:
 - (1) Reduces the total number of hours of rehabilitation services provided; or

- (2) Changes staffing patterns or ratios, reducing the amount of program services offered.

Section 405 Staff Qualifications

a. Qualifications applying to all employees working directly with clients. All employees working directly with clients must meet the following qualifications:

- (1) The employee must be 18 years of age or older; and
- (2) All chemical dependency program employees, who are responsible for the provision of rehabilitative services must document two years of freedom from chemical use problems.

Section 406 Chemical Dependency Professional Staff Qualifications:

POSITION	DEGREE	TRIBAL/STATE EXAM/LICENSE	SUPERVISED PRACTICE
Alcohol and Drug Program Supervisor	Bachelor's degree or its equivalent in human services	LADC - currently licensed or certified as a alcohol <u>and</u> drug counselor, and a written or oral exam indicating the individual understands these standards	Documentation of one or more years supervised practice in providing individual and group counseling to chemically dependent clients; <u>and</u> provides documentation of one or more year of supervision experience with CD counselors who were providing direct service to clients with chemical use problems
Licensed Alcohol and Drug Counselor	Bachelor's Degree or its equivalent in Human Services or previously licensed under two year Associate of Arts Degree in Chemical Dependency	LADC or UMICAD III; <u>and</u> a written or oral exam indicating the individual understands these standards	270 hours of alcohol & drug counseling education; <u>and</u> 880 hrs of internship from an accredited academic program or a counselor training program which is approved by the Fond du Lac Reservation Licensing Board

POSITION	DEGREE	TRIBAL/STATE EXAM/LICENSE	SUPERVISED PRACTICE
Indigenous Alcohol and Drug Counselor	This is a tribally wavered position, where the person is being "grandfathered" in because the individual entered professional CD practice prior to requirements of a college degree	UMICAD III; <u>and</u> a written or oral exam indicating the individual understands these standards	Documentation of five or more years of supervised practice in providing individual <u>and</u> group counseling with chemically dependent clients in a licensed Out-Patient Chemical Dependency Program
Case Manager	Associate of Arts or Associate of Science Degree	Supervisory satisfaction that the individual understands these standards	Supervised work experience and/or internship with a human services agency
Technician/Case Aide/Paraprofessional	High School Diploma or GED		Supervised work experience with human services agency
CD Assessor	Bachelor's Degree or its equivalent in Human Services or previously licensed under two year Associate of Arts Degree in Chemical Dependency	30 hours of Rule 25 training or LADC	1500 hours of supervised work after completing Rule 25 training course.

A single individual may be simultaneously employed as a chemical dependency counselor supervisor and a chemical dependency counselor if the individual meets the qualifications for each position. If a chemical dependency counselor is simultaneously a chemical dependency counselor supervisor, that individual shall be considered a 0.5 full-time equivalent chemical dependency counselor for purposes of meeting the staffing requirements.

Responsible staff person. Each program supervisor shall, during all hours of operation, designate a staff member who is present in the facility as responsible for the program. A technician in training may not be the designated responsible staff person.