ARTICLE 75-09.1
SUBSTANCE ABUSE TREATMENT PROGRAMS

CHAPTER 75-09.1-01
GENERAL STANDARDS FOR SUBSTANCE USE DISORDER ~~ABUSE~~ TREATMENT PROGRAMS

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75-09.1-01-01. Definitions.

As used in chapters 75-09.1-01, 75-09.1-02, 75-09.1-02.1, 75-09.1-03, 75-09.1-03.1, 75-09.1-04, 75-09.1-04.1, 75-09.1-05, 75-09.1-05.1, 75-09.1-06, 75-09.1-06.1, 75-09.1-07, 75-09.1-07.1, and75-09.1-08:

1. "ASAM ~~patient placement~~ criteria" means the most recent ~~third~~ edition~~, revised, of the patient placement criteria of~~ the American society of addiction medicine criteria.

2. "Department" means the North Dakota department of health and human services.

3. "DSM" means the most recent ~~fifth~~ edition, of the diagnostic and statistical manual of mental disorders published by the American ~~p~~Psychiatric ~~a~~Association.

4. "DUI" means an offense of driving or being in actual control of a motor vehicle while under the influence of alcohol or controlled substances, or both.

5. "Program" means a person, partnership, association, corporation, or limited liability company that establishes, conducts, or maintains a substance ~~ab~~use disorder treatment program for the care of persons addicted to alcohol or other drugs. ~~"Program" does not include a DUI seminar which is governed by chapter 75-09.1-09.~~

6. "Recommendation" means a suggestion offered by the licensure team to strengthen and/or enhance the program or services offered by the program.~~means a violation of the rule has occurred, however, on a very limited basis. A recommendation can also be given when there is general compliance with a rule but the procedures can be strengthened.~~

7. "Type I condition" means a violation of the requirements of any applicable law or regulation has occurred in at least twenty-five percent of the cases reviewed.

8. "Type II condition" means habitual noncompliance with the requirements of any law or regulation including a type I condition that is still found to be occurring during subsequent visits, any illegal act, or any act that threatens the health or safety of the ~~clients~~individuals served.

"Concern" means a violation of the rule has occurred, however, on a very limited basis.

"Restricted license" means a program may still provide services, but specific activities or operations relevant to an identified finding by the division may be

prohibited or restricted.

"Telebehavioral health" means the use of electronic communication and information technologies to provide or support real-time psychiatric, psychological, mental health, marriage and family, social work services, addiction counseling, and/or other behavioral health services at a distance.

10. "Satellite clinic" means a facility established as part of, but geographically separate from, a licensed substance use disorder treatment program. Satellite clinics must be approved by the division as an additional site to provide substance use disorder treatment services. Satellite clinics operate under the program's license and follow the program's policies and procedures.

"Outreach services" means substance use disorder treatment services that are provided by a program with program staff in a location other than a traditional in-office setting in order to meet the needs of individuals served.

11. "Division" means the North Dakota department of health and human services behavioral health division

X "Co-occurring capable" means a program offers services that are designed to provide a welcoming environment for individuals with co-occurring mental health conditions, where individuals feel safe addressing their mental health concerns and experiences.

History: Effective October 26, 2004; amended effective April 1, 2018.
General Authority: NDCC 50-06-16, 50-31
Law Implemented: NDCC 50-31

75-09.1-01-02. Application for license and notice of address change.

1. A program must submit to the department an application for a license in the form and manner prescribed by the department.

2. The department will consider a new ~~n~~ application complete when it has received all required information ~~and~~, documents, and an application fee not to exceed three hundred dollars.

3. The department may declare an application withdrawn if an applicant fails to submit all required documentation within sixty days of notification of incompleteness.

4. A new application for a license must be submitted to the department with an application fee by a program upon change of ownership, every licensing cycle, adding a satellite clinic, or adding a residential level of care. Licenses are not transferrable.

5. ~~A program must notify the~~department ~~of a change of address.~~

An updated application for a program or satellite license must be submitted to the division under the following conditions and does not require an application fee:

a. Change of individual responsible for the conduct of the program;
b. Change of address;
c. Addition of an outpatient level of care;
d. Removal of a level of care;
e. Change in the number of beds utilized for substance use disorder treatment.

History: Effective October 26, 2004.
General Authority: NDCC 50-06-16, 50-31
Law Implemented: NDCC 50-31

75-09.1-01-03. ~~Provisional and u~~Unrestricted L~~l~~icense.

1. ~~Provisional license.~~Initial license.

   a. ~~Upon approval of an application, the department may issue a provisional license for the operation of a program.~~ The division may issue a license after a review of a completed application that confirms the applicant has the capacity to operate in compliance with this article.

   b. ~~A provisional~~An initial license for a program or a new level of care provided by the program is in effect for the period specified in the license not to exceed one year from the date of issuance.

   c. ~~Prior to changing a provisional license to an unrestricted license, the~~The department shall conduct an onsite review to determine that the program is in compliance with the standards contained in this article prior to the expiration of the initial program license.

2. Restricted license.

   a. A restricted license is in effect for the period specified in the license not to exceed ninety days.

   b. Prior to removing a restriction on a license and issuing an unrestricted license, the department may ~~shall~~ conduct an onsite review to determine that the program is in compliance with the standards contained in this article.

   c. The department may issue a restricted license to a program for the following;
      1) Failure to submit a corrective action plan within the identified timeframes or;
      2) Continued non-compliance following the submission of corrective action plan to correct a condition or;
      3) Any condition or act that places an individual's health or safety at risk or;
      ~~1)~~4) In the event the division is conducting an investigation of a program's act or lack of action that may place an individual's health or

safety at risk.

3. An unrestricted license is in effect for the period specified in the license not to exceed three ~~two~~ years.

4. A license ~~may not be transferred and~~ is valid only for those programs and levels of care indicated on the license.

5. The department shall conduct continued license reviews for programs with unrestricted licenses ~~on~~ at least ~~a biennial basis~~every three years to determine continued compliance with the standards contained in this article.

6. The department may conduct scheduled or unscheduled visits at times other than routine license reviews.

7. The program must display its current license in a place that is conspicuous to the public at each physical location operated by the program.

History: Effective October 26, 2004.
General Authority: NDCC 50-06-16, 50-31
Law Implemented: NDCC 50-31

75-09.1-01-04. License report procedures.

1. Within thirty days of an onsite review of a program, the department must send a license report to the program that was reviewed.

2. A license report must contain a description of the programs and services reviewed, ~~strengths,~~ concerns, recommendations, and a description of any existing type I or type II conditions.

3. A license report shall be retained by the department while the program that is the subject of the report is licensed and for at least seven years from the time the program is no longer licensed.

History: Effective October 26, 2004.
General Authority: NDCC 50-06-16, 50-31
Law Implemented: NDCC 50-31

75-09.1-01-05. Program authority and administration.

1. A program shall identify to the department an individual(s) ~~or entity~~ that is responsible for the conduct of the program.

2. A program shall implement a written policy governing the operation of services including procedures for admission, transition, and continued service criteria, and coordination of care and referrals. ~~procedures, discharge procedures, client grievance procedures, scope of service, treatment plans, staffing patterns, outside referrals, and continued or followup treatment.~~

3. Program administration shall review policies and procedures at least annually and

at any other times as necessary for any necessary updates or revisions.

~~3~~4. The program shall conform to applicable legal requirements and regulations of all governmental and legally authorized agencies under whose authority it operates, to include accessibility, affirmative action, equal employment opportunity, health and safety, and licensure.

~~4~~5. A program shall be responsible for providing qualified personnel, facilities, and equipment needed to carry out the goals and objectives and meet the needs of the ~~clients~~individuals served.

History: Effective October 26, 2004.
General Authority: NDCC 50-06-16, 50-31
Law Implemented: NDCC 50-31

75-09.1-01-06. Information management.

1. A program must collect data as prescribed by the department, including information necessary for federal and state grant statistical requirements and fiscal information such as fee structure.

2. A program shall report to the department on an annual basis the number of unique individuals served by the program in the preceding year.

3. Residential programs, except the department of corrections and rehabilitation, shall participate in and report daily to the department the information and documentation necessary to maintain the behavioral health bed management system in the form and manner prescribed by the department.

~~4~~2. A program must apply appropriate safeguards to protect ~~client~~individual ~~-~~records regardless of whether the records are electronically or manually maintained. These safeguards must include:

a. Limiting record access to authorized individuals;

b. Suitably maintaining a secure record ~~indexing and filing~~ system to preserve confidentiality;

c. Information in individual records organized in a systematic fashion;

d. Records controlled from a central location;

e~~c~~. Knowing the essential record location at all times;

f. A program employee responsible for the control of records of individuals and for the implementation of the policies pertaining to records of individuals, and file access control procedures;

g~~d~~. Securing and reasonably protecting records against loss, damage, and inappropriate access; ~~and~~

h~~e~~. Protecting electronic records by routine backup; and~~.~~

i. The program must ensure the confidential destruction of electronic or physical records upon end of retention period.

5~~3~~. ~~A program must maintain a policy so that files are not needlessly retained or prematurely discarded. The retention of records of clients and administrative records must be guided by professional and state research, administrative, and legal requirements.~~

6. A program shall retain all records required for a minimum of seven years from the last date of service.

7. A program shall take reasonable precautions to protect individual confidentiality in the event the program terminates practice, or in the event of the program owner's incapacitation or death. The program shall appoint a records custodian when identified as appropriate, in their policies or other appropriate documentation.

8. A program shall provide requested information within a reasonable time period when the request is accompanied by an appropriate consent to release of information.

History: Effective October 26, 2004.
General Authority: NDCC 50-06-16, 50-31
Law Implemented: NDCC 50-31, 50-06-41.3

75-09.1-01-07. Personnel administration.

1. A program shall employ sufficient and qualified staff members to meet the needs of the~~-~~ individuals served including policies and procedures for program staffing.~~clients.~~

2. A program shall have a written policy regarding how it verifies the background, qualifications, national criminal record check, and credentials of staff members, volunteers, and consultants, and how it acts upon the results of the information received.

3. A program shall document the nature and extent of the involvement of any individual who provides consultation or volunteer service to the program. Including documentation of duties performed by the consultant or volunteer, review of confidentiality agreement signed by the individual, and results of screening process.

4. A program shall maintain a personnel file for each employee that contains:

   a. A written job description;

   b. The qualifications, supervisor, employees supervised, and the duties of each employee; and

   c. Performance evaluations dated and regularly conducted at least annually

for continuing appropriateness.

d. Verification of national criminal record check.

e. Applicable training.

5. A program shall implement a written employment policy related to nondiscrimination with regard to employment, pay, place of work, or promotion because of age, creed, disability, gender, national origin, or race.

6. A program shall verify at a minimum of once every three years, the national criminal record check, on each employee who has contact with individuals served by the program.

7. A program must verify an employee's professional licensure, certification and applicable qualifications upon hire and at a frequency that aligns to the employee's licensure or certification cycle.

8. A program shall not employ a person, in any capacity that involves or permits contact between the employee and any individual receiving services, who is known to have been found guilty of, pled guilty to, or pled no contest to an offense described in North Dakota Century Code chapter 12.1-16, homicide; 12.1-17, assaults – threats - coercion - harassment; or 12.1-18, kidnapping; North Dakota Century Code section 12.1-20-03, gross sexual imposition; 12.1-20-04, sexual imposition; 12.1-20-05, corruption or solicitation of minors; 12.1-20-05.1, luring minors by computer; 12.1-20-06, sexual abuse of wards; 12.1-20-06.1, sexual exploitation by therapist; 12.1-20-07, sexual assault; 12.1-22-01, robbery; or 12.1-22-02, burglary , if a class B felony under subdivision b of subsection 2 of that section; North Dakota Century Code chapter 12.1-27.2, sexual performances by children; or North Dakota Century Code section 12.1-29-01, promoting prostitution; 12.1-29-02, facilitating prostitution; or 12.1-31-05, child procurement; or an offense under the laws of another jurisdiction which requires proof of substantially similar elements as required for conviction under any of the enumerated North Dakota statutes.

9. If a program hires an employee with any offense other than an offense identified in paragraph 8 of this section or a minor traffic violation, the program shall document in the employee's file, how the employee's offense has no direct bearing on the program's ability to safely provide services to individuals.

10. While awaiting the results of the required national criminal record check, a program may choose to provide training and orientation to an employee or nonemployee. However, until the approved national criminal record check results are placed in the employee or nonemployee file, the employee or nonemployee shall only have supervised interaction with any individuals served by the program.

11. A program shall establish written policies specific to how the program will proceed if a current employee or nonemployee is known to have been found guilty of, plead guilty to, or pled no contest to an offense.

12. A program providing services licensed under NDAC 75-09.1 before the effective

date of this section shall complete a national criminal record check on each employee who has contact with individuals served by the program within 90 calendar days of the effective date of this section unless it has been completed within the last three years.

History: Effective October 26, 2004.
General Authority: NDCC 50-06-16, 50-31
Law Implemented: NDCC 50-31

75-09.1-01-08. Fiscal management.

1. When fees for services are charged, a program shall have an established schedule of fees that is available in printed form and is applied equitably to all ~~clients~~individuals.

~~2. A program shall implement a policy that prohibits fee splitting with other programs, agencies, entities, or individuals as consideration for referral of the client to be served.~~

3. If a program is responsible for funds or personal possessions that belong to an individual ~~client~~, the program shall implement a procedure for identification and accountability for those funds.

4. A program shall implement a policy on contingency management based on best practice guidelines, if applicable.

History: Effective October 26, 2004.
General Authority: NDCC 50-06-16, 50-31
Law Implemented: NDCC 50-31

75-09.1-01-09. Physical facilities.

1. All locations owned, rented, leased, or occupied by a program must meet standards of the state fire marshal or an equivalent code or provide a letter from the inspecting authority stating that an inspection was not done and the reason why. Verification of reinspection by the appropriate authority must be verified on at least an annual basis for residential program locations, or every licensure cycle for all other licensed program locations.

2. A program shall provide suitable, confidential locations within the facility ~~physical plant~~ for ~~such~~ all services or treatment activities. ~~as interviews, treatment services, dictation, staff conferences, and psychometric testing to provide for confidentiality of client information.~~

3. A program shall provide adequate toilet and lavatory facilities.

4. A residential program shall:

   a. Be free of hazards that would affect the safety and well-being of an individual residing in the residential program;
   b. Provide awake staff twenty-four hours per day;

c. Be maintained free of offensive odors, vermin, mold, and dampness;
d. Maintain a supportive living environment that provides safety from substances, paraphernalia, and weapons, with any searches of individuals, visitors, and their belongings that are necessary to provide an environment free from substances, paraphernalia, and weapons using trauma-sensitive practices and preserving the dignity and privacy of the individual whose person or belongings are being searched;
e. Provide privacy and security of personal belongings;
f. Contain clean and sanitary food preparation areas, equipment, and food storage areas that must be in working condition; and
g. Develop food safety policies and train applicable employees on food safety policies that include:
a. When an employee will be restricted from handling food;
b. Preventing food borne illness and cross contamination;
c. Employee hand washing prior to and during food preparation; and
d. Safe food handling and storage.

5. Each meal must be nutritious and well-balanced and adequate amounts of food must be available at all meals. Food must be in wholesome condition, free from spoilage, filth, or other contamination and must be safe for human consumption. Food shall be obtained from or be equal to food from sources that comply with all laws relating to food, food labeling, and food storage.

6. The special dietary needs of individuals being served must be considered in all menu planning, food selection, and meal preparation. Consideration must be given to residents' cultural, ethnic, and religious backgrounds in food preparation.

Telebehavioral Health

A program that provides tele-behavioral health services shall identify policies that address;
1 How the program will ensure an individual's confidentiality;
2 How the program will ensure only professionals licensed in the State of North Dakota, operating within the scope of their license are providing services;
3 Medical and behavioral health emergencies; and
4 Referral processes.

Asynchronous communication with an individual is not considered structured clinical programming towards ASAM level of care time.

Outreach Services

A program that provides outreach services shall identify policies that address;
1 How the program will ensure an individual's confidentiality;
2 Medical and behavioral health emergencies; and
3 Referral processes.

History: Effective October 26, 2004.
General Authority: NDCC 50-06-16, 50-31
Law Implemented: NDCC 50-31

75-09.1-01-10. Health and safety program.

1. A program shall maintain health and safety policies and procedures.

2. A program shall implement a written emergency plan that addresses provisions for dealing with bomb threats, fires, medical emergencies, natural disasters, an active shooter, and power failures.

3. All programs must have adequate and accessible first-aid supplies including opioid overdose reversal medication.

4. Residential programs shall make readily available first-aid facilities, equipment, and supplies including at a minimum bandages, sterile compresses, scissors, an ice bag or cold pack, splint, tourniquet, antiseptic, adhesive tape, medical gloves, breathing barrier, and opioid overdose reversal medication in quantities and locations so they are reasonably accessible at all times.

5. A program shall have:

   a. ~~At least one staff member certified in basic first aid and in basic cardiac life support.~~ At least one ~~employee~~ staff member certified in cardiopulmonary resuscitation and basic first aid must be present at the program during all hours of program operations. The number of other certified individuals present must be based on the needs of the individuals served ~~clients~~ and the type of services provided; and

   b. A program must implement a written plan to assist an individual ~~client~~ in receiving additional care beyond first aid when it is needed. ~~An outline of the plan must be posted where first-aid supplies are kept and at other appropriate places in the physical plant.~~

6~~4~~. Designated staff members shall be responsible for the safety of ~~clients~~ individuals and personnel under their supervision in the event of emergency or emergency drill.

7~~5~~. A program shall develop and implement ~~a written plan~~a policy for ~~reporting~~ documenting all incidents, including serious illnesses, medication errors, an event that could have a negative impact on an individual served by the program or program staff, and injuries., ~~and~~ The policy must include how the program's administration will review and act upon the documented incident.

8. Programs shall have a policy on documenting and reporting alleged cases of abuse or neglect aligned to professional and state legal requirements.

9. Incidents at a residential program location involving the loss of life of an individual served by the program shall be reported to the Division within 24 hours of the incident.

6~~10~~. A program shall develop and implement a written policy that addresses the use of ~~smoking~~ commercial tobacco and alternative nicotine products including electronic nicotine products and nicotine pouches~~products~~. The policy must address the needs of the ~~clients~~individuals served, personnel, visitors, and it must comply with local, state, and federal laws.

11. A program shall allow the use of medications approved by the Food and Drug Administration for the treatment of substance use disorder including medications for opioid use disorder.

~~7. A program shall implement a written policy that is in conformance with applicable legal requirements to govern the safe administration, handling, storage, and disposal of medications. A program must document appropriate training of its employees according to state laws.~~

A program shall develop and implement medication policies and procedures that meet the needs of the individuals served. These policies must address;

a. The administration of individual medications or observation of self administered medications by a licensed nurse, or a medication assistant I or II certified by the Department who has been delegated authority in accordance with North Dakota Administrative Code 33-43-01;
b. Safe storage of all prescriptions, requiring that the medications must be labeled and stored in a locked storage compartment, the compartment must be equipped with separate cubicles for each individual's medications, and medication requiring refrigeration must be properly stored and locked at the proper temperature;
c. Handling and disposal of medications;
d. Staff documentation of medication administration or observation of the self administration of medication by an individual on a medication administration record; and
e. Qualifications and training standards for staff members who have access to prescribed medications and controlled medications.

History: Effective October 26, 2004.
General Authority: NDCC 50-06-16, 50-31
Law Implemented: NDCC 50-31

75-09.1-01-11. Infection control.

1. A program shall implement a written infection control policy that complies with all applicable laws and regulations. ~~The program must review this written policy at least annually and at any other times as necessary.~~ The program is required to screen individuals for services related to tuberculosis, hepatitis, HIV and other blood borne and sexually transmitted infections. The program must either provide these services or have a referral process in place, including testing and treatment as needed.~~The policy must provide screening or referral procedures and must include a documented verbal assessment of high-risk behaviors for tuberculosis, hepatitis, HIV, and other blood-borne and sexually transmitted diseases.~~

~~2. A program shall implement a practical system developed for reporting, evaluating, and maintaining records of infections among clients.~~

3. A program shall implement a written plan for the instruction of new employees in the importance of infection control and personal hygiene and their responsibility in the infection control program.

4. A program shall take universal precautions in the handling of all bodily fluids and implement written policies for the handling of bodily fluids.

History: Effective October 26, 2004.
General Authority: NDCC 50-06-16, 50-31
Law Implemented: NDCC 50-31

75-09.1-01-12. Transportation.

If a program provides ~~client~~ transportation services~~, whether by volunteers or by contract, the program shall provide evidence to the department that~~ the program shall maintain~~s~~ state minimum liability insurance coverage and ensure that any employee, consultant, or volunteer who provides transportation has a current and appropriate driver's license.

History: Effective October 26, 2004.
General Authority: NDCC 50-06-16, 50-31
Law Implemented: NDCC 50-31

75-09.1-01-13. Intake and orientation.

1. A program shall implement written criteria for individual ~~client~~ admission for each of the program's levels of care based on the DSM and the ASAM ~~patient placement~~ criteria and policies for individual ~~client~~ admission.

2. A program shall develop and implement a written policy for orientation for ~~of~~ the ~~client~~ individual and their family.

3. A program shall explain the rights and responsibilities of persons served and grievance ~~and appeal~~ procedures. A program shall post in a place that is conspicuous to the public these rights and responsibilities and the program's grievance procedures.

4. A program shall implement a written policy regarding provision of services for ~~clients~~ individuals who do not have the ability to pay.

5. A program shall implement a written policy that specifies instances in which signed, informed consent for services must be obtained and retained. The policy must be guided by professional and legal requirements.

History: Effective October 26, 2004.
General Authority: NDCC 50-06-16, 50-31
Law Implemented: NDCC 50-31

~~**75-09.1-01-14. Assessment.**~~

~~1. When conducting an assessment, a program shall administer instruments or conduct clinical interviews or both sufficient to gather enough information to substantiate or rule out a client's diagnosis.~~

~~2. An assessment must include adequate assessment in at least each of the following areas: withdrawal potential; medical conditions and complications;~~

psychiatric, including emotional, behavioral, and cognitive functioning and the presence of co-occurring mental health problems; employment; alcohol, tobacco, and other drug use; legal; family and social; readiness to change; relapse, continued use, and continued problem potential; and recovery environment.

3. When clinically appropriate, previous diagnostic, medical, treatment, and training reports that impact the development of an individual must be:

   a. Requested from appropriate current or previous providers and referral sources with signed, informed consent to release of information forms in compliance with applicable laws and regulations; and

   b. Integrated into the assessment process.

4. A program shall provide requested information within a reasonable time period when the request is accompanied by an appropriate consent to release of information.

5. A program's report from the assessment process must clearly describe the diagnostic impressions based on a five-axis assessment of the DSM and recommendations for treatment based on the ASAM patient placement criteria.

6. Based on the information gathered in the assessment, a program's report should identify and prioritize problems by severity, which should then be addressed in the individual treatment plan with the involvement of the client.

7. A program shall keep progress notes that reflect the client's progress or lack of progress in measurable and behavioral language associated with treatment plan objectives.

History: Effective October 26, 2004.
General Authority: NDCC 50-06-16, 50-31
Law Implemented: NDCC 50-31

75-09.1-01-15. Individual treatment plan.

1. A program shall implement policies that ensure the services provided to each client individual are coordinated, and integrated and, address goals to support the individual's shared decision making, and are aligned with the individual's current readiness for change.that reflect the client's informed choice.

2. A program shall develop, with each client's individual's participation, a comprehensive, coordinated, individualized plan based on referral and assessment information. about the client's strengths, abilities, needs, functional deficits, and preferences.

3. Services essential to the attainment of an individual 's goals and objectives must be provided or it must be documented that attempts were made to provide such services either through staff members or through formal affiliation or consultation arrangements with or referral to appropriate agencies or providers.

4. An individual treatment plan must include a plan for accessing emergency care

24/7, including when to call 911 and 988.

53. A program shall develop and document an individual treatment plan that is as comprehensive as possible given the time in treatment and the ~~client's~~ individual's condition. The individual treatment plan shall be developed according to the following schedule:

~~a. By the end of the first day for a client in a social detoxification program;~~

a~~b~~. By the end of the third session for a individual~~client~~ receiving long-term remission monitoring, outpatient therapy, or medically managed outpatient treatment; ~~services or intensive outpatient treatment; and~~

b. By the end of the seventh day following admission for an individual receiving intensive outpatient treatment;

c. By the end of the fifth treatment day following admission for an individual receiving high-intensity outpatient treatment;

d.~~c~~. ~~By the end of the fifth working day~~Within 72 hours of admission for an individual~~client~~ receiving medically managed intensive outpatient treatment, clinically managed low-intensity residential treatment, clinically managed high-intensity residential treatment, medically managed intensive residential treatment, or clinically managed residential withdrawal management ~~day treatment, inpatient, or low-intensity and high-intensity residential treatment~~.

~~4. A program shall implement a written policy that specifies instances in which signed, informed consent for services must be obtained and retained. The policy must be guided by professional and legal requirements.~~

5. A program shall formally reassess an individual and conduct treatment plan reviews on a regular basis or in response to significant events or changes in the individual's condition or circumstances that may influence the treatment plan or the individual's recovery process. Reassessments and treatment plan reviews are conducted by a clinician collaboratively with the individual and are documented. Reassessments and treatment plan reviews shall track the individual's progress towards their goals, identify new or evolving needs, inform clinical decision-making, support treatment plan updates. A program must conduct reassessment and treatment plan reviews no less often than: ~~A program must regularly analyze with the active involvement of the client the client's progress toward the accomplishment of goals and modify goals and services as a result of any occurrence that is likely to impact the client's treatment progress. A program must perform such an analysis no less often than:~~

a. Once ~~every two months or every eight sessions, whichever comes first,~~ annually for an individual~~client~~ receiving long-term remission monitoring,~~outpatient services~~;

b. Once every three months for an individual receiving outpatient therapy, or

medically managed outpatient therapy; and

cb. Once a month for an individualclient receiving intensive outpatient treatment, high-intensity outpatient treatment, medically managed intensive outpatient, clinically managed low-intensity residential treatment, clinically managed high-intensity residential treatment.;

c. Once every two weeks for a client receiving intensive outpatient treatment;

d. Once each week for a client receiving high-intensity residential, inpatient, or partial hospitalization or day treatment; and

e. Once during the first six months and annually thereafter for a client receiving chronic care and maintenance services.

6. Documentation of individual treatment plans and treatment plan reviews shall include;
a. Problem identification;
b. Treatment goals;
c. Measurable treatment objectives;
d. Individual strengths;
e. Services to address problems identified designed to meet stated objectives;
f. Care coordination with external providers;
g. Significant events that may alter the course of treatment;
h. Changes in frequency and/or types of services;
i. Changes in level of care;
j. Subsequent amendments to the treatment plan;
k. Primary therapist or provider signature and the individual's signature, and;
g. A copy of the treatment plan should be provided to the client at the initiation of the plan and subsequently when updated;

76. Counseling or assessment regarding an individual's use or abuse misuse of alcohol or a controlled substance must be provided by a licensed addiction counselor as required by North Dakota Century Code chapter 43-45. The provision of case management and educational services do not need to be performed by a licensed addiction counselor. A licensed addiction counselor must be present in all team meetings at which level of care and treatment planning decisions are made regarding an individualclient receiving or referred for substance abuse treatment services.

7. Services essential to the attainment of a client's goals and objectives must be provided or it must be documented that attempts were made to provide such services either through staff members or through formal affiliation or consultation arrangements with or referral to appropriate agencies or individuals.

History: Effective October 26, 2004.
General Authority: NDCC 50-06-16, 50-31
Law Implemented: NDCC 50-31

75-09.1-XX. Co-occurring capable and co-occurring enhanced services.

1. All programs must provide co-occurring capable services.

2. Program services must be designed with the expectation that many individuals will have co-occurring mental health disorders.

3. Individual's mental health concerns must be treated concurrently by the program or through coordination with external providers.

4. Admission criteria cannot exclude individuals based on current or past mental health diagnoses alone.

A program's licensed levels of care may be granted a co-occurring enhanced designation by the department if the following criteria are met:

1) Residential programs provide a quiet space for de-escalation,
2) A licensed mental health clinician is available on-site, or on-call, including via telebehavioral health, during program hours of operation,
3) The program provides an integrated mental health assessment within the required timeframe of the treatment planning assessment, and
4) Access to a psychiatrist or other prescriber with a psychiatric specialty on at least a weekly basis who is available onsite or via telebehavioral health for psychiatric assessment, medication, and medication management on staff or through formal affiliation.

History: Effective October XX, 20XX.
General Authority: NDCC 50-06-16, 50-31
Law Implemented: NDCC 50-31

75-09.1-01-16. Differences in dimensional criteria for adolescents and adults.

1. If a program plans to admit an individual age seventeen or younger, the program shall implement a written policy regarding how to determine when it is appropriate to place an adolescent in an adult program. The policy must address the safety and supervision of individual~~client~~s in that program. The decision to determine whether a person seventeen years of age or younger is appropriately served in an adult rather than an adolescent program must be based on clinical judgment and other factors such as:

   a. History of sexual acting out;

   b. History of violence;

   c. History of running away;

   d. Living status such as whether the adolescent is living independently or with parents;

   e. School status;

   f. Employment status;

g. Marital status;

h. Ability to act responsibly;

i. Level of emotional maturity;

j. Level of cognitive development;

k. Level of parental or family support; and

l. Current mix of population in the adult milieu.

2. A program shall document in the individual~~client~~ record the clinical justification for its decision to treat an individual age seventeen years or younger in an adult program.

~~3. A program shall maintain a list of all potential adolescent admissions with documentation of those admitted to the program and those denied admission to the adult program due to failure to meet the requirements of this section.~~

3~~4~~. The department may issue the designation of "adolescent-adult combined program" to the license of any program that intends to serve, in an adult program, adolescents who screen according to the requirements of this section. In order to receive such a designation, the program must be in compliance with the other requirements of this article. The designation may be added to any type of license described in this article with the exception of residential ~~medically monitored inpatient~~ licenses.

History: Effective October 26, 2004; amended effective July 19, 2005.
General Authority: NDCC 50-06-16, 50-31
Law Implemented: NDCC 50-31

75-09.1-01-17. Criteria for programs that treat adolescents and adults.

~~1. A program shall secure a criminal history record investigation for any employee who works with adolescents.~~

~~a. A program shall secure from any employee who may have any contact with an adolescent treated by the program identifying information that is appropriate to accomplish a criminal history record investigation.~~

~~b. A program providing services to adolescents that held a license in good standing before the effective date of this section shall complete a criminal history record investigation check for all existing employees within thirty days of the effective date of this section.~~

~~c. A program may not allow an employee to begin work until the criminal history record investigation is complete and it shows fitness to work with adolescents. A program may not employ, in any capacity that involves or permits contact between the employee and any adolescent treated by the program, an individual who is known to have been found guilty of, pled~~

~~guilty to, or pled no contest to:~~

~~(1) An offense described in North Dakota Century Code chapter 12.1-16, homicide; 12.1-17, assaults - threats - coercion - harassment; or 12.1-18, kidnapping; North Dakota Century Code section 12.1-20-03, gross sexual imposition; 12.1-20-04, sexual imposition; 12.1-20-05, corruption or solicitation of minors; 12.1-20-05.1, luring minors by computer; 12.1-20-06, sexual abuse of wards; 12.1-20-06.1, sexual exploitation by therapist; 12.1-20-07, sexual assault; 12.1-22-01, robbery; or 12.1-22-02, burglary, if a class B felony under subdivision b of subsection 2 of that section; North Dakota Century Code chapter 12.1-27.2, sexual performances by children; or North Dakota Century Code section 12.1-29-01, promoting prostitution; 12.1-29-02, facilitating prostitution; or 12.1-31-05, child procurement; or an offense under the laws of another jurisdiction which requires proof of substantially similar elements as required for conviction under any of the enumerated North Dakota statutes; or~~

~~(2) An offense, other than an offense identified in paragraph 1, if the department determines that the individual has not been sufficiently rehabilitated or the offense has a direct bearing on the program's ability to safely serve adolescents treated there. The department will not consider a claim that the individual has been sufficiently rehabilitated until any term of probation, parole, or other form of community corrections or imprisonment, without subsequent charge or conviction, has elapsed. An offender's completion of a period of five years after final discharge or release from any term of probation, parole, or other form of community corrections or imprisonment, without subsequent conviction, is prima facie evidence of sufficient rehabilitation.~~

1~~2~~. A program providing services to adolescents must employ staff who are ~~that is~~ knowledgeable about adolescent development or have experience in working with and engaging adolescents.

2~~3~~. A program shall provide treatment to meet the level of cognitive development and other needs of an adolescent and must address the adolescent experience, including cognitive, emotional, physical, social, and moral development, in addition to involvement with alcohol and other drugs.

3~~4~~. A program shall make every reasonable attempt to engage an adolescent's family members or guardian in the adolescent's assessment, treatment, and continuing care.

~~5~~4. A program shall assure that all interactions between adults and adolescents are supervised where adults receive treatment at a program that also provides an adolescent-specific program.

5. An adolescent residential or high-intensity outpatient treatment program shall provide on-site staff or contracted on-site or off-site accredited educational

services if an individual is in school; general educational development preparation if the individual does not possess a high school diploma and is no longer in school; or short-term educational services linked to the individual's home school designed to maintain current learning.

History: Effective October 26, 2004.
General Authority: NDCC 50-06-16, 50-31
Law Implemented: NDCC 50-31

75-09.1-01-18. Admission criteria.

A program shall not admit ~~a client~~an individual into a substance ~~ab~~use disorder treatment program unless the ~~client~~individual:

1. Meets diagnostic criteria for a substance use disorder as described in the DSM; and

2. Meets specifications in each of the ASAM dimensions required for the recommended level of care.

History: Effective October 26, 2004.
General Authority: NDCC 50-06-16, 50-31
Law Implemented: NDCC 50-31

75-09.1-01-19. Continued stay criteria.

For a individual ~~client~~ to remain in the current level of care placement, a program must document that the individual~~client~~:

1. Is making progress but has not yet achieved the goals articulated in the individualized treatment plan and continued treatment at the present level of care is necessary to permit the individual~~client~~ to continue to work toward treatment goals.

2. Is not yet making progress but has the capacity to resolve problems and is actively working toward the goals articulated in the individual treatment plan.

3. New problems have been identified that are appropriately treated at the present level of care that is the least intensive in which these problems can be addressed effectively.

History: Effective October 26, 2004.
General Authority: NDCC 50-06-16, 50-31
Law Implemented: NDCC 50-31

75-09.1-01-20. Discharge and transfer criteria.

Before a program may transfer or discharge a individual~~client~~, the individual~~client~~ must have:

1. Achieved the goals articulated in the individual~~client~~'s individualized treatment

plan and resolved the problems that justified admission to the present level of care with progress evaluated and a determination has been made that the individual~~client~~ is ready for a less intensive level of care or independent living.

2. Been unable to resolve the problems that justified admission to the present level of care despite amendments to the treatment plan and no further progress is likely indicating the need for another level of care or type of service.

3. Demonstrated a lack of capacity to resolve problems indicating the need for another level of care or type of service.

4. Experienced an intensification of problems or has developed new problems and can be treated effectively only at a more intensive level of care.

History: Effective October 26, 2004.
General Authority: NDCC 50-06-16, 50-31
Law Implemented: NDCC 50-31

75-09.1-01-21. Referral criteria.

1. A program shall implement a written policy for referral and recommendations for services not available through the program. All referrals and recommendations must be made part of the treatment or ~~discharge~~ transfer plan.

2. A program must implement a written policy that verifies appropriate referral during and after treatment.

3. A program must secure the written consent of the individual~~client~~ or a individual~~client~~'s legal representative before releasing any confidential information about that individual~~client~~ and the release of information must conform to the following:

   a. Any information released must be limited to that necessary for the individual or agency requesting the information or for the provider to whom the individual~~client~~ is referred to address the purpose of the referral;

   b. A program must stamp or write on the records that are being released that any further disclosure of information is prohibited unless it is authorized by the individual~~client~~ or the individual~~client~~'s legal representative;

   x A program's consent form must contain a statement that the consent is subject to revocation at any time except to the extent that the program or other lawful holder of patient identifying information that is permitted to make the disclosure has already acted in reliance on it. Acting in reliance includes the provision of treatment services in reliance on a valid consent to disclose information to a third-party payer.

   c. A program's consent to release of information form must conform to applicable laws and regulations and must identify:

      (1) ~~The information to be released~~How much and what kind of

information is to be disclosed, including an explicit description of the substance use disorder information that may be disclosed;

(2) The form in which the information is to be released such as written, verbal, audio, video, or electronic;

(3) ~~To whom the information is to be released~~The name(s) of the individual(s) or the name(s) of the entity(-ies) to which a disclosure is to be made;

(4) The purpose of the information to be released;

(5) The name of the individual~~client~~ and the individual~~client~~'s date of birth;

(6) The date on which the consent to release of information is signed;

(7) The length of time, event, or condition for which the consent to release of information is authorized if not revoked prior ~~or the event or condition upon which the consent may be withdrawn~~; and

(8) The signature of the individual~~client~~ or legal representative; and

d. A program shall give to the individual~~client~~ or individual~~client~~'s legal representative a copy of the signed consent to release of information.

History: Effective October 26, 2004.
General Authority: NDCC 50-06-16, 50-31
Law Implemented: NDCC 50-31

75-09.1-01-22. Individual~~Client~~ records.

1. A program shall prepare and maintain a single record for each individual~~client~~ admitted to the program so as to communicate the appropriate case information. This information must be in a form that is clear, concise, complete, legible, and current.

2. A program shall implement a written policy addressing the process by which a individual~~client~~ may gain access to the individual~~client~~'s own record.

3. If duplicates of information or reports from the single record of an individual~~client~~ exist or if working materials are maintained, such material must:

   a. Not be a substitute for the single record;

   b. Be secondary to the recording of information with the single record of the individual~~client~~ receiving first priority; and

   c. Record information of value to the specific service, such as daily attendance, raw scores of tests, and similar data.

~~4. A program must apply appropriate safeguards to protect active and closed confidential written, electronic, and audiovisual records and to minimize the possibility of loss or destruction in the following manner:~~

~~a. The information in active and closed records must be organized in a systematic fashion. Manual systems must provide for affixing active records to recordjackets;~~

~~b. The location of the records of clients and the nature of the information contained therein must be controlled from a central location;~~

~~c. A program employee must be responsible for the control of records of clients and for the implementation of the policies pertaining to records of clients;~~

~~d. Access to records of clients and electronically generated documents must be limited to the members of the professional staff who are providing or supervising direct services to the client and such other individuals as may be administratively authorized;~~

~~e. The program must maintain an indexing and filing system for all manual and electronic records of clients;~~

~~f. The program must secure records and take reasonable steps to protect the records against fire, water damage, and other hazards;~~

~~g. The program must follow routine procedure for backup of data files for electronic systems; and~~

~~h. The program must implement a policy that defines file access control procedures.~~

~~4~~5. Individual~~Client~~ records must include:

a. Identification data, including the individual's name, date of birth, and demographic information;

b. The name and address of the legal representative, conservator, guardian, and representative payee of the individual~~client~~;

c. ~~Pertinent history, a diagnostic assessment on all five axes of the DSM, a six-dimension assessment of the current version of the ASAM patient placement criteria, disability, presenting need, functional limitation, client strengths, and desired outcomes and expectations~~All level of care assessments and treatment planning assessments as identified in chapter X~~;~~

d. Prescribed medications;

e. Relevant medical information;

~~f. Reports of assessment and individual treatment planning;~~

~~f~~g. ~~Signed and dated progress notes describing in measurable and behavioral terms the client's progress toward the attainment of the client's treatment plan objectives;~~Documentation of all services provided by the program to the individual that includes;

1. Date, time, and duration of the session;
2. Name and title of the individual rendering the service;
3. An individualized summary of the session including how the individual responded to the intervention described in measurable and behavioral terms the individual's progress or lack of progress toward the attainment of the individual's treatment plan objectives, and;
4. Dated signature of the individual rendering the service

g~~h~~. Reports from referring sources;

h~~i~~. Reports of service referrals;

i~~j~~. Reports from outside consultants;

j~~k~~. Designation of the ~~case manager, licensed addiction counselor~~primary therapist responsible treatment services, and the staff member responsible for care coordination ~~and other staff~~ for the ~~client~~individual;

k~~l~~. Evidence of the direct involvement of the individual~~client~~ in the decision making process related to the individual~~client~~'s program;

l~~m~~. Reports of team conferences;

m~~n~~. Reports of family conferences;

n~~o~~. The individual treatment plan as indicated in section x of this chapter; ~~of the client, including the overall plan and the plans for specific services and signature of the client or other documentation of the client's involvement in the plan;~~

o~~p~~. References to audiovisual records;

p~~q~~. Correspondence pertinent to the individual~~client~~ and disclosures made regarding the individual;

q~~r~~. Signed and dated release consent forms;

r. Laboratory and toxicology order sets and results;

x. Missed appointments and declined services;

s. Case management and care coordination services;

t~~s~~. Transfer plan or summary describing in measurable and behavioral terms an individual~~client~~'s move from one level of care to another addressing;

1. Review of the ASAM Criteria dimensions;
2. Recommendations for follow-up care;
3. Reasons for departures from recommendations if applicable;
4. Program(s) and level of care that the patient will transfer to;
5. Required medications and how patients will maintain access to medications during the transfer; and
6. Access to opioid overdose reversal medication if applicable.

ut. Unplanned discharges or in the event an individual chooses to discontinue treatment the program must document reason(s) for discharge, care recommendations provided to the individual, access to medications after discharge, notifications made, and plans to follow up with the individual~~Discharge summary describing in measurable and behavioral terms the client's progress and attainment of treatment plan goals and criteria for discharge. When the client is transferred, the discharge summary must include a discharge plan which identifies the treatment goals not yet achieved as well as any problems that have been deferred for treatment by a subsequent provider~~; and

vu. If admission, ongoing care, or discharge criteria as described by the department have not been met, the provider must document the grounds for placement, ongoing care, or discharge decisions.

5. Residential programs shall document;
a. The whereabouts and wellness of each individual who is on-site at least once every hour; and
b. When an individual is off-site, the reason the individual is offsite, location, and if program staff is providing supervision which staff member(s) and the degree of program staff supervision.

6. A program shall implement a written policy that specifies time frames for entries into the records of an individual.~~client, such as clinical information, critical incidents or interactions, progress notes, and discharge summaries. A program must enter progress notes into client records according to the following schedule:~~

~~a. Shift entries for inpatient clients;~~

~~b. Daily entries for clients in day treatment;~~

~~c. Weekly entries for intensive outpatient clients;~~

~~d. Weekly entries for clients in outpatient services seen once or more a week but monthly for those clients seen less than once a week;~~

~~e. Weekly entries for clients in clinically managed high-intensity residential care; and~~

~~f. Monthly for clients in clinically managed low-intensity residential care.~~

History: Effective October 26, 2004.
General Authority: NDCC 50-06-16, 50-31
Law Implemented: NDCC 50-31

75-09.1-01-23. Individual~~Client~~ rights.

1. A program must assure the right of each individual~~client~~ to:

   a. Be treated with respect and dignity;

   b. Be treated without discrimination based on physical or mental disability;

   c. Be treated without regard to race, creed, national origin, sex, or sexual preference;

   d. Have all information handled confidentially in accord with applicable laws, regulations, and standards;

   e. Receive notice of federal confidentiality requirements;

   f. Not be subject to physical, emotional, or sexual abuse or harassment by employees or another individual~~client~~;

   g. Have services for male or female individual~~client~~s reflecting the special needs of each gender and to be provided equivalent, clearly defined, and well-supervised sleeping quarters and bath accommodations for male and female individual~~client~~s;

   h. Be provided a reasonable opportunity to practice the religion of the individual~~client~~'s choice insofar as the practice does not interfere with the rights of other individual~~client~~s or the treatment program;

   i. Have the right to be excused from any religious practice;

   j. Have access to an established individual~~client~~ grievance procedure; and

   k. Be informed of individual~~client~~ rights in a language the individual~~client~~ understands.

2. A program shall protect the fundamental human, civil, constitutional, and statutory rights of each individual~~client~~.

3. A program shall implement a written policy that describes the rights of individual~~client~~s and the means by which these rights are protected and exercised.

4. As appropriate, the individual~~client~~, the individual~~client~~'s family, or the individual~~client~~'s legal guardian shall be informed of the individual~~client~~'s status if authorized by a individual~~client~~ who is fourteen years of age or older.

5. A program shall evaluate for appropriateness any restrictions placed on the rights of individuals served ~~clients~~. The program shall document in the individual~~client~~'s clinical record the clinical rationale for such restrictions.

6. A program shall implement a written policy stating the form and manner in which

an individual~~client~~ may file a grievance or an appeal of a program decision. The procedure must be written in language that is understandable to the individual~~client~~ and must be provided to the individual~~client~~ in a timely manner.

History: Effective October 26, 2004.
General Authority: NDCC 50-06-16, 50-31
Law Implemented: NDCC 50-31

75-09.1-01-24. Quality assurance.

1. A program shall implement an established written system that provides for internal, professional review of the quality and appropriateness of the program of services for the individual~~client~~.

2. A program shall implement a written quality assurance plan and designate an employee to coordinate that plan.

3. A program providing ASAM level 2.5 high intensity outpatient treatment or more intensive levels of care shall ensure interdisciplinary treatment team meetings occur on at least a weekly basis reviewing the progress of each individual served in those levels of care.

~~A program shall implement a written policy that provides that peer review must occur at least quarterly and must involve a representative sampling of clients served. The review must be conducted irrespective of sources of funding for the clients and the documented results of the review must:~~

~~a. Produce a documented list of areas needing improvement and actions taken;~~

~~b. Be integrated into the individual planning, plan evaluation, and program management activities for the client;~~

~~c. Be administratively used, in conjunction with results of consumer satisfaction surveys, in program evaluation activities, and in organizational planning; and~~

~~d. Be reviewed at least annually by the program's administration.~~

History: Effective October 26, 2004.
General Authority: NDCC 50-06-16, 50-31
Law Implemented: NDCC 50-31

75-09.1-01-25. Accreditation as a basis for licensing.

1. The department ~~shall~~ may issue a license to a program that has a current accreditation of a nationally recognized body that reviews and certifies providers of ~~drug and alcohol services~~substance use disorder treatment services and the program remains in compliance with the standards of this article.

2. When applying for licensure or renewal licensure, a program must submit to the department proof of accreditation or deemed status in the form of the

accreditation agency's most recent review and certification.

3. A program that has an active accreditation at the time of license renewal may be exempt from the site visit requirement per the discretion of the department.

4. A program's deemed status may not be construed to prevent the department from performing scheduled or unscheduled visits as deemed necessary by the department.

History: Effective October 26, 2004.
General Authority: NDCC 50-06-16, 50-31
Law Implemented: NDCC 50-31

75-09.1-01-26. Sanctions.

1. The department may immediately revoke a program's license upon a finding of a type II condition, an owner or person responsible for the program has been convicted of an offense determined by the department to have a direct bearing upon the person's ability to serve individuals, or a license was issued upon false, misleading or intentionally withheld information.

2. A program must submit to the department a plan of corrective action within thirty days of a licensure visit when a type I or type II condition has been found. A program will be allowed thirty days to submit to the department a plan of corrective action. A program will be allowed sixty days after the plan is submitted to implement the plan and satisfy a type I condition.

3. The department may conduct another onsite review prior to issuing a license after a program has developed a plan of corrective action of any condition.

4. If the program does not satisfy a condition or develop a plan to satisfy the cited condition within the time frames allowed, the department shall impose a ninety-nine-day suspension of the program's license. At the end of the ninety-nine-day suspension, if the cited condition has been corrected, the department may issue a one-year ~~provisional~~ license to the program. If the program has not corrected the condition, the department shall revoke the provider's license immediately.

5. A program which has had its license revoked is prohibited from submitting a new application to the department for consideration for a license for any program during the three hundred sixty-five days following a license revocation for any type I or type II condition.

6. A program will be responsible to address the continuation of treatment for individuals served by the program in the event of program closure including closure through a department sanction.

7. The division shall make notice to the public the restriction, suspension, or revocation of a substance use disorder treatment program license.

History: Effective October 26, 2004.
General Authority: NDCC 50-06-16, 50-31

Law Implemented: NDCC 50-31

75-09.1-01-27. Appeals.

An applicant for or a holder of a license may appeal a decision to deny, suspend, or revoke a license by filing a written appeal with the department within thirty days of written notice of such a decision. Upon receipt of a timely appeal, an administrative hearing must be conducted in the manner provided in chapter 75-01-03.

History: Effective October 26, 2004.
General Authority: NDCC 50-06-16, 50-31
Law Implemented: NDCC 50-31

X. Variance.

Upon written application and good cause shown to the satisfaction of the department, the department may grant a variance regarding a specific provision of this Article upon such terms as the department may prescribe, except no variance may permit or authorize a danger to the health or safety of any resident cared for by the facility and no variance may be granted except at the discretion of the department. A facility shall submit a written request to the department justifying the variance. A refusal to grant a variance is not subject to appeal.

New Chapter X
Substance Use Disorder Assessments

Section
X Definitions
75-09.XX Level of Care Assessment
75-09.XX Treatment Planning Assessment

75-09.XXX. Definitions.

For the purposes of this chapter:

1. "Level of care assessment" means a concise initial assessment to determine which level of care would best serve an individual's needs.
2. "Treatment planning assessment" means a comprehensive biopsychosocial assessment that includes a full individual history.

75-09.XX Level of Care Assessment

X Level of care assessments must be conducted by a tier 1 or tier 2 mental health professional as defined by North Dakota Century Code chapter 25-01 who has received adequate training on substance use disorders and the ASAM criteria.

X A level of care assessment shall be conducted at admission into any level of care, except an ASAM Level 3.2D level of care, and at a minimum include assessment in at least each of the following areas:

1) Intoxication, withdrawal, and addiction medications including;
    a. intoxication and associated risks,
    b. withdrawal and associated risks, and
    c. addiction medication needs
2) Biomedical conditions including;
    a. physical health concerns, and
    b. pregnancy-related concerns
3) Psychiatric and cognitive conditions including;
    a. active psychiatric symptoms,
    b. persistent disability,
4) Substance use-related risks including;
    a. likelihood of engaging in risky substance use, and
    b. likelihood of engaging in risky substance use disorder related behaviors
5) Recovery environment interactions including;
    a. ability to function effectively in current environment,
    b. safety in current environment,
    c. support in current environment, and
6) Person-centered considerations including;
    a. barriers to care,
    b. patient preferences, and
    c. need for motivational enhancement

X When conducting a level of care assessment, a program shall administer instruments or conduct clinical interviews or both sufficient to gather enough information to determine, at a minimum, a provisional diagnosis of substance use disorder.

X A level of care assessment shall document both the recommended ASAM level of care determined by assessment of ASAM dimensions one through five and the selected ASAM level of care following assessment of ASAM dimension six. If there is a discrepancy between the level of care recommendation and the selection, the reason(s) for this discrepancy shall be documented. The selected level of care shall not be more intensive than the recommended level of care.

X A program's report from the assessment process must clearly describe the diagnostic impressions based on the DSM, recommendations for treatment based on the ASAM criteria, and the individual's admission decision.

75-09.XX Treatment Planning Assessment

X Treatment planning assessments must be provided by a tier 1 or 2a mental health professional or a licensed addiction counselor as defined by North Dakota Century Code chapter 25-01 who has received adequate training on substance use disorders and the ASAM criteria.

X If a treatment planning assessment is conducted at the time of admission the program need not conduct a separate level of care assessment.

X Treatment planning assessments shall be conducted at or prior to admission for individuals participating in long-term remission monitoring, outpatient therapy, or medically managed outpatient treatment. A treatment planning assessment may be conducted as a part of the admission process or no later than seven days following admission for an individual receiving intensive outpatient treatment, or no later than 72 hours following admission for an individual receiving high-intensity outpatient treatment, medically managed intensive outpatient treatment, clinically managed low-intensity residential treatment, clinically managed high-intensity residential treatment, medically managed intensive residential treatment.

X Treatment Planning Assessments shall at a minimum include assessment in at least each of the following areas:

1) Intoxication, withdrawal, and addiction medications including;
    a. Intoxication, withdrawal and associated risks,
    b. withdrawal and associated risks, and
    c. addiction medication needs
2) Biomedical conditions including;
    a. physical health concerns,
    b. pregnancy-related concerns,
    c. sleep concerns, and
    d. the date of the individual's most recent physical examination
3) Psychiatric and cognitive conditions including;
    a. active psychiatric symptoms,
    b. persistent disability,
    c. cognitive functioning,
    d. trauma-related needs, and
    e. psychiatric and cognitive history
4) Substance use-related risks including;
    a. likelihood of engaging in risky substance use, and
    b. likelihood of engaging in risky substance use disorder related behaviors
5) Recovery environment interactions including;
    a. ability to function effectively in current environment,
    b. safety in current environment,
    c. support in current environment, and

d. cultural perceptions of substance use and addiction

6) Person-centered considerations including;
   a. barriers to care,
   b. patient preferences, and
   c. need for motivational enhancement

X When conducting a treatment planning assessment, a program shall administer instruments or conduct clinical interviews or both sufficient to gather enough information to substantiate or rule out an individual's diagnosis.

X A treatment planning assessment shall screen for brain injury, gambling, human trafficking, commercial tobacco and alternative nicotine products, and appropriate referrals shall be made and documented as indicated.

X When clinically appropriate, previous diagnostic, medical, treatment, and training reports that impact the development of an individual must be:

a. Requested from appropriate current or previous providers and referral sources with signed, informed consent to release of information forms in compliance with applicable laws and regulations; and

b. Integrated into the assessment process.

X A program's report from the assessment process must clearly describe the diagnostic impressions based on the DSM, recommendations for treatment based on the ASAM criteria, and the individual's admission decision.

X A treatment planning assessment shall document both the recommended ASAM level of care determined by assessment of ASAM dimensions one through five and the selected ASAM level of care following assessment of ASAM dimension six. If there is a discrepancy between the level of care recommendation and the selection, the reason(s) for this discrepancy shall be documented. The selected level of care shall not be more intensive than the recommended level of care.

X Based on the information gathered in the assessment, a program's report shall identify and prioritize problems by severity, which shall then be addressed in the individual treatment plan with the involvement of the individual.

X Substance use disorder assessments for the purpose of a DUI, criminal justice related requirement, court order, or for a similar purpose must align to the requirements of a treatment planning assessment.

X In all medically managed programs, documentation of the assessment process should additionally include:

1) results from the nursing assessment, physical examination, and medical assessment;
2) laboratory and toxicology order sets and results, including documentation on how the treatment plan was modified based on results (if applicable); and
3) scoring for withdrawal rating scale tables and flow sheets, which may include tabulation of vital signs, as needed.

New Chapter X
Long Term Remission Monitoring –ASAM Level 1

Section
X Definitions
75-09.XX Program Criteria
75-09.XX Admission Criteria

75-09.XXX. Definitions.

For the purposes of this chapter:

1. "Long term remission monitoring" means services based on the chronic care model, which treats addiction as a chronic health condition and anticipates that individuals will experience periods of remission and recurrence requiring reengagement in more intensive care. Level 1 constitutes a set of services for ongoing check-ins and early reintervention for individuals in sustained remission from substance use disorder as defined by the DSM.

75-09.XX Program Criteria
Long term remission monitoring ASAM level 1 programs shall provide:

X. Recovery management services including:
   x. Recovery capital assessments, either in-person or via telebehavioral health;
   x. Mental health screening; and
   x. Individual navigation services, including the ability to:
      x. Rapidly reengage the individual in the appropriate level of addiction or mental health treatment as needed, including providing warm handoffs; and
      x. Rapidly refer the individual for assessment for addiction or psychiatric medications if not directly provided by the program.

X. Recovery management checkups at least quarterly sufficient to address recovery support service needs, conducted by a certified peer support specialist, care coordinator, allied health professional, or licensed mental health professional. The frequency of regular follow-ups must be determined by acuity of individual needs; and

X. Development of individualized recovery and remission management plan; and

X. Psychosocial services either directly or through formally affiliated external providers to address emerging issues that may undermine the individual's recovery.

If the program does not provide medical services, the program shall coordinate access to:
   x. medication management services;
   x. medication adherence monitoring;
   x. infectious disease screening and referral for care as needed; and
   x. drug testing and toxicology services.

75-09.XX Admission Criteria

X Before a long term remission monitoring program may admit an individual, the individual shall:

1. Meet diagnostic criteria for a substance use disorder of the DSM; and

2. Meet admission criteria for ASAM level 1 long term remission monitoring in alignment with the ASAM dimensional criteria.

CHAPTER 75-09.1-07.1
OUTPATIENT ~~SERVICES~~ Therapy - ADOLESCENT ASAM LEVEL 1.5~~I~~

Section
75-09.1-07.1-01 Definitions
75-09.1-07.1-02 Provider Criteria
75-09.1-07.1-03 Program Criteria
75-09.1-07.1-04 Admission Criteria

75-09.1-07.1-01. Definitions.

As used in this chapter:

1. " Outpatient therapy" means outpatient psychosocial services for individuals with substance use disorder and those in early remission. Services include individual therapy, counseling, and psychoeducation or group-based interventions that must be delivered by a tier 1 or 2 mental health professional working within their scope of practice. Level 1.5 programs coordinate care as needed, including for initiation and maintenance of addiction medications. ~~Assertive community treatment" means an effective, evidence-based, outreach-oriented, service delivery model that provides comprehensive community substance abuse treatment, rehabilitation, and support services to clients in their home, work, school, or community setting.~~

~~2. "Outpatient services" means an organized nonresidential service or an office practice that provides professionally directed aftercare, individual, and other addiction treatment services to clients according to a predetermined regular schedule of fewer than nine contact hours a week.~~

History: Effective October 26, 2004.
General Authority: NDCC 50-06-16, 50-31
Law Implemented: NDCC 50-31

75-09.1-07.1-02. ~~Provider~~ Program criteria.

1. An outpatient therapy program shall offer no more than five hours of structured clinical services per week.

2. An outpatient therapy program shall offer the program with the length of stay to be determined by an individual's condition and functioning.

3. An outpatient therapy program shall provide clinical treatment services provided by a tier 1 or tier 2 mental health professional that may include individual therapy, counseling, psychoeducation, and group-based interventions.

4. An outpatient therapy program must provide services in an amount, frequency, and intensity appropriate to an individual's needs and level of function.

5. When an individual meets admission criteria for a more intensive level of care but

is unwilling or unable to engage in the recommended intensity of treatment, the treatment plan must include safety strategies.

6. Counseling of an individual regarding the individual's use of alcohol or a controlled substance must be provided by a licensed addiction counselor as provided in North Dakota Century Code chapter 43-45. The provision of case management and educational services do not need to be performed by licensed addiction counselors. A licensed addiction counselor must be present in all team meetings where level of care and treatment planning decisions are made regarding an individual receiving or referred for substance use services.~~An outpatient services program shall offer no more than five hours of programming per week.~~

~~2. An outpatient service program shall offer the program with the length of stay to be determined by a client's condition and functioning.~~

~~**History:** Effective October 26, 2004.~~
~~**General Authority:** NDCC 50-06-16, 50-31~~
~~**Law Implemented:** NDCC 50-31~~

~~75-09.1-07.1-03. Program criteria.~~

~~An outpatient services program shall provide skilled treatment services that may include any combination of the following:~~

~~1. Individual or group counseling or both, motivational enhancement, brief intervention, cognitive-behavioral therapy, opioid substitution therapy, family therapy, educational groups, occupational and recreational therapy, or other psychotherapy;~~

~~2. Case coordination, case management, or assertive community treatment;~~

~~3. Services that are provided in an amount, frequency, and intensity appropriate to a client's treatment plan;~~

~~4. Issues of psychotropic medication and mental health treatment and their relationship to substance use disorders are addressed as the need arises for patients with mental health problems;~~

~~5. Dual diagnosis enhanced programs offer therapies to actively address, monitor, and manage psychotropic medication, mental health treatment, and the interaction with substance-related disorders.~~

~~6. Counseling or assessment of a client regarding the client's abuse of alcohol or a controlled substance must be provided by a licensed addiction counselor as provided in North Dakota Century Code chapter 43-45. The provision of case management and educational services do not need to be performed by licensed addiction counselors. A licensed addiction counselor must be present in all team meetings where level of care and treatment planning decisions are made regarding a client receiving or referred for substance abuse services.~~

History: Effective October 26, 2004.
General Authority: NDCC 50-06-16, 50-31
Law Implemented: NDCC 50-31

75-09.1-07.1-04. Admission criteria.

For admission to outpatient therapy, an individual shall meet the criteria set forth in subsections one and two:

1. Meet diagnostic criteria for a substance use disorder of the current DSM; and

2. Meet admission criteria for ASAM level 1.5 outpatient therapy in alignment with the ASAM dimensional criteria.~~Before an outpatient services program may admit a client, a client must:~~

~~1. Meet diagnostic criteria for substance-induced disorders of the DSM; and~~

~~2. Meet admission criteria for ASAM level I outpatient services in all six ASAM dimensions and at least one of the following:~~

~~a. Demonstrate the need to take extended time for evaluation or lack motivation to make a commitment to a more intensive recovery effort and requires motivational enhancement strategies;~~

~~b. Have completed a higher intensity level of care but requires continued services until recovery stabilizes;~~

~~c. Have evidence of a brief return to usage not resulting in significant physical or emotional deterioration;~~

~~d. Require outpatient counseling of an intensity that will meet the client's needs without placement in a higher level of care;~~

~~e. Have not been through a prior treatment and exhibits motivation for recovery and meets ASAM criteria for level I in dimensions one, two, three, five, and six or the client has low severity of problems in ASAM dimensions one, two, three, five, and six;~~

~~f. Have a low severity of problems in ASAM dimensions one, two, three, five, and six but is not motivated and requires motivation enhancement strategies best delivered in a level I program; or~~

~~g. Have a severe and persistent mental illness that impairs the client's ability to consistently follow through with mental health appointments and psychotropic medications but does have the ability to access services such as assertive community treatment and case management or supportive living.~~

History: Effective October 26, 2004.
General Authority: NDCC 50-06-16, 50-31
Law Implemented: NDCC 50-31

CHAPTER 75-09.1-07
OUTPATIENT TherapySERVICES - ADULT ASAM LEVEL 15I

Section
75-09.1-07-01 Definitions
75-09.1-07-02 Provider Criteria
75-09.1-07-03 Program Criteria
75-09.1-07-04 Admission Criteria

75-09.1-07-01. Definitions.

As used in this chapter:

1. "Assertive referral" means the identification of appropriate services and actively assisting the client to connect with the service provider and follow through with the plan of service.

2. "Chronic" means diagnosed chemical dependency or severe and persistent mental illness as described in the DSM and characterized by long duration and progression of symptoms, frequent recurrence or relapse, and a prognosis that indicates continuous clinical care or support or both to maintain stability and remission or reduction of symptoms.

3. "Chronic care and maintenance services" means outpatient services necessary and appropriate to assist a client who is chronically chemically dependent or chronically mentally ill or both to maintain stability and live in the community as independently as possible. Such services include professionally directed case management, psychiatric care, support services, monitored medication administration, professional addiction counseling, mental health counseling, mental health and chemical dependency assessment, social services, supported housing, and other services sufficient to allow a client to live outside an institutional setting. This service may be provided as a component of services within a residential or transitional living setting or other such facility but would not require formal attachment to that facility.

4. "Intentional community treatment and support" means proactively identifying client needs and deficits and seeking to identify and put in place services or resources to address those needs and deficits through assertive referral, active implementation, and continuous monitoring by treatment personnel.

15. "Outpatient servicestherapy" means an organized nonresidential service or an office practice that provides professionally directed aftercare, individual, and other addiction services to clients according to a predetermined regular schedule of fewer than nine contact hours a week.outpatient psychosocial services for individuals with substance use disorder and those in early remission. Services include individual therapy, counseling, and psychoeducation or group-based interventions that must be delivered by a tier 1 or 2 mental health professional working within their scope of practice. Level 1.5 programs coordinate care as needed, including for initiation and maintenance of addiction medications.

History: Effective October 26, 2004.

General Authority: NDCC 50-06-16, 50-31
Law Implemented: NDCC 50-31

75-09.1-07-02. ~~Provider~~ Program criteria.

1. An outpatient ~~services~~ therapy program shall offer no more than eight hours of ~~programming~~structured clinical services per week.

2. An outpatient ~~services~~ therapy program shall offer the program with the length of stay to be determined by ~~a client's~~an individual's condition and functioning.

~~**History:** Effective October 26, 2004.~~
~~**General Authority:** NDCC 50-06-16, 50-31~~
~~**Law Implemented:** NDCC 50-31~~

~~**75-09.1-07-03. Program criteria.**~~

3~~1~~. An outpatient ~~services~~ therapy program shall provide clinical~~skilled~~ treatment services provided by a tier 1 or tier 2 mental health professional that may include individual therapy, counseling, psychoeducation, and group-based interventions. ~~any combination of the following:~~

~~a. Individual or group counseling, motivational enhancement, brief intervention, cognitive-behavioral therapy, opioid substitution therapy, family therapy, educational groups, occupational and recreational therapy, or other psychotherapy; or~~

~~b. Case coordination, case management, chronic care and maintenance services, intentional community treatment support, or assertive community treatment.~~

~~2.~~ ~~4.~~ An outpatient ~~services~~ therapy program must provide services in an amount, frequency, and intensity appropriate to ~~a client's treatment plan~~an individual's needs and level of function.

5~~3~~. When an individual meets admission criteria for a more intensive level of care but is unwilling or unable to engage in the recommended intensity of treatment, the treatment plan must include safety strategies.

~~An outpatient services program must address as the need arises with a client with a mental health problem issues of psychotropic medication, mental health treatment, and their relationship to substance use disorders.~~

~~4. An outpatient services program with a dual diagnosis enhanced program shall offer therapies to actively address, monitor, and manage psychotropic medication, mental health treatment, and the interaction with substance-related disorders.~~

6~~5~~. Counseling ~~or assessment~~ of ~~a client~~an individual regarding the ~~client's abuse~~individual's use of alcohol or a controlled substance must be provided by a licensed addiction counselor as provided in North Dakota Century Code chapter

43-45. The provision of case management and educational services do not need to be performed by licensed addiction counselors. A licensed addiction counselor must be present in all team meetings where level of care and treatment planning decisions are made regarding ~~a client~~an individual receiving or referred for substance ~~ab~~use services.

~~6. For chronic care and maintenance services, an outpatient services program shall offer services that are comprehensive and have an indefinite and variable programming or provision schedule determined by the client's stability, level of functioning, and assessed needs for ongoing community support and maintenance services.~~

History: Effective October 26, 2004.
General Authority: NDCC 50-06-16, 50-31
Law Implemented: NDCC 50-31

75-09.1-07-04. Admission criteria.

For admission to outpatient ~~services~~therapy, ~~the client~~an individual shall meet the criteria set forth in subsections one and two~~: and at least one of the remaining criteria:~~

1. Meet diagnostic criteria for a substance~~-induced~~ use disorder~~s~~ of the DSM; and

2. Meet admission criteria for ASAM level ~~I~~ 1.5 outpatient ~~services~~ therapy in ~~all~~ alignment with the ~~six~~ ASAM dimensional criteria.~~dimensions and meet at least one of the following:~~

~~a. Demonstrates the need to take extended time for evaluation or lacks motivation to make a commitment to a more intensive recovery effort and requires motivational enhancement strategies;~~

~~b. Has completed a higher intensity level of care but requires continued services until recovery stabilizes;~~

~~c. Has evidence of a brief return to usage not resulting in significant physical or emotional deterioration;~~

~~d. Requires outpatient counseling of an intensity that will meet the client's needs without placement in a higher level of care;~~

~~e. Has not been through a prior treatment and exhibits motivation for recovery and meets ASAM criteria for level I in dimensions one, two, three, five, and six or the client has low severity of problems in ASAM dimensions one, two, three, five, and six;~~

~~f. Has a low severity of problems in ASAM dimensions one, two, three, five, and six but is not motivated and requires motivation enhancement strategies best delivered in a level I program; or~~

~~g. Has a severe and persistent mental illness that impairs the client's ability to consistently follow through with mental health appointments, take prescribed~~

~~psychotropic medications, and maintain mental and personal stability in the community but does have the ability to access services such as assertive community treatment and case management or supportive living.~~

History: Effective October 26, 2004.
General Authority: NDCC 50-05-16, 50-31
Law Implemented: NDCC 50-31

New Chapter X
Medically Managed Outpatient Treatment – Adolescent ASAM Level 1.7

Section
X Definitions
75-09.XX Program Criteria
75-09.XX Admission Criteria

75-09.XXX. Definitions.

For the purposes of this chapter:

1. "Medically managed outpatient treatment" means an organized outpatient service delivered by medical professionals who provide evaluation and management of intoxication, withdrawal, biomedical concerns, and common low complexity psychiatric conditions. This level of care may be delivered in any outpatient setting, including office-based settings, healthcare or addiction treatment facilities, behavioral health clinics, opioid treatment programs, and mobile treatment programs, among others.

75-09.XX Program Criteria

X A medically managed outpatient treatment program shall meet all requirements of an ASAM level 1.5 outpatient therapy program as identified in chapter 75-09.1-X.

X A medically managed outpatient treatment program shall provide:
a) Nursing care during program hours of operation to meet the severity of individual's needs;
b) A physician or other licensed prescriber available on-site or via-telebehavioral health during program hours of operation available to:
1) review admission decisions within 24 hours of admission to confirm the appropriateness of the individual's level of care recommendation, including that withdrawal management in this setting is safe;
2) perform medical histories and physical examinations;
3) assess and treat substance withdrawal and comorbid biomedical conditions;
4) manage medications and other treatment modalities;

c) A medical director who is a licensed physician with addiction experience, available for consultation, and who has developed and approved program policies and procedures;
d) outpatient medical management of acute withdrawal and biomedical and psychiatric conditions;
e) a medical or nursing assessment upon admission that includes vitals, including pulse oximetry, history of present illness, baseline evaluation of withdrawal severity and risks, and medical history;
f) an addiction-focused physical examination at initial visit.

75-09.XX Admission Criteria

X Before a medically managed outpatient treatment program may admit an individual, the individual shall:
1. Meet diagnostic criteria for a provisional substance use disorder of the DSM; and

2. Meet admission criteria for ASAM level 1.7 medically managed outpatient treatment in alignment with the ASAM dimensional criteria.

New Chapter X
Medically Managed Outpatient Treatment – Adult ASAM Level 1.7

Section
X Definitions
75-09.XX Program Criteria
75-09.XX Admission Criteria

75-09.XXX. Definitions.

For the purposes of this chapter:

1. "Medically managed outpatient treatment" means an organized outpatient service delivered by medical professionals who provide evaluation and management of intoxication, withdrawal, biomedical concerns, and common low complexity psychiatric conditions. This level of care may be delivered in any outpatient setting, including office-based settings, healthcare or addiction treatment facilities, behavioral health clinics, opioid treatment programs, and mobile treatment programs, among others.

75-09.XX Program Criteria

X A medically managed outpatient treatment program shall meet all requirements of an ASAM level 1.5 outpatient therapy program as identified in chapter 75-09.1-X.

X A medically managed outpatient treatment program shall provide:
a) Nursing care during program hours of operation to meet the severity of individual's needs;
b) A physician or other licensed prescriber available on-site or via-telebehavioral health during program hours of operation available to:
1) review admission decisions within 24 hours of admission to confirm the appropriateness of the individual's level of care recommendation, including that withdrawal management in this setting is safe;
2) perform medical histories and physical examinations;
3) assess and treat substance withdrawal and comorbid biomedical conditions;
4) manage medications and other treatment modalities;

c) A medical director who is a licensed physician with addiction experience, available for consultation, and who has developed and approved program policies and procedures;
d) outpatient medical management of acute withdrawal and biomedical and psychiatric conditions;
e) a medical or nursing assessment upon admission that includes vitals, including pulse oximetry, history of present illness, baseline evaluation of withdrawal severity and risks, and medical history;
f) an addiction-focused physical examination at initial visit.

75-09.XX Admission Criteria

X Before a medically managed outpatient treatment program may admit an individual, the individual shall:
1. Meet diagnostic criteria for a provisional substance use disorder of the DSM; and

2. Meet admission criteria for ASAM level 1.7 medically managed outpatient treatment in alignment with the ASAM dimensional criteria.

CHAPTER 75-09.1-06.1
INTENSIVE OUTPATIENT TREATMENT - ADOLESCENT ASAM LEVEL 2~~II~~.1

Section
75-09.1-06.1-01 Definitions
75-09.1-06.1-02 Provider Criteria
75-09.1-06.1-03 Program Criteria
75-09.1-06.1-04 Admission Criteria

75-09.1-06.1-01. Definitions.

As used in this chapter:

1. "Intensive outpatient treatment" means a program that provides six to nineteen hours of structured clinical services per week consisting primarily of counseling, psychoeducation, and psychotherapy provided to address addiction and co-occurring mental health conditions. ~~"After-school program" means an intensive outpatient program offered after school hours to facilitate a client's schedule.~~

~~2. "Intensive outpatient treatment" means treatment provided to adolescent clients requiring a primary, organized treatment program and who are able to establish abstinence and recovery within the context of the client's usual environment and daily activities. This level of care will normally be offered in the evening hours to facilitate a client's ability to maintain the usual daily activity but may be offered during the day.~~

History: Effective October 26, 2004.
General Authority: NDCC 50-06-16, 50-31
Law Implemented: NDCC 50-31

75-09.1-06.1-02. Provider criteria.

1. ~~1.~~ An intensive outpatient treatment program shall offer no less than six hours and no more than nineteen hours of structured clinical services provided by a tier 1 or 2 mental health professional working within their scope of practice per week in a structured environment at least three days per week.

2. An intensive outpatient treatment program shall offer the program with the length of stay to be determined by an individual's condition and functioning.

3. An intensive outpatient program shall provide a combination of individual and/or group counseling, psychoeducation, and psychotherapy regarding management of addiction and co-occurring mental health conditions in an amount, frequency, and intensity appropriate to meet individual needs and level of function as determined by an assessment;

4. Clinically planned and managed therapeutic milieu facilitated by trained clinical staff that imparts peer support, builds prorecovery attitudes, and improves coping strategies and behaviors;

5. An intensive outpatient program shall provide co-occurring capable care for individual mental health concerns; needs for additional mental health and/or medical services shall be addressed through consultation and/or referral arrangements, with close coordination for services provided via referral;

6. An intensive outpatient program shall provide family and caregiver treatment services as deemed appropriate by an assessment and treatment plan;

7. An intensive outpatient program shall provide educational and informational programming adaptable to individual needs and developmental status; and

~~An intensive outpatient treatment program shall offer no less than six hours per week in a structured program.~~

~~2. An intensive outpatient treatment program shall offer the program with the length of stay to be determined by a client's condition and functioning.~~

~~3. An intensive outpatient treatment program shall make clients aware of emergency services that are available twenty-four hours a day seven days a week when the program is not in session.~~

~~**History:** Effective October 26, 2004.~~
~~**General Authority:** NDCC 50-06-16, 50-31~~
~~**Law Implemented:** NDCC 50-31~~

~~75-09.1-06.1-03. Program criteria.~~

~~An intensive outpatient program shall provide:~~

~~1. A combination of individual and group therapy as deemed appropriate by an assessment and treatment plan;~~

~~2. Medical and nursing services as deemed appropriate by an assessment and treatment plan;~~

~~3. A system for consultation or referral for identified treatment needs if such services are not available in the program and which includes close coordination of such services by the program and an effort by the program to arrange needed medical or psychiatric services by telephone within twenty-four hours of when the need was identified and in-person services within a time frame appropriate to the severity and issue;~~

~~4. Family treatment services as deemed appropriate by an assessment and treatment plan;~~

~~5. Educational and informational programming adaptable to individual client needs and developmental status; and~~

8~~6~~. If treatment hours conflict with school hours, an intensive outpatient program shall arrange onsite homework assistance coordinated with the ~~client's~~ individual's home school.

History: Effective October 26, 2004.
General Authority: NDCC 50-06-16, 50-31
Law Implemented: NDCC 50-31

75-09.1-06.1-04. Admission criteria.

Before an intensive outpatient treatment program may admit an individual ~~client~~, the ~~client~~ individual shall:

1. Meet diagnostic criteria for a substance-related disorder of the ~~current~~ DSM; and

2. Meet admission criteria for ASAM level 2.1 intensive outpatient treatment in alignment with the ASAM dimensional criteria. ~~II.1 outpatient in all six ASAM dimensions and at least two of the following:~~

~~a. The client has few or no symptoms of withdrawal and presents only stable physical or psychiatric conditions;~~

~~b. The client expresses willingness even through coercion to attend all scheduled events; or~~

~~c. The client has an environment supportive of recovery efforts or is supplied with recommendations for alternative supportive housing by the intensive outpatient treatment program.~~

History: Effective October 26, 2004.
General Authority: NDCC 50-06-16, 50-31
Law Implemented: NDCC 50-31

CHAPTER 75-09.1-06
INTENSIVE OUTPATIENT TREATMENT - ADULT ASAM LEVEL ~~2II~~.1

Section
75-09.1-06-01 Definition
75-09.1-06-02 Provider Criteria
75-09.1-06-03 Program Criteria
75-09.1-06-04 Admission Criteria

75-09.1-06-01. Definition.

As used in this chapter, "intensive outpatient treatment" means a program that provides nine to nineteen hours of structured clinical services per week consisting primarily of counseling, psychoeducation, and psychotherapy provided to address addiction and co-occurring mental health conditions. ~~treatment provided to clients requiring a primary, organized treatment program and who are able to establish abstinence and recovery within the context of the client's usual environment and daily activities. This level of care will normally be offered in the evening hours to facilitate a client's ability to maintain the usual daily activity but may be offered during the day.~~

History: Effective October 26, 2004.
General Authority: NDCC 50-06-16, 50-31
Law Implemented: NDCC 50-31

75-09.1-06-02. ~~Provider~~ Program criteria.

1. ~~1.~~ An intensive outpatient treatment program shall offer no less than ~~eight~~ nine hours and no more than nineteen hours of structured clinical ~~programming~~ services provided by a tier 1 or 2 mental health professional working within their scope of practice per week in a structured environment at least three days per week.

2. An intensive outpatient treatment program shall offer the program with the length of stay to be determined by an individual's ~~client's~~ condition and functioning.

~~3. An intensive outpatient treatment program shall make clients aware of emergency services that are available twenty-four hours per day seven days per week when the program is not in session.~~

~~**History:** Effective October 26, 2004.~~
~~**General Authority:** NDCC 50-06-16, 50-31~~
~~**Law Implemented:** NDCC 50-31~~

~~**75-09.1-06-03. Program criteria.**~~

~~An intensive outpatient program shall provide:~~

3~~1~~. An intensive outpatient program shall provide ~~A~~a combination of individual and/or group counseling, psychoeducation, and psychotherapy regarding management of addiction and co-occurring mental health conditions ~~therapy~~ in an amount,

frequency, and intensity appropriate to meet individual needs and level of function as determined by an assessment.~~as deemed appropriate by an assessment and treatment plan~~;

~~2~~4.~~.~~ ~~Medical and nursing services as deemed appropriate by an assessment and treatment plan;~~ Clinically planned and managed therapeutic milieu facilitated by trained clinical staff that imparts peer support, builds prorecovery attitudes, and improves coping strategies and behaviors;

5~~3~~. ~~A system for consultation or referral for identified treatment needs if such services are not available in the program and which includes close coordination of such services by the program and an effort by the program to arrange needed medical or psychiatric services by telephone within twenty-four hours of when the need was identified and in-person services within a time frame appropriate to the severity and issue;~~ An intensive outpatient program shall provide co-occurring capable care for individual mental health concerns; needs for additional mental health and/or medical services shall be addressed through consultation and/or referral arrangements, with close coordination for services provided via referral;

6~~4~~. An intensive outpatient program shall provide ~~F~~family treatment services as deemed appropriate by an assessment and treatment plan; and

7~~5~~. An intensive outpatient program shall provide e~~E~~ducational and informational programming adaptable to individual ~~client~~ needs and developmental status.

History: Effective October 26, 2004.
General Authority: NDCC 50-06-16, 50-31
Law Implemented: NDCC 50-31

75-09.1-06-04. Admission criteria.

Before an intensive outpatient treatment program may admit a client, the client must:

1. Meet diagnostic criteria for a substance-related disorder of the ~~current~~ DSM; and

2. Meet admission criteria for ASAM level ~~II~~2.1 intensive outpatient treatment in alignment with the ASAM dimensional criteria.~~all six ASAM dimensions and at least two of the following:~~

   ~~a. The client has few or no symptoms of withdrawal and presents only stable physical or psychiatric conditions;~~

   ~~b. The client expresses willingness even through coercion to attend all scheduled events; or~~

   ~~c. The client has an environment supportive of recovery efforts or is able to be supplied with alternative supportive housing.~~

History: Effective October 26, 2004.
General Authority: NDCC 50-06-16, 50-31
Law Implemented: NDCC 50-31

CHAPTER 75-09.1-05.1
~~PARTIAL HOSPITALIZATION - DAY~~ high-intensity outpatient TREATMENT - ADOLESCENT ASAM LEVEL ~~II~~2.5

Section
75-09.1-05.1-01 Definition
75-09.1-05.1-02 Provider Criteria
75-09.1-05.1-03 Program Criteria
75-09.1-05.1-04 Admission Criteria

75-09.1-05.1-01. Definition.

As used in this chapter, "high-intensity outpatient treatment" means (previously referred to as partial hospitalization) services for individuals with substance use disorder that provide at least twenty hours of structured clinical services per week consisting primarily of psychotherapy, counseling, and psychoeducation provided by a tier 1 or 2 mental health professional working within their scope of practice to address addiction and co-occurring mental health conditions. These programs also provide a clinically planned and managed therapeutic milieu facilitated by trained clinical staff that imparts peer support, builds prorecovery attitudes, and improves coping strategies and behaviors.~~partial hospitalization program" means a substance abuse treatment program that uses multidisciplinary staff and is provided for clients who require a more intensive treatment experience than intensive outpatient treatment but who do not require inpatient care or residential treatment with the exception of clients at ASAM level III.1. This level of care is designed to offer highly structured intensive treatment to a client whose condition is sufficiently stable so as not to require twenty-four hour per day monitoring and care, but whose illness has progressed so as to require consistent near-daily treatment intervention. Partial hospitalization may also be referred to as day treatment.~~

History: Effective October 26, 2004.
General Authority: NDCC 50-06-16, 50-31
Law Implemented: NDCC 50-31

75-09.1-05.1-02. ~~Provider~~ Program criteria.

1. A high-intensity outpatient treatment program shall offer no less than twenty hours of structured clinical services per week provided by a tier 1 or 2 mental health professional working within their scope of practice.

2. A high-intensity outpatient treatment program shall offer the program no less than five days per week with the length of stay to be determined by an individual's condition and functioning.

3. A high-intensity outpatient treatment program shall provide a combination of individual and/or group counseling, psychoeducation, and psychotherapy regarding management of addiction and co-occurring mental health conditions therapy in an amount, frequency, and intensity appropriate to individual needs and level of function as determined by an assessment;

4. A high-intensity outpatient treatment program shall provide clinically planned and managed therapeutic milieu facilitated by trained clinical staff that imparts peer

support, builds prorecovery attitudes, and improves coping strategies and behaviors;

5. A high-intensity outpatient treatment program shall provide co-occurring capable care for individual mental health concerns; needs for additional mental health and/or medical services shall be addressed through consultation and/or referral arrangements, with close coordination for services provided via referral;

6. A high-intensity outpatient treatment program shall provide family and caregiver treatment services as deemed appropriate by an assessment and treatment plan; and

7. A high-intensity outpatient treatment program shall provide educational and informational programming adaptable to individual needs.

~~1. A partial hospitalization program shall offer no less than twenty hours of programming per week in a structured program.~~

~~2. A partial hospitalization program shall offer the program no less than four days per week with the length of stay to be determined by a client's condition and functioning.~~

~~3. A partial hospitalization program shall make clients aware of emergency services that are available twenty-four hours a day seven days a week when the program is not in session.~~

~~**History:** Effective October 26, 2004.~~
~~**General Authority:** NDCC 50-06-16, 50-31~~
~~**Law Implemented:** NDCC 50-31~~

~~**75-09.1-05.1-03. Program criteria.**~~

~~A partial hospitalization program shall offer a client:~~

~~1. A combination of individual and group therapy as deemed appropriate by an assessment and treatment plan;~~

~~2. Medical and nursing services as deemed appropriate by an assessment and treatment plan;~~

~~3. A system for referral for needs identified but not available in the program;~~

~~4. Family treatment services as deemed appropriate by an assessment and treatment plan;~~

~~5. Educational and informational programming adaptable to individual client needs; and~~

~~6. Onsite staff provided or contracted accredited educational services for clients still in school or short-term educational services linked to home school designed to maintain current learning.~~

History: Effective October 26, 2004.
General Authority: NDCC 50-06-16, 50-31
Law Implemented: NDCC 50-31

75-09.1-05.1-04. Admission criteria.

Before a ~~partial hospitalization~~ high-intensity outpatient treatment ~~-~~program may admit an individual~~client~~, the individual~~client~~ must:

1. Meet diagnostic criteria for a substance-related disorder of the DSM;

2. Meet admission criteria for ASAM level 2.5 high-intensity outpatient treatment in alignment with the ASAM dimensional criteria.~~Be at low risk for withdrawal symptoms or have minimal remaining withdrawal symptoms;~~

~~3. Be physically stable but may have a medical condition that is severe enough to distract from recovery efforts or would be aggravated by continued use of alcohol or drugs or the client is psychologically stable enough not to require a twenty-four-hour observation and care but does have problems in the areas of dangerousness or lethality; interference with addiction recovery efforts; social functioning; ability for self-care or course of illness; and~~

~~4. The client meets at least two of the following:~~

~~a. The client requires repeated, structured, clinically directed motivational enhancement strategies not available at a less-intensive level of care;~~

~~b. The client made previous attempts at a treatment program of lower intensity with an inability to remain sober or has been an active participant at a less-intensive level of care but is experiencing an intensification of symptoms of the substance-related disorders and the client's functioning is deteriorating despite modifications of the treatment plan or there is a high likelihood that the client will continue to use or relapse without close outpatient monitoring and structured therapeutic services;~~

~~c. The client minimal support for sustaining beginning recovery in the client's home or customary environment;~~

~~d. The client has experienced significant impairment in life areas that require a high level of intensity best accomplished as close to the client's home community as is feasible; or~~

~~e. The client has experienced significant life traumas or stresses that require therapeutic interventions as an adjunct to addiction treatment to assure continuing recovery.~~

History: Effective October 26, 2004.
General Authority: NDCC 50-05-16, 50-31
Law Implemented: NDCC 50-31

CHAPTER 75-09.1-05
~~PARTIAL HOSPITALIZATION - DAY~~ HIGH-INTENSITY OUTPATIENT TREATMENT - ADULT ASAM LEVEL ~~II~~2.5

Section
75-09.1-05-01 Definition
75-09.1-05-02 Provider Criteria
75-09.1-05-03 Program Criteria
75-09.1-05-04 Admission Criteria

75-09.1-05-01. Definition.

As used in this chapter, "~~partial hospitalization~~high-intensity outpatient treatment" means (previously referred to as partial hospitalization) services for individuals with substance use disorder that provide at least twenty hours of structured clinical services per week consisting primarily of psychotherapy, counseling, and psychoeducation provided by a tier 1 or 2 mental health professional working within their scope of practice to address addiction and co-occurring mental health conditions. These programs also provide a clinically planned and managed therapeutic milieu facilitated by trained clinical staff that imparts peer support, builds prorecovery attitudes, and improves coping strategies and behaviors. ~~a substance abuse treatment program that uses multidisciplinary staff and is provided for clients who require a more intensive treatment experience than intensive outpatient treatment but who do not require residential treatment with the exception of ASAM level III.1. This level of care is designed to offer highly structured intensive treatment to those clients whose condition is sufficiently stable so as not to require twenty-four-hour per day monitoring and care, but whose illness has progressed so as to require consistent near-daily treatment intervention. Partial hospitalization may also be referred to as day treatment.~~

History: Effective October 26, 2004.
General Authority: NDCC 50-06-16, 50-31
Law Implemented: NDCC 50-31

75-09.1-05-02. ~~Provider~~ Program criteria.

1. A high-intensity outpatient treatment program~~partial hospitalization program~~ shall offer no less than twenty hours of structured clinical services ~~programming~~ per week provided by a tier 1 or 2 mental health professional working within their scope of practice. ~~in a structured program.~~

2. A ~~partial hospitalization program~~high-intensity outpatient treatment program shall offer the program no less than ~~four~~ five days per week with the length of stay to be determined by ~~a client's~~an individual's condition and functioning.

~~3. A partial hospitalization program shall make clients aware of emergency services that are available twenty-four hours per day seven days per week when the program is not in session.~~

~~**History:** Effective October 26, 2004.~~
~~**General Authority:** NDCC 50-06-16, 50-31~~
~~**Law Implemented:** NDCC 50-31~~

~~**75-09.1-05-03. Program criteria.**~~

~~A partial hospitalization program shall offer a client:~~

3~~1~~. A high-intensity outpatient treatment program shall provide a combination of individual and/or group counseling, psychoeducation, and psychotherapy regarding management of addiction and co-occurring mental health conditions therapy in an amount, frequency, and intensity appropriate to individual needs and level of function as determined by an assessment;~~therapy as deemed appropriate by an assessment and treatment plan;~~

4~~2~~. ~~Medical and nursing services as deemed appropriate by an assessment and treatment plan;~~ A high-intensity outpatient treatment program shall provide clinically planned and managed therapeutic milieu facilitated by trained clinical staff that imparts peer support, builds prorecovery attitudes, and improves coping strategies and behaviors;

5~~3~~. A high-intensity outpatient treatment program shall provide co-occurring capable care for individual mental health concerns; needs for additional mental health and/or medical services shall be addressed through consultation and/or referral arrangements, with close coordination for services provided via referral;~~A system for referral for needs identified but not available in the program~~;

6~~4~~. A high-intensity outpatient treatment program shall provide ~~F~~family treatment services as deemed appropriate by an assessment and treatment plan; and

7~~5~~. A high-intensity outpatient treatment program shall provide ~~E~~educational and informational programming adaptable to individual ~~client~~needs.

History: Effective October 26, 2004.
General Authority: NDCC 50-06-16, 50-31
Law Implemented: NDCC 50-31

75-09.1-05-04. Admission criteria.

Before a ~~partial hospitalization~~high-intensity outpatient program may admit an individual ~~client~~, the ~~client~~ individual must:

1. Meet diagnostic criteria for a substance-related disorder of the current DSM;

2. Meet admission criteria for ASAM level 2.5 high-intesnity outpatient treatment in alignment with the ASAM dimensional criteria.~~Be at low risk for withdrawal symptoms or have minimal remaining withdrawal symptoms;~~

~~3. Be physically stable but may have a medical condition that is severe enough to distract from recovery efforts or would be aggravated by continued use of alcohol or drugs or be psychologically stable enough not to require twenty-four-hour observation and care but may have a psychiatric condition that would be aggravated by continued use of alcohol or drugs; and~~

~~4. The client meets at least two of the following:~~

~~a. The client requires repeated, structured, clinically directed motivational enhancement strategies not available at a less-intensive level of care;~~

~~b. The client has made previous attempts at a treatment program of lower intensity with an inability to remain sober or has been an active participant at a less-intensive level of care but is experiencing an intensification of symptoms of the substance-related disorders and the client's functioning is deteriorating despite modifications of the treatment plan or there is a high likelihood that the client will continue to use or relapse without close outpatient monitoring and structured therapeutic services;~~

~~c. The client has minimal support for sustaining beginning recovery in the client's home or customary environment;~~

~~d. The client has experienced significant impairment in life areas that require a high level of intensity best accomplished as close to the client's home community as is feasible; or~~

~~e. The client has experienced significant life traumas or stresses that require therapeutic interventions as an adjunct to addiction treatment to assure continuing recovery.~~

History: Effective October 26, 2004.
General Authority: NDCC 50-06-16, 50-31
Law Implemented: NDCC 50-31

New Chapter X
Medically Managed Intensive Outpatient Treatment – Adolescent ASAM Level 2.7

Section
X Definitions
75-09.XX Program Criteria
75-09.XX Admission Criteria

75-09.XXX. Definitions.

For the purposes of this chapter:

1. "Medically managed intensive outpatient treatment" means services for individuals who require access to medical management with extended nurse monitoring but not 24-hour nursing support, overnight medical monitoring, nor residential structure and support. These programs provide coordinated management of withdrawal and biomedical and psychiatric comorbidities delivered by medical and clinical staff in an intensive outpatient setting. They provide at least 20 hours of clinical services per week comprised of medical care and psychosocial services to address addiction and co-occurring mental health conditions.

75-09.XX Program Criteria

X A medically managed intensive outpatient treatment program shall provide all the services of an ASAM level 2.5 programs as defined in chapter 75-09.1-X either directly or through formal affiliations with other providers or programs.

X A medically managed intensive outpatient treatment program shall provide:
a) nursing care during program hours of operation to meet the severity of individual's needs;
b) a nursing assessment upon admission that includes vitals, including pulse oximetry, history of present illness, baseline evaluation of withdrawal severity and risks, and medical history;
c) nurse monitoring;
d) a physician or other licensed prescriber available on-site or via-telebehavioral health during program hours of operation available to:
1) conduct a history and physical examination within 48 hours of admission and approve the admission decision;
2) assess and treat substance withdrawal and comorbid biomedical conditions;
3) initiate or adjust medications based on the results of nursing assessments;
4) manage medications and other treatment modalities;
e) medication management, including regular monitoring of the individual's adherence to prescribed medications;
f) prescription services with essential medications on-site;
c) A medical director who is a licensed physician with addiction experience, available for consultation, and who has developed and approved program policies and procedures;
d) outpatient medical management of acute withdrawal and biomedical and psychiatric conditions;

75-09.XX Admission Criteria

X Before a medically managed intensive outpatient treatment program may admit an individual, the individual shall:

1. Meet diagnostic criteria for a provisional substance use disorder of the DSM; and
2. Meet admission criteria for ASAM level 2.7 medically managed intensive outpatient treatment in alignment with the ASAM dimensional criteria.

New Chapter X
Medically Managed Intensive Outpatient Treatment – Adult ASAM Level 2.7

Section
X Definitions
75-09.XX Program Criteria
75-09.XX Admission Criteria

75-09.XXX. Definitions.

For the purposes of this chapter:

1. "Medically managed intensive outpatient treatment" means services for individuals who require access to medical management with extended nurse monitoring but not 24-hour nursing support, overnight medical monitoring, nor residential structure and support. These programs provide coordinated management of withdrawal and biomedical and psychiatric comorbidities delivered by medical and clinical staff in an intensive outpatient setting. They provide at least 20 hours of clinical services per week comprised of medical care and psychosocial services to address addiction and co-occurring mental health conditions.

75-09.XX Program Criteria

X A medically managed intensive outpatient treatment program shall provide all the services of an ASAM level 2.5 programs as defined in chapter 75-09.1-X either directly or through formal affiliations with other providers or programs.

X A medically managed intensive outpatient treatment program shall provide:
a) nursing care during program hours of operation to meet the severity of individual's needs;
b) a nursing assessment upon admission that includes vitals, including pulse oximetry, history of present illness, baseline evaluation of withdrawal severity and risks, and medical history;
c) nurse monitoring;
d) a physician or other licensed prescriber available on-site or via-telebehavioral health during program hours of operation available to:
1) conduct a history and physical examination within 48 hours of admission and approve the admission decision;
2) assess and treat substance withdrawal and comorbid biomedical conditions;
3) initiate or adjust medications based on the results of nursing assessments;
4) manage medications and other treatment modalities;
e) medication management, including regular monitoring of the individual's adherence to prescribed medications;
f) prescription services with essential medications on-site;
c) A medical director who is a licensed physician with addiction experience, available for consultation, and who has developed and approved program policies and procedures;
d) outpatient medical management of acute withdrawal and biomedical and psychiatric conditions;

75-09.XX Admission Criteria

X Before a medically managed intensive outpatient treatment program may admit an individual, the individual shall:

1. Meet diagnostic criteria for a provisional substance use disorder of the DSM; and
2. Meet admission criteria for ASAM level 2.7 medically managed intensive outpatient treatment in alignment with the ASAM dimensional criteria.

CHAPTER 75-09.1-02.1
CLINICALLY MANAGED LOW-INTENSITY RESIDENTIAL ~~CARE~~ Treatment - ADOLESCENT ASAM LEVEL ~~III~~3.1

Section
75-09.1-02.1-01 Definition
75-09.1-02.1-02 Provider Criteria
75-09.1-02.1-03 Program Criteria
75-09.1-02.1-04 Admission Criteria

75-09.1-02.1-01. Definition.

As used in this chapter "clinically managed low-intensity residential ~~care~~treatment" means a program that provides clinically managed low-intensity residential treatment for substance use disorder and other addictive disorders. Treatment services facilitate the application of recovery, relapse prevention, and coping skills and strategies. They promote prosocial skills, skills of daily living, personal responsibility, and reintegration of the individual into network systems of work, education, and family life. Level 3.1 does not include sober houses, recovery housing, supportive housing, boarding houses, or group homes where treatment services are not provided.~~substance abuse treatment program that provides an ongoing therapeutic environment for clients requiring some structured support in which treatment is directed toward applying recovery skills, preventing relapse, improving emotional functioning, promoting personal responsibility, and reintegrating the client into the world of work, education, and family life, adaptive skills that may not have been achieved or have been diminished during the client's active addiction. Such programs must offer at least five hours per week of low-intensity treatment, the focus of which will be on issues in ASAM dimensions four, five, and six, as well as ASAM dimension three if appropriate mental health services are available onsite or by contractual arrangement. Clinically managed low-intensity residential care is also designed for the adolescent requiring extended treatment to sustain and further therapeutic gains made at a more intensive level of care because of the client's functional deficits such as developmental immaturity, greater than average susceptibility to peer influence, or lack of impulse control. This level is also sometimes warranted as a substitute for or supplement to the deficits in the adolescent's recovery environment such as chaotic home situation, drug-using caretakers or siblings, or a lack of daily structured activities such as school. The residential component of clinically managed low-intensity residential care may be combined with low-intensity outpatient, intensive outpatient, or day treatment.~~

History: Effective October 26, 2004.
General Authority: NDCC 50-06-16, 50-31
Law Implemented: NDCC 50-31

75-09.1-02.1-02. Program~~Provider~~ criteria.

~~1. A clinically managed low-intensity residential care program shall maintain a safe, comfortable, alcohol-free, and drug-free environment.~~

~~2.~~

1. A clinically managed low-intensity residential treatment program shall have appropriately trained licensed clinical staff available on-site or on call 24/7.

2. A clinically managed low-intensity residential treatment program shall provide awake, alert, on-site staff twenty-four hours per day able to address individual instability in a safe and timely manner.

3. A clinically managed low-intensity residential treatment program shall provide nine to nineteen hours of structured clinical services provided by a tier 1 or 2 mental health professional working within their scope of practice per week consisting primarily of counseling, psychoeducation, and psychotherapy.

4. A clinically managed low-intensity residential treatment program shall provide a clinically planned and managed therapeutic milieu.

5. A clinically managed low-intensity residential treatment program shall develop and implement policies and procedures for providing supervision or support as needed when patients are off-site.

7. A clinically managed low-intensity residential treatment program shall provide structured services selected by clinical staff seven days per week.

8. A clinically managed low-intensity residential treatment program shall plan community reinforcement designed to foster prosocial values and community living skills.

10. A program shall provide safe and reliable transportation to any treatment services offered off-site.

11. A clinically managed low-intensity residential treatment program shall provide family and caregiver treatment.

~~A clinically managed low-intensity residential care program shall provide to clients a full meal service that meets established nutritional guidelines.~~

~~3. A clinically managed low-intensity residential care program shall implement written referral procedures and agreements with providers of services to enable clients to receive necessary aftercare, other therapeutic services, vocational rehabilitation and educational instruction such as general educational development preparation and literacy training and attendance at local support groups for clients not having completed high school.~~

~~4. A clinically managed low-intensity residential care program shall provide to an adolescent still enrolled in school onsite staff or onsite or offsite contractors for the provision of accredited educational services or short-term educational services linked to home school designed to maintain current learning.~~

~~5. A clinically managed low-intensity residential care program shall provide staff twenty-four hours per day.~~

~~6. A clinically managed low-intensity residential care program shall offer a minimum of five hours a week of professionally directed treatment in addition to other~~

~~treatment services a client may receive such as partial hospitalization or intensive outpatient treatment. Professionally directed treatment must include two support or two group sessions a week.~~

~~7. A clinically managed low-intensity residential care program shall collaborate with care providers to develop an individual treatment plan for each client with time-specific goals and objectives.~~

~~8. A clinically managed low-intensity residential care program shall maintain a record of each client's progress and activities in the program.~~

~~**History:** Effective October 26, 2004.~~
~~**General Authority:** NDCC 50-06-16, 50-31~~
~~**Law Implemented:** NDCC 50-31~~

~~**75-09.1-02.1-03. Program criteria.**~~

~~1. A clinically managed low-intensity residential care program shall provide services designed to improve a client's ability to structure and organize the tasks of daily living and recovery.~~

~~2. A clinically managed low-intensity residential care program shall provide educational and informational programming to enhance client recovery.~~

~~3. A clinically managed low-intensity residential care program shall provide family and caregiver treatment.~~

~~4. A clinically managed low-intensity residential care program shall provide activities to promote a client's social skill development.~~

~~5. A clinically managed low-intensity residential care program shall provide to clients support group meetings available onsite or transportation assistance to offsite support group meetings.~~

~~6. A clinically managed low-intensity residential care program shall provide transportation assistance to clients so that they may use offsite rehabilitation services.~~

~~**History:** Effective October 26, 2004.~~
~~**General Authority:** NDCC 50-06-16, 50-31~~
~~**Law Implemented:** NDCC 50-31~~

75-09.1-02.1-04. Admission criteria.

Before a program may admit an individual, the individual must:

1. Meet diagnostic criteria for a substance use disorder of the DSM; and

2. Meet admission criteria for ASAM level 3.1 clinically managed low-intensity residential treatment in alignment with the ASAM dimensional criteria.

~~Before a clinically managed low-intensity residential care program may admit a client, the~~

~~client must:~~

~~1. Meet diagnostic criteria for a substance-related disorder of the DSM; and~~

~~2. Meet specifications in each of the six ASAM dimensions. Specifically, the client;~~

~~a. Must not be in need of detoxification from alcohol or drugs nor have any signs or symptoms of withdrawal that cannot be safely managed by the program;~~

~~b. Must not have a physical condition or complication impacting immediate safety or well-being requiring twenty-four-hour medical or nursing interventions and be capable of self-administering any prescribed medications but has a biomedical condition that distracts from recovery efforts and requires limited residential supervision to ensure adequate treatment or to provide support to overcome the distraction; or continued substance use would place the adolescent at risk of serious damage to the client's health because of the biomedical condition or an imminently dangerous pattern of high-risk use;~~

~~c. Must not have an emotional, behavioral, or cognitive condition or complication that impacts immediate safety or well-being requiring twenty-four-hour medical or nursing interventions unless in a dual diagnosis program but does have problems in the areas of dangerousness or lethality to self or others; interference with addiction recovery efforts; social functioning; ability for self-care; or course of illness;~~

~~d. Must be at a stage of readiness to change in which the client requires limited twenty-four-hour supervision to promote or sustain progress through the stages of change and is cooperative and likely to engage in treatment at this level of care;~~

~~e. Is in danger of relapse because of a lack of monitoring or is in danger of relapse because supervision between treatment encounters at a less intensive level of care has been a major barrier to abstinence; recovery skills are not yet sufficient to overcome environmental triggers such as peer pressure; or a history of chronic substance use, repeated relapse, or resistance to treatment predicts continued use or relapse without residential containment;~~

~~f. Has been living in an environment in which there is a high risk of neglect or initiation or repetition of physical, sexual, or severe emotional abuse; has a family member or other household member with an active substance use disorder; substance use is endemic in the home environment; has a social network that is too chaotic or ineffective to support or sustain treatment goals; or has logistical impediments such as distance from a treatment facility or lack of transportation that precludes participation at a less intensive level of care; and~~

~~g. Is able to cope for limited periods of time outside of the residential structure to pursue clinical, vocational, educational, and community activities.~~

History: Effective October 26, 2004.
General Authority: NDCC 50-06-16, 50-31
Law Implemented: NDCC 50-31

CHAPTER 75-09.1-02
CLINICALLY MANAGED LOW-INTENSITY RESIDENTIAL ~~CARE~~ Treamtent- ADULT ASAM LEVEL ~~III~~3.1

Section
75-09.1-02-01 Definitions
75-09.1-02-02 Provider Criteria
75-09.1-02-03 Program Criteria
75-09.1-02-04 Admission Criteria

75-09.1-02-01. Definitions.

For the purposes of this chapter:

1. "Clinically managed low-intensity residential ~~care~~treatment" means a program that provides clinically managed low-intensity residential treatment for substance use disorder and other addictive disorders. Treatment services facilitate the application of recovery, relapse prevention, and coping skills and strategies. They promote prosocial skills, skills of daily living, personal responsibility, and reintegration of the individual into network systems of work, education, and family life. Level 3.1 does not include sober houses, recovery housing, supportive housing, boarding houses, or group homes where treatment services are not provided.~~providing an ongoing therapeutic environment for clients requiring some structured support in which treatment is directed toward applying recovery skills, preventing relapse, improving emotional functioning, promoting personal responsibility, and reintegrating the individual into the worlds of work, education, and family life, adaptive skills that may not have been achieved or have been diminished during the client's active addiction. Such programs must offer at least five hours per week of low-intensity treatment the focus of which will be on issues in ASAM dimensions four, five, six, and three, if appropriate mental health services are available onsite or by contractual arrangement. Clinically managed low-intensity residential care is also designed for the client suffering from chronic, long-term alcoholism or drug addiction and affords an extended period of time to establish sound recovery and a solid support system. The residential component of clinically managed low-intensity residential care may be combined with low-intensity outpatient, intensive outpatient, or day treatment.~~

2. "Program" means a clinically managed low-intensity residential ~~care~~ treatment program.

History: Effective October 26, 2004.
General Authority: NDCC 50-06-16, 50-31
Law Implemented: NDCC 50-31

75-09.1-02-02. ~~Provider~~ Program criteria.

~~1. A program shall maintain a safe, comfortable, alcohol-free, and drug-free environment.~~

~~2. A program shall provide to clients or help clients gain access to full meal service~~

~~that meets established nutritional guidelines.~~

13. A program shall have appropriately trained licensed clinical staff available on-site or on call 24/7.~~implement written referral procedures and agreements with providers of services to enable clients to receive necessary aftercare, other therapeutic services, vocational rehabilitation, educational instruction, literacy training, and attendance at local support groups.~~

24. A program shall provide awake, alert, on-site staff twenty-four hours per day able to address individual instability in a safe and timely manner.

35. A program shall provide nine to nineteen hours of structured clinical services provided by a tier 1 or 2 mental health professional working within their scope of practice per week consisting primarily of counseling, psychoeducation, and psychotherapy.~~offer a minimum of five hours a week of professionally directed treatment in addition to other treatment services offered to clients such as partial hospitalization or intensive outpatient treatment. Professionally directed treatment must include two support or group sessions a week for clients.~~

46. A program shall provide a clinically planned and managed therapeutic milieu.~~collaborate with care providers to develop an individual treatment plan for each client with time-specific goals and objectives.~~

~~7. A program shall maintain a record of the client's progress and activities in the program.~~

5. A program shall develop and implement policies and procedures for providing supervision or support as needed when patients are off-site.

6. A program shall develop and implement policies and procedures for determining when and how an individual is able to leave the program premises independently;

~~**History:** Effective October 26, 2004.~~
~~**General Authority:** NDCC 50-06-16, 50-31~~
~~**Law Implemented:** NDCC 50-31~~

~~**75-09.1-02-03. Program criteria.**~~

91. A program shall provide structured services selected by clinical staff seven days per week.~~designed to improve a client's ability to structure and organize the tasks of daily living and recovery.~~

102. A program shall plan community reinforcement designed to foster prosocial values and community living skills.~~provide educational and informational programming to enhance client recovery.~~

~~3. A program shall provide activities to promote a client's social skill development.~~

~~4. A program shall provide support group meetings available onsite or transportation assistance to offsite support group meetings.~~

125. A program shall provide safe and reliable transportation to any treatment services

offered off-site.~~assistance to enable clients to use offsite rehabilitation services.~~

History: Effective October 26, 2004.
General Authority: NDCC 50-06-16, 50-31
Law Implemented: NDCC 50-31

75-09.1-02-04. Admission criteria.

Before a program may admit an individual~~client~~, the individual~~client~~ must:

1. Meet diagnostic criteria for a substance use ~~dependence~~ disorder of the current DSM; and

2. Meet admission criteria for ASAM level 3.1 clinically managed low-intensity residential treatment in alignment with the ASAM dimensional criteria.~~specifications in each of the six ASAM patient placement criteria dimensions. Specifically, the client must:~~

~~a. Have no signs or symptoms of withdrawal or have withdrawal needs that can be safely managed by the program;~~

~~b. Not have a physical condition or complication impacting immediate safety and well-being requiring twenty-four-hour medical or nursing interventions and the client is capable of self-administering any prescribed medications;~~

~~c. Not have an emotional, behavioral, or cognitive condition or complication impacting immediate safety and well-being, requiring twenty-four-hour medical or nursing interventions unless in a dual diagnosis program;~~

~~d. Be at a stage of readiness to change in which the client requires twenty-four-hour structured milieu, acknowledges the existence of a substance use problem, is capable of self-care, and is sufficiently ready to change or is appropriately placed in a level I outpatient services or level II intensive outpatient services and is receiving clinically managed low-intensity residential care concurrently because of the need for engagement and motivational strategies or requires a twenty-four-hour structured milieu to promote treatment progress and recovery because past motivational strategies on an outpatient treatment have failed or the client is unable to make behavior changes without the support of a structured environment; or has a history of compulsive, relapse-prone chronicity or organic-related difficulties as a result of the client's abuse of alcohol or other drugs;~~

~~e. Be in imminent danger of relapse with dangerous emotional, behavioral, or cognitive consequences because of limited coping skills to address relapse triggers and cravings; or because the client is unable to consistently address the substance dependence disorder in spite of understanding it and is at risk in a less structured level of care or without staff support to maintain engagement while transitioning to life in the community; or because of other issues such as postponing immediate gratification and these issues are being addressed concurrently in a level II program; and~~

~~f. Require a twenty-four-hour supportive setting because the client is at moderately~~

~~high risk of physical, sexual, or emotional abuse; or is assessed as being unable to achieve or maintain sobriety at a less intensive level of care because substance use in the client's recovery environment is so endemic; or lacks social contacts or has inappropriate social contacts that jeopardize recovery; or is unlikely to recover because of continued exposure to school, work, or living environment and insufficient resources and skills to maintain an adequate level of functioning; or is in danger of victimization by another; and is able to cope for limited periods of time outside of the twenty-four-hour structure to pursue clinical, vocational, educational, and community activities.~~

History: Effective October 26, 2004.
General Authority: NDCC 50-06-16, 50-31
Law Implemented: NDCC 50-31

CHAPTER 75-09.1-08
Clinically Managed Residential Withdrawal Management~~SOCIAL DETOXIFICATION~~ ASAM LEVEL 3.2WM~~III.2-D~~

Section
75-09.1-08-01 Definitions
75-09.1-08-02 Program Criteria
75-09.1-08-03 Provider Criteria
75-09.1-08-04 Admission and Continued Stay Criteria
75-09.1-08-05 Referral to Acute Care Criteria
75-09.1-08-06 Criteria to Determine That Clinically Managed Residential Withdrawal Management~~Social Detoxification~~ Is Not Necessary

75-09.1-08-01. Definitions.

1. "CIWA-Ar" means the revised clinical institute withdrawal assessment for alcohol scale published in the archives of general psychiatry 48:442-447, May 1991, which is a ten-item scale for clinical quantification of the severity of alcohol withdrawal syndrome.

2. "Withdrawal management~~Detoxification~~" means the process of attenuation of the physiological and psychological features of withdrawal, and interrupting the momentum of habitual compulsive use in indiviudals with addiction.~~interrupting the momentum of compulsive use in an individual diagnosed with substance dependence and the condition of recovery from the effects of alcohol or another drug, the treatment required to manage withdrawal symptoms from alcohol or another drug, and the promotion of recovery from its effects.~~

3. "Clinically managed residential withdrawal management~~Social detoxification~~" means an organized service that may be delivered by appropriately trained staff who provide 24-hour supervision, observation, and support for individuals who are intoxicated or experiencing withdrawal. This level is characterized by its emphasis on peer and social support rather than medical and nursing care. This level provides care for individuals whose intoxication/withdrawal signs and symptoms are sufficiently severe to require 24-hour structure and support; however, the full resources of a medically managed residential treatment program are not necessary.~~detoxification in an organized residential nonmedical setting delivered by appropriately trained staff who provide safe, twenty-four-hour monitoring, observation, and support in a supervised environment for a client to achieve initial recovery from the effects of alcohol or another drug. Social detoxification is characterized by its emphasis on peer and social support and it provides care for clients whose intoxication or withdrawal signs and symptoms are sufficiently severe to require twenty-four-hour structure and support but the full resources of a medically monitored inpatient detoxification are not necessary.~~

History: Effective October 26, 2004.
General Authority: NDCC 50-06-16, 50-31
Law Implemented: NDCC 50-31

75-09.1-08-02. Program criteria.

A clinically managed residential withdrawal management ~~social detoxification~~ program must provide:

1. Hospital affiliation providing twenty-four-hour medical backup;

2. A trained staff member familiar with complications associated with alcohol and other drug use and with community resources awake on all shifts;

3. A ~~quiet~~quite, positive atmosphere;

4. Use of withdrawal management ~~detoxification~~ time as preparation for referral to another level of care; and

5. Recognition of the chronic nature of substance use disorder~~the disease of substance dependence~~ and the fact that some individuals~~clients~~ will require multiple admissions.

History: Effective October 26, 2004.
General Authority: NDCC 50-06-16, 50-31
Law Implemented: NDCC 50-31

75-09.1-08-03. Provider criteria.

A clinically managed residential withdrawal management ~~social detoxification~~ provider shall:

1. Maintain a safe, comfortable, positive environment in a residential setting;

2. Have an agreement with local medical providers that ensure readily accessible emergency care when needed;

3. Implement a protocol so that the nature of the medical interventions required are developed and supported by a physician knowledgeable in addiction medicine;

4. Have available specialized clinical consultation and supervision for biomedical, emotional, behavioral, and cognitive problems;

5. Have awake staff twenty-four hours per day to monitor individuals~~clients~~' conditions;

6. Have staff trained in admission, monitoring skills, including signs and symptoms of alcohol and other drug intoxication and withdrawal as well as appropriate treatment of those conditions, supportive care, basic cardiopulmonary resuscitation technique, assessment, and referral procedures;

7. Have services including close observation, supportive ~~staff-client~~ interaction, provision for proper fluid and nutritional components, and provision for individual~~client~~ space that offers low to moderate sensory stimulation;

8. Implement a clearly defined policy for admission, care, discharge, and transfer of

an individual ~~client~~ to another level of care;

9. Develop a method of documentation of care and train staff in documentation procedures;

10. Develop linkage with providers of other levels of care so the client may begin a therapeutic process as soon as the client is physically and mentally able to do so;

11. Administer, or have a formal agreement with an agency to provide, a range of cognitive, behavioral, medical, mental health, and other therapies on an individual or group basis designed to meet the client's ability to participate in order to enhance the ~~client's~~ individual's understanding of addiction, the completion of the withdrawal~~detoxification~~ process, and referral to an appropriate level of care for continuing treatment;

12. Develop a preliminary individualized treatment plan with the individual.~~client that includes problem identification in ASAM PPC dimension two through six and development of treatment goals and measurable treatment objectives and activities designed to meet those objectives; and~~

13. Implement a policy for medication storage, security, and self-administration to assure that the individual~~client~~ receives the individual~~client~~'s medication and for observation of the medication taking behavior.

History: Effective October 26, 2004.
General Authority: NDCC 50-06-16, 50-31
Law Implemented: NDCC 50-31

75-09.1-08-04. Admission and continued stay criteria.

Before an ~~client~~ individual may be admitted to ~~a~~ a clinically managed residential withdrawal management ~~social detoxification~~ program, the individual~~client~~ must obtain ~~meet the diagnostic criteria for a substance-induced disorder of the current DSM and~~ current clearance by a physician or a have CIWA-Ar score of less than ~~eight~~ ten and ~~the presence of any of the following:~~meet:

1. ~~1.~~ DSM criteria for a substance withdrawal diagnosis; or
2. DSM criteria for a substance intoxication diagnosis.

~~1. Diffuse mild central nervous system symptoms such as:~~

~~a. Cerebral symptoms, including slow responses to questions, difficulty in following complicated instructions, mild impairment of immediate memory, slurred speech, and mild disorientation to time but not to place or client;~~

~~b. Coordination symptoms, including mild abnormality in movement or gait, difficulty in finger-to-nose or finger-to-finger testing and rapid movements;~~

~~c. Reflex abnormalities, including normal or slightly depressed but symmetrical; or~~

~~d. Motor abnormalities, are normal or slightly depressed but symmetrical.~~

~~2. Onset of any stated symptoms listed in subsection 1 over a few hours;~~

~~3. Intoxication;~~

~~4. The absence of other more serious symptoms, including medical or psychiatric histories of significant problems and the absence of suicidal ideations or suicidal ideation of low lethality without plan or means;~~

~~5. Presence of any one of the following physical findings:~~

~~a. A temperature of ninety-seven degrees to one hundred degrees Fahrenheit [36.1 to 37.6 degrees Celsius] taken orally;~~

~~b. Tachycardia up to one hundred twenty beats per minute;~~

~~c. Blood pressure of up to one hundred sixty over one hundred twenty at rest;~~

~~d. Respiration of twelve to twenty-six breaths per minute;~~

~~e. Flushed skin color;~~

~~f. Pupils have a sluggish reaction to light; or~~

~~g. Other, such as alcohol odor on breath; or~~

~~6. Ability to comprehend and function in an ambulatory setting.~~

History: Effective October 26, 2004.
General Authority: NDCC 50-06-16, 50-31
Law Implemented: NDCC 50-31

75-09.1-08-05. Referral to acute care criteria.

A clinically managed residential withdrawal management ~~social detoxification~~ program shall refer an individual ~~client~~ to an acute care facility or consult with a physician upon an increase in score to greater than a ~~seven~~ nine CIWA-Ar score scale or when an individual~~client~~ has any one or more of the following symptoms:

1. Seizures or a history of seizures;

2. Current persistent vomiting or vomiting of blood;

3. Current ingestion of vomit into lungs;

4. Clouded sensorium such as gross disorientation or hallucination;

5. A temperature higher than one hundred and one degrees Fahrenheit [38.1 degrees Celsius] taken orally;

6. Abnormal respiration such as shortness of breath or a respiration rate greater than twenty-six breaths per minute;

7. Elevated pulse such as a heart rate greater than one hundred twenty beats per minute or arrhythmia;

8. Hypertension such as blood pressure greater than one hundred sixty over one hundred twenty;

9. Sudden chest pain or other sign of coronary distress or severe abdominal pain;

10. Recent head injury or any trauma other than minor;

11. Unconscious and not arousable; or

12. Other signs of significant illness such as jaundice, unstable diabetes, acute liver disease, severe allergic reaction, progressively severe Antabuse reaction, poisoning, progressively worsening tremors, chills, severe agitation, exposure, internal bleeding, shock, uncontrollable violence, suicidal or homicidal ideations.

History: Effective October 26, 2004.
General Authority: NDCC 50-06-16, 50-31
Law Implemented: NDCC 50-31

75-09.1-08-06. Criteria to determine that clinically managed residential withdrawal management ~~social detoxification~~ is not necessary.

~~Social detoxification~~ clinically managed residential withdrawal management will not be necessary if:

1. The individual~~client~~ exhibits no withdrawal symptoms at a blood alcohol level of 0.0 percent;

2. The individual~~client~~ has no medical complications present;

3. The individual~~client~~'s nutritional status is moderate to good;

4. The individual ~~client~~ has a relative, friend, or other support system who can stay with the individual~~client~~ for the time necessary to complete ~~—~~withdrawal management~~detoxification~~; or

5. The individual~~client~~ prefers outpatient ~~detoxification~~ withdrawal management.

History: Effective October 26, 2004.
General Authority: NDCC 50-06-16, 50-31
Law Implemented: NDCC 50-31

CHAPTER 75-09.1-03.1
CLINICALLY MANAGED HIGH~~MEDIUM~~-INTENSITY RESIDENTIAL Treatment ~~CARE~~ - ADOLESCENT ASAM LEVEL ~~III~~3.5

75-09.1-03.1-01. Definition.

As used in this chapter, "clinically managed high-intensity residential treatment" means a program that provides clinician-led habilitative and rehabilitative services with a focus on stabilization of risky substance use and substance use disorder related behaviors, initiation or restoration of a recovery process, and preparation for ongoing recovery with support at less intensive levels of care for individuals who require a safe and stable living environment to develop and practice their recovery skills to avoid experiencing immediate recurrence or continuing to use in a manner that poses significant risk for serious harm or destabilizing loss upon transition to a less intensive level of care.~~medium-intensity residential care" means a substance abuse treatment program that offers continuous observation, monitoring, and treatment by allied professional staff of individuals with significant psychological and social problems who are not sufficiently stable to benefit from outpatient treatment no matter how intensive. Such programs include therapeutic group homes, therapeutic communities, psychosocial model rehabilitation centers, or extended residential rehabilitation programs. A clinically managed medium-intensity residential care program should not treat a client who exhibits acute intoxication or withdrawal problems also known as ASAM dimension one; biomedical conditions and complications also known as ASAM dimension two; or emotional, behavioral, or cognitive problems also known as ASAM dimension three unless in a dual diagnosis program also known as level III.5 that requires the availability of twenty-four-hour medical or nursing interventions. Clinically managed medium-intensity residential care programs must provide relatively extended, subacute treatments that aim to effect fundamental personal change for the adolescent who has significant social and psychological problems and the goals and modalities of treatment focus not only on the adolescent's substance use but also a holistic view that takes into account the client's behavior, emotions, attitudes, values, learning, family, culture, lifestyle, and overall health. A clinically managed medium-intensity residential care program is particularly suitable for treatment of entrenched patterns of maladaptive behavior, extremes of temperament, and development or cognitive abnormalities related to mental health symptoms or disorders.~~

History: Effective October 26, 2004.
General Authority: NDCC 50-06-16, 50-31
Law Implemented: NDCC 50-31

75-09.1-03.1-02. ~~Provider~~ Program criteria.

~~A clinically managed medium-intensity residential care program shall:~~

A clinically managed high-intensity residential treatment program shall include:

1. Awake, alert, on-site staff twenty-four hours per day able to address individual instability in a safe and timely manner;

2. Appropriately trained licensed clinical staff available on-site or on call 24/7;

3. Policies and procedures that are developed and implemented for providing direct staff supervision when individuals are off-site;

4. Clinically managed withdrawal management including:

   a. Twenty-four-hour supervision, observation, and support for individuals who are intoxicated or experiencing withdrawal but do not require medically monitored or management care,
   b. Supervision of self-administered medications for withdrawal management in accordance with a prescription from a provider,
   c. Clinical monitoring of withdrawal, including use of physician-established protocols to monitor for changes in status that may require medical consultation and/or transition to a medically management level of care; and
   d. Psychosocial services designed to support completion of the withdrawal management process.

5. At least twenty hours of structured clinical services provided by a tier 1 or 2 mental health professional working within their scope of practice per week consisting primarily of psychotherapy, counseling, and psychoeducation to address addiction and co-occurring mental health conditions;

6. A planned and managed therapeutic milieu that encourages development and internalization of prosocial attitudes and behaviors using community support to reinforce recovery skills;

7. A program shall provide structured services selected by clinical staff seven days per week.

8. A system for referral of identified treatment needs if the service is not available in the program;

9. Family and caregiver treatment services as deemed appropriate by an assessment and treatment plan; and

10. Educational, vocational, and informational programming adapted to individual needs.

~~1. Offer onsite twenty-four-hour-a-day clinical staffing by licensed counselors, other clinicians, and other allied health professionals such as counselor aides;~~

~~2. Make available specialized professional consultation; and~~

~~3. Offer the residential program no less than seven days per week with the length of stay to be determined by a client's condition and functioning.~~

~~**History:** Effective October 26, 2004.~~
~~**General Authority:** NDCC 50-06-16, 50-31~~
~~**Law Implemented:** NDCC 50-31~~

~~75-09.1-03.1-03. Program criteria.~~

~~A clinically managed medium-intensity residential care program shall include:~~

~~1. Daily clinical services including a range of cognitive, behavioral, and other therapies in individual or group therapy and psychoeducation as deemed appropriate by an assessment and treatment plan;~~

~~2. Motivational enhancement and engagement strategies appropriate to a client's stage of readiness to change;~~

~~3. Counseling and clinical interventions to teach a client the skills needed for daily productive activity, prosocial behavior, and reintegration into family and community;~~

~~4. Random client drug screening to shape behavior and reinforcement treatment gains as appropriate to a client's individual treatment plan;~~

~~5. A system for referral of a client for identified treatment needs if the service is not available in the program;~~

~~6. Family and caregiver treatment services as deemed appropriate by an assessment and treatment plan;~~

~~7. Educational, vocational, and informational programming adaptive to individual client needs; and~~

~~8. Onsite staff provided or contracted onsite or offsite accredited educational services if a client is in school; general educational development preparation if the client does not possess a high school diploma and is no longer in school; or short-term educational services linked to home school designed to maintain current learning.~~

History: Effective October 26, 2004.
General Authority: NDCC 50-06-16, 50-31
Law Implemented: NDCC 50-31

75-09.1-03.1-04. Admission criteria.

Before a clinically managed ~~medium~~high-intensity residential care program may admit a~~n individual~~~~client~~, the individual~~client~~ must:

1. Meet diagnostic criteria for a substance-related disorder of the DSM; and

2. Meet admission criteria for ASAM level 3.5 clinically managed high-intensity residential treatment in alignment with the ASAM dimensional criteria. ~~clinically~~

~~managed medium-intensity residential services also known as ASAM level III.5 in each of the six ASAM dimensions. Specifically, the client:~~

~~a. Is at risk of or is experiencing subacute intoxication or withdrawal with mild to moderate symptoms and needs containment and increased treatment intensity without frequent access to medical or nursing services to support engagement in treatment, ability to tolerate withdrawal, and prevention of immediate continued use;~~

~~b. Does not have a physical condition or complication impacting immediate safety and well-being, requiring twenty-four- hour medical or nursing interventions but biomedical conditions distract from recovery efforts and require residential supervision or continued substance use would place a the client at risk for serious damage to physical health because of a co-occurring biomedical condition and the resident is capable of self-administering any prescribed medications;~~

~~c. Does not have an emotional, behavioral, or cognitive condition or complication impacting immediate safety or well-being requiring twenty-four-hour medical or nursing interventions unless in a dual diagnosis program but does have problems in the areas of dangerousness or lethality; interference with addiction recovery efforts; social functioning; ability for self-care; or course of illness;~~

~~d. Has a low readiness to change as evidenced by a lack of awareness of the need for treatment characterized by active or passive resistance to treatment; marked difficulty understanding the relationship between the substance use and life problems; the client requires a structured therapy and a twenty-four-hour programmatic milieu to promote treatment progress and recovery; or the client requires repeated, structured motivational interventions delivered in a twenty-four-hour milieu;~~

~~e. Has a readiness to change but issues in other dimensions impair the ability to translate this into treatment progress and recovery;~~

~~f. Has a high relapse, continued use, or continued problem potential as evidenced by the lack of recognition of relapse triggers or the lack of commitment to continuing care; the inability to control use of alcohol or other drugs or antisocial behavior with the attendant probability of harm to self or others; symptoms such as drug craving; difficulty postponing immediate gratification and other drug-seeking behaviors; or imminent danger of relapse with dangerous emotional, behavioral, or cognitive consequences because of a crisis situation; or~~

~~g. Has a chaotic home environment that makes recovery goals assessed as unachievable at a less-intensive level of care as evidenced by a moderately high risk of physical, sexual, or emotional abuse; substance use so endemic that the client is assessed as unable to achieve or maintain recovery; a social network of regular users of alcohol or other drugs; living with a family or other household member who is a regular user, abuser, or dealer of alcohol or other drugs; neglect or lack of~~

~~supervision; the inability to cope, even for limited periods of time, outside of twenty-four-hour care; a living environment characterized by criminal behavior, victimization, and other antisocial norms and values; or the need for staff monitoring before safe transfer to a less-intensive setting.~~

History: Effective October 26, 2004.
General Authority: NDCC 50-06-16, 50-31
Law Implemented: NDCC 50-31

CHAPTER 75-09.1-03
CLINICALLY MANAGED HIGH-INTENSITY RESIDENTIAL TREATMENT~~CARE~~ - ADULT ASAM LEVEL ~~III~~3.5

Section
75-09.1-03-01 Definitions
75-09.1-03-02 Provider Criteria
75-09.1-03-03 Program Criteria
75-09.1-03-04 Admission Criteria

75-09.1-03-01. Definitions.

As used in this chapter:

1. ~~1.~~ "Clinically managed high-intensity residential treatment~~services~~" means a program that provides clinician-led habilitative and rehabilitative services with a focus on stabilization of risky substance use and substance use disorder related behaviors, initiation or restoration of a recovery process, and preparation for ongoing recovery with support at less intensive levels of care for individuals who require a safe and stable living environment to develop and practice their recovery skills to avoid experiencing immediate recurrence or continuing to use in a manner that poses significant risk for serious harm or destabilizing loss upon transition to a less intensive level of care.~~therapeutic community or residential treatment center that offers continuous observation, monitoring, and treatment by allied professional staff designed to treat clients who are not sufficiently stable to benefit from outpatient treatment no matter how intensive and who have significant psychological and social problems. A clinically managed high-intensity residential services program does not treat clients that exhibit acute intoxication or withdrawal problems also known as ASAM dimension one; biomedical conditions and complications also known as ASAM dimension two; or emotional, behavioral or cognitive problems also known as ASAM dimension three unless in a dual diagnosis program also known as ASAM level III.5 which requires the availability of twenty-four-hour medical or nursing interventions.~~

~~2. "Therapeutic community" means a treatment program characterized by reliance on the treatment community as a therapeutic change agent in which the goals of treatment are abstinence from substance use and antisocial behavior and affecting a global change in a client's lifestyles, attitudes, and values. The defining characteristics of such a client are found in emotional, behavioral, and cognitive conditions also known as ASAM dimension three and in the recovery environment also known as ASAM dimension six. For some clients, treatment must be considered habilitative rather than rehabilitative which addresses a client's educational and vocational deficits as well as socially dysfunctional behavior.~~

History: Effective October 26, 2004.
General Authority: NDCC 50-06-16, 50-31
Law Implemented: NDCC 50-31

75-09.1-03-02. ~~Provider~~ Program criteria.

A clinically managed high-intensity residential ~~care~~ treatment program shall include:

1. Awake, alert, on-site staff twenty-four hours per day able to address individual instability in a safe and timely manner;~~Onsite, twenty-four hour per day clinical staffing by licensed counselors, other clinicians, and other allied health professionals such as counselor aides;~~

2. Appropriately trained licensed clinical staff available on-site or on call 24/7;~~Specialized professional consultation; and~~

~~3. A residential program offered no less than seven days per week with the length of stay to be determined by the client's condition and functioning.~~

3. Policies and procedures that are developed and implemented for providing direct staff supervision when individuals are off-site;

4. Clinically managed withdrawal management including:

   a. Twenty-four-hour supervision, observation, and support for individuals who are intoxicated or experiencing withdrawal but do not require medically monitored or management care,
   b. Supervision of self-administered medications for withdrawal management in accordance with a prescription from a provider,
   c. Clinical monitoring of withdrawal, including use of physician-established protocols to monitor for changes in status that may require medical consultation and/or transition to a medically management level of care; and
   ~~a.~~d. Psychosocial services designed to support completion of the withdrawal management process.

~~**History:** Effective October 26, 2004.~~
~~**General Authority:** NDCC 50-06-16, 50-31~~
~~**Law Implemented:** NDCC 50-31~~

~~**75-09.1-03-03. Program criteria.**~~

~~A clinically managed high-intensity residential care program shall include:~~

5~~1~~. At least twenty hours of structured clinical services provided by a tier 1 or 2 mental health professional working within their scope of practice per week consisting primarily of psychotherapy, counseling, and psychoeducation to address addiction and co-occurring mental health conditions;~~Daily clinical services which include a range of cognitive, behavioral, and other therapies in individual or group therapy and psychoeducation as deemed appropriate by an assessment and treatment plan;~~

6~~2~~. A planned and managed therapeutic milieu that encourages development and internalization of prosocial attitudes and behaviors using community support to reinforce recovery skills; ~~Motivational enhancement and engagement strategies appropriate to the client's stage of readiness to change;~~

~~3~~. ~~Counseling and clinical interventions to teach a client the skills needed for daily productive activity, prosocial behavior, and reintegration into family or community;~~

~~4. Random client drug screening to shape behavior and reinforce treatment gains as appropriate to the client's individual treatment plan;~~

7. Structured services selected by clinical staff seven days per week.

8~~5~~. A system for referral of ~~a client for~~ identified treatment needs if the service is not available in the program;

9~~6~~. Family treatment services as deemed appropriate by an assessment and treatment plan; and

10~~7~~. Educational, vocational, and informational programming adapted to individual ~~client~~ needs.

History: Effective October 26, 2004.
General Authority: NDCC 50-06-16, 50-31
Law Implemented: NDCC 50-31

75-09.1-03-04. Admission criteria.

Before a clinically managed high-intensity residential treatment~~care~~ program may admit an individual ~~client~~, the individual ~~client~~ shall:

1. Meet diagnostic criteria for a substance use~~dependence~~ disorder of the DSM; and

2. Meet admission criteria for ASAM level 3.5 clinically managed high-intensity residential treatment in alignment with the ASAM dimensional criteria.~~services also known as ASAM level III.5 in each of the six ASAM dimensions. Specifically, the client must:~~

~~a. Not be in need of detoxification from alcohol or drugs or have no signs or symptoms of withdrawal or withdrawal needs can be safely managed by the program;~~

~~b. Not have a physical condition or complication impacting immediate safety and well-being or requiring twenty-four-hour medical or nursing interventions and be capable of self-administering any prescribed medications;~~

~~c. Not have an emotional, behavioral, or cognitive condition or complication impacting immediate safety and well-being or requiring twenty-four-hour medical or nursing interventions unless the client is in a dual diagnosis program but may require a residential program because of sufficiently severe functional deficits to maintain abstinence or mental stability or both;~~

~~d. Have a low readiness to change as evidenced by a lack of awareness of the need for treatment characterized by active or passive resistance to treatment; marked difficulty understanding the relationship between the substance use and life problems; require a structured therapy and a~~

~~twenty-four-hour programmatic milieu to promote treatment progress and recovery; or require repeated, structured motivational interventions delivered in a twenty-four-hour milieu;~~

~~e. Have a higher readiness to change but issues in other dimensions impair the client's ability to translate this into treatment progress and recovery;~~

~~f. Have a high relapse, continued use, or continued problem potential as evidenced by the lack of recognition of relapse triggers or the lack of commitment to continuing care or both; the inability to control use of alcohol or other drugs or antisocial behavior with the attendant probability of harm to self or others; symptoms such as drug craving, difficulty postponing immediate gratification and other drug-seeking behaviors; or imminent danger of relapse with dangerous emotional, behavioral, or cognitive consequences because of a crisis situation; and~~

~~g. Have a problematic recovery environment that makes recovery goals assessed as unachievable at a less intensive level of care as evidenced by a moderately high risk of physical, sexual, or emotional abuse; substance use so endemic that the client is assessed as unable to achieve or maintain recovery; a social network of regular users of alcohol or other drugs; a social network characterized by significant withdrawal and social isolation; living with an individual who is a regular user, abuser, or dealer of alcohol and other drugs; the inability to cope for even limited periods of time outside of twenty-four-hour care; a living environment characterized by criminal behavior, victimization, and other antisocial norms and values; or the need for staff monitoring before safe transfer of the client to a less intensive setting.~~

History: Effective October 26, 2004.
General Authority: NDCC 50-06-16, 50-31
Law Implemented: NDCC 50-31

CHAPTER 75-09.1-04.1
MEDICALLY ~~MONITORED HIGH-INTENSITY INPATIENT~~ Managed Residential TREATMENT - ADOLESCENT ASAM LEVEL ~~3III~~.7

Section
75-09.1-04.1-01 Definition
75-09.1-04.1-02 Provider Criteria
75-09.1-04.1-03 Program Criteria
75-09.1-04.1-04 Admission Criteria

75-09.1-04.1-01. Definition.

As used in this chapter, "medically managed residential treatment" means services for individuals who are experiencing intoxication, withdrawal, biomedical, and/or psychiatric concerns or titration of addiction medication with 24-hour nurse monitoring and/or residential support.~~monitored intensive inpatient treatment program" means a substance abuse treatment program that provides a planned regimen of twenty-four-hour professionally directed evaluation, observation, medical monitoring, and addiction treatment in an inpatient setting. This program is appropriate for clients whose subacute detoxification, withdrawal, biomedical, and emotional, behavioral, or cognitive problems are so severe that they require inpatient treatment but who do not need the full resources of an acute care general hospital or a medically managed inpatient treatment program.~~

History: Effective October 26, 2004.
General Authority: NDCC 50-06-16, 50-31
Law Implemented: NDCC 50-31

75-09.1-04.1-02. ~~Provider~~ Program criteria.

~~A medically monitored intensive inpatient treatment program shall:~~
A medically managed residential treatment program shall provide:

1. A registered nurse or licensed practical nurse on-site 24 hours per day monitoring for stabilization of acute withdrawal and biomedical and psychiatric conditions;

2. Prescription services with essential medications on-site;

3. Physician or other licensed prescriber available on-site or via-telebehavioral health 24 hours per day to initiate or adjust medications based on the results of nursing assessments, and directly interacting with each individual on at least a daily basis;

4. A medical director who is a licensed physician with addiction experience, available for consultation, and who has developed and approved program policies and procedures.

5. The following biomedical capabilities on-site:
   a) vitals measurement and monitoring, including pulse oximetry and blood pressure;
   b) glucose monitoring;
   c) bottle oxygen;

d) an automated external defibrillator;
e) electrocardiogram with a 3-lead rhythm strip at minimum;
f) basic wound care;
g) mobility assistance;
h) injectable epinephrine;
i) injectable buprenorphine, and extended-release naltrexone;
j) point-of-care pregnancy testing;
k) laboratory and phlebotomy services, including:
1) access to laboratory services five days per week, and
2) access to blood culture services; and
l) drug testing and toxicology services;
m) intravenous medications, including the ability to use and manage an existing peripherally inserted central catheter line;
n) intravenous fluids; and
0) wound vacuum-assisted closure.

6. Individualized psychosocial services by a licensed clinician available daily either provided directly by the program or through formal affiliation;

7. A nursing assessment conducted at admission that includes:
a) vitals, including pulse oximetry;
b) history of present illness;
c) baseline evaluation of withdrawal severity and risks; and
d) medical history, including assessment of current biomedical, psychiatric, and cognitive concerns and medication review.

8. Hourly nurse monitoring of the individual's progress and medication administration as needed;

9. 3.5 hours of nursing care per individual per day, encompassing care provided by registered nurses, licensed practical nurses, certified nurse assistants, paramedics, and medical technicians under the supervision of an RN;

10. A physical examination performed within 24 hours of admission; and

11. Services delivered under a defined set of physician-approved policies and medical protocols.

~~1. Offer twenty-four-hour skilled nursing care, daily onsite counseling services, and the services of a physician twenty-four hours per day seven days per week;~~

~~2. Make specialized professional consultation available;~~

~~3. Offer the inpatient treatment program for seven days per week with the length of stay to be determined by a client's condition and functioning.~~

~~**History:** Effective October 26, 2004.~~
~~**General Authority:** NDCC 50-06-16, 50-31~~
~~**Law Implemented:** NDCC 50-31~~

~~**75-09.1-04.1-03. Program criteria.**~~

~~A medically monitored intensive inpatient treatment program shall provide:~~

~~1. A combination of individual and group therapy as deemed appropriate by an assessment and treatment plan;~~

~~2. Medical and nursing services available onsite to provide ongoing assessment and care of acute detoxification needs, medical, and psychiatric problems;~~

~~3. A system for referral of clients for identified treatment needs if such services are not available in the program;~~

~~4. Family treatment services as deemed appropriate by an assessment and treatment plan;~~

~~5. Educational and informational programming adaptive to individual client needs; and~~

~~6. Onsite staff provided or contracted accredited educational services if a client is still in school; general educational development preparation if the client does not possess a high school diploma and is no longer in school; or short-term educational services linked to home school designed to maintain current learning.~~

History: Effective October 26, 2004.
General Authority: NDCC 50-06-16, 50-31
Law Implemented: NDCC 50-31

75-09.1-04.1-04. Admission criteria.

Before a medically monitored intensive inpatient program may admit an individual ~~client~~, the individual ~~client~~ must:

1. Meet diagnostic criteria for a substance-related disorder of the DSM; and

2. Meet admission criteria for ASAM level 3.7 medically managed residential treatment in alignment with the ASAM dimensional criteria. ~~specifications in at least two of the six ASAM dimensions, at least one of which is in dimension one, two, or three as in the following criteria:~~

~~a. The client is experiencing or at risk of acute or subacute intoxication or withdrawal with moderate to severe signs and symptoms or there is a strong likelihood that the client who requires medication will not complete detoxification at another level of care and enter continued treatment or self-help recovery;~~

~~b. A biomedical complication of addiction or co-occurring medical condition requires active nursing and medical monitoring which does not require the resources of an acute care hospital or continued substance use would place the client at risk for serious damage to physical health because of a co-occurring biomedical condition;~~

~~c. The client has problems in one of the following areas requiring twenty-four-hour~~

~~supervision and a high-intensity therapeutic milieu with access to nursing and medical monitoring and treatment; dangerousness or lethality; interference with addiction recovery efforts; social functioning; ability for self-care; or course of illness;~~

~~d. The client exhibits severe impairment in significant life areas such as legal, family, school, or work;~~

~~e. The client exhibits significant loss of control and relapse symptoms; or~~

~~f. The client has had multiple attempts at treatment programs of lower intensity with an inability to stay sober.~~

History: Effective October 26, 2004.
General Authority: NDCC 50-06-16, 50-31
Law Implemented: NDCC 50-31

CHAPTER 75-09.1-04
MEDICALLY ~~MONITORED INTENSIVE INPATIENT~~Managed Residential TREATMENT - ADULT ASAM LEVEL ~~III~~3.7

Section
75-09.1-04-01 Definition
75-09.1-04-02 Provider Criteria
75-09.1-04-03 Program Criteria
75-09.1-04-04 Admission Criteria

75-09.1-04-01. Definition.

As used in this chapter, "medically ~~monitored intensive inpatient~~managed residential treatment" means services for individuals who are experiencing intoxication, withdrawal, biomedical, and/or psychiatric concerns or titration of addiction medication with 24-hour nurse monitoring and/or residential support.~~a substance abuse treatment program that provides a planned regimen of twenty-four-hour professionally directed evaluation, observation, medical monitoring, and addiction treatment in an inpatient setting. This program is appropriate for a client whose subacute detoxification, withdrawal, biomedical, and emotional, behavioral, or cognitive problems are so severe that they require inpatient treatment but who does not need the full resources of an acute care general hospital or a medically managed inpatient treatment program.~~

History: Effective October 26, 2004.
General Authority: NDCC 50-06-16, 50-31
Law Implemented: NDCC 50-31

75-09.1-04-02. ~~Provider~~ Program criteria.

A medically managed residential~~monitored intensive inpatient~~ treatment program shall provide:

1. ~~Offer twenty-four-hour skilled nursing care~~A registered nurse or licensed practical nurse on-site 24 hours per day monitoring for stabilization of acute withdrawal and biomedical and psychiatric conditions;~~, daily onsite counseling services, and a physician's services twenty-four hours per day seven days per week;~~

2. Prescription services with essential medications on-site;

3. Physician or other licensed prescriber available on-site or via-telebehavioral health 24 hours per day to initiate or adjust medications based on the results of nursing assessments, and directly interacting with each individual on at least a daily basis~~Make available specialized professional consultation~~; ~~and~~

~~3.~~4. A medical director who is a licensed physician with addiction experience, available for consultation, and who has developed and approved program policies and procedures;~~Offer the inpatient treatment program for seven days per week with the length of stay to be determined by a client's condition and functioning.~~

5. The following biomedical capabilities on-site:
   a) vitals measurement and monitoring, including pulse oximetry and blood pressure;
   b) glucose monitoring;
   c) bottle oxygen;
   d) an automated external defibrillator;
   e) electrocardiogram with a 3-lead rhythm strip at minimum;
   f) basic wound care;
   g) mobility assistance;
   h) injectable epinephrine;
   i) injectable buprenorphine, and extended-release naltrexone;
   j) point-of-care pregnancy testing;
   k) laboratory and phlebotomy services, including;
      1) access to laboratory services five days per week, and
      2) access to blood culture services; and
   l) drug testing and toxicology services;
   m) intravenous medications, including the ability to use and manage an existing peripherally inserted central catheter line;
   n) intravenous fluids; and
   0) wound vacuum-assisted closure.

6. Individualized psychosocial services by a licensed clinician available daily either provided directly by the program or through formal affiliation;

~~**History:** Effective October 26, 2004.~~
~~**General Authority:** NDCC 50-06-16, 50-31~~
~~**Law Implemented:** NDCC 50-31~~

~~**75-09.1-04-03. Program criteria.**~~

~~A medically monitored intensive inpatient treatment program shall provide:~~

7~~1~~. A nursing assessment conducted at admission that includes:
   a) vitals, including pulse oximetry;
   b) history of present illness;
   c) baseline evaluation of withdrawal severity and risks; and
   d) medical history, including assessment of current biomedical, psychiatric, and cognitive concerns and medication review.

8. Hourly nurse monitoring of the individual's progress and medication administration as needed;

9. 3.5 hours of nursing care per individual per day, encompassing care provided by registered nurses, licensed practical nurses, certified nurse assistants, paramedics, and medical technicians under the supervision of an RN;

10. A physical examination performed within 24 hours of admission.

11. Services delivered under a defined set of physician-approved policies and medical protocols.

~~A combination of individual and group therapy as deemed appropriate by an assessment and treatment plan;~~

~~2. Medical and nursing services available onsite to provide ongoing assessment and care of acute detoxification needs, medical, and psychiatric problems;~~

~~3. A system for referral of clients for identified treatment needs if the service is not available in the program;~~

~~4. Family treatment services as deemed appropriate by an assessment and treatment plan; and~~

~~5. Educational and informational programming adapted to individual client needs.~~

History: Effective October 26, 2004.
General Authority: NDCC 50-06-16, 50-31
Law Implemented: NDCC 50-31

75-09.1-04-04. Admission criteria.

Before a medically ~~monitored intensive inpatient~~managed residential treatment program may admit an individual~~ client~~, the individual~~client~~ shall:

1. Meet diagnostic criteria for a provisional substance use~~dependence~~ disorder of the DSM; and

2. Meet admission criteria for ASAM level 3.7 medically managed residential treatment in alignment with the ASAM dimensional criteria.~~specifications in at least two of the six ASAM dimensions, at least one of which is in dimension one, two, or three as in the following criteria:~~

~~a. The client is experiencing signs and symptoms of acute withdrawal or there is evidence that a severe withdrawal syndrome is imminent or there is a strong likelihood that the client who requires medication will not complete detoxification at another level of care and enter continued treatment or self-help recovery;~~

~~b. The client has a physical condition or complication impacting immediate safety or well-being;~~

~~c. The client has a psychiatric condition or complication impacting immediate safety or well-being;~~

~~d. The client exhibits severe impairment in significant life areas such as legal, family, or work;~~

~~e. The client exhibits significant loss of control and relapse symptoms; or~~

~~f. The client has had multiple attempts at treatment programs of lower intensity with an inability to stay sober.~~

History: Effective October 26, 2004.
General Authority: NDCC 50-06-16, 50-31
Law Implemented: NDCC 50-31

CHAPTER 75-09.1-10
LICENSING AND TREATMENT STANDARDS FOR OPIOID TREATMENT PROGRAMS

75-09.1-10-01. Definitions.

In this chapter, unless the context or subject matter otherwise requires:

1. "Accreditation" means the process of review and acceptance by an accreditation body.

2. "Accreditation body" means a body that has been approved by the administration under title 42, Code of Federal Regulations, part 8 to accredit opioid treatment programs using opioid agonist treatment medications.

3. "Administration" means the substance abuse and mental health services administration of the United States department of health and human services.

4. "Certification" means the process by which the administration determines that an opioid treatment program is qualified to provide opioid treatment under federal opioid treatment standards.

5. "Certification application" means the application filed by an opioid treatment program for purposes of obtaining certification from the administration, as described in title 42, Code of Federal Regulations, part 8.

6. "Center" means the center for substance abuse treatment within the administration which promotes the quality and availability of community-based substance abuse treatment services to which the administration has delegated certain responsibilities for the certification of opioid treatment programs.

7. "Critical incident" means an event that could have a negative impact on a patient, a patient's family members, or the opioid treatment program or its staff, including

an event that involves the loss of life or function, a serious physical or psychological injury, and a medication error.

8. "Detoxification treatment" means the dispensing of an opioid agonist treatment medication in decreasing doses to a patient to alleviate adverse physical or psychological effects incident to withdrawal from the continuous or sustained use of an opioid and to bring the patient to a drug-free state.

9. "Department" means the North Dakota department of human services.

10. "Division" means the division of mental health and substance abuse services of the department.

11. "Division of pharmacologic therapies" means a division of the center, which manages the day-to-day regulatory oversight activities, including supporting the certification and accreditation of opioid treatment programs, necessary to implement title 42, Code of Federal Regulations, part 8, on the use of opioid agonist medications.

12. "Federal opioid treatment standards" means the standards in title 42, Code of Federal Regulations, part 8 that are used to determine whether an opioid treatment program is qualified to engage in opioid treatment and that set forth patient admission criteria.

13. "Health care professional" means a physician assistant or an advanced practice registered nurse working under the medical director's supervision.

14. "Long-term detoxification treatment" means detoxification treatment for longer than thirty days but not in excess of one hundred eighty days.

15. "Maintenance treatment" means the dispensing of an opioid agonist treatment medication at stable dosage levels for a period in excess of thirty days in the treatment of an individual for opioid use disorder.

16. "Medical and rehabilitative services" means services, such as medical evaluations, counseling, and rehabilitative and other social programs such as vocational and educational guidance, and employment placement, intended to help a patient become and remain a productive member of society.

17. "Medical director" means a physician, licensed to practice medicine in the state, who assumes responsibility for administering all medical services performed by the opioid treatment program by whom the medical director is employed, either by performing the services directly or by delegating specific responsibility to authorized opioid treatment program physicians and health care professionals functioning under the medical director's direct supervision.

18. "Medication unit" means a facility established as part of, but geographically separate from, an opioid treatment program from which licensed private medical practitioners or pharmacists dispense or administer an opioid agonist treatment medication or collect biological specimen samples for drug testing or analysis.

19. "Opioid use disorder" reflects compulsive, prolonged self-administration of opioid substances that are used for no legitimate medical purpose or, if another medical condition is present that requires opioid treatment, that are used in doses greatly in excess of the amount needed for that medical condition.

20. "Opioid agonist treatment medication" means any opioid agonist drug that is approved by the United States food and drug administration under section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) for use in the treatment of opioid use disorder.

21. "Opioid" means any drug with the natural derivative of opium or synthetic psychoactive substance similar to morphine with capability to create physical dependence.

22. "Opioid treatment" means the dispensing of an opioid agonist treatment medication, and the provision of a comprehensive range of medical and rehabilitative services, when clinically necessary, to an individual to alleviate the adverse medical. psychological or physical effects of an opioid use disorder.

23. "Opioid treatment program" means a program engaged in opioid treatment, which is:

    a. Certified as an opioid treatment program by the center;

    b. Registered by the United States department of justice, drug enforcement administration under 21 U.S.C. section 823(g);

    c. Accredited by an opioid treatment program accreditation body; and

    d. Licensed as an opioid treatment program by the division.

24. "Patient" means an individual who undergoes treatment in an opioid treatment program.

25. "Program sponsor" means the person named in the application for certification under title 42, Code of Federal Regulations, part 8 as responsible for the operation of the opioid treatment program.

26. "Short-term detoxification treatment" means detoxification treatment for a period not in excess of thirty days.

27. "Treatment plan" means a plan that outlines for each patient attainable short-term treatment goals that are mutually acceptable to the patient and the opioid treatment program and which specifies the services to be provided and the frequency and schedule for their provision.

History: Effective April 1, 2014.
General Authority: NDCC 50-31-08
Law Implemented: NDCC 50-31-08

75-09.1-10-02. Requirements for opioid treatment program license - Application.

1. An applicant for licensure to operate an opioid treatment program, must hold a current license in good standing, or be eligible and become licensed prior to operating an opioid treatment program, as a substance abuse treatment program under any of the following chapters: 75-09.1-02, 75-09.1-02.1, 75-09.1-03, 75-09.1-03.1, 75-09.1-04, 75-09.1-04.1, 75-09.1-05, 75-09.1-05.1, 75-09.1-06, 75-09.1-06.1, 75-09.1-07, or 75-09.1-07.1. Chapter 75-09.1-01 applies to this chapter with the following exceptions:

    a. Section 75-09.1-01-20. Discharge and transfer criteria.

    b. Section 75-09.1-01-25. Accreditation as a basis for licensing.

    c. Section 75-09.1-01-26. Sanctions.

2. Prior to applying for a license to operate an opioid treatment program in this state, a prospective opioid treatment program provider shall provide documentation proving the need for an opioid treatment program in the specific area of the state being considered, and shall obtain written approval from the division to pursue licensure. The potential provider's documentation must include an assessment of the following criteria:

    a. Whether other existing services and facilities of the type proposed are available or accessible to meet the needs of the population proposed to be served.

    b. The extent to which the underserved need will be met adequately by the proposed program.

    c. The impact of the service on the ability of low-income persons, racial and ethnic minorities, women, persons with disabilities, the elderly, and other underserved groups to obtain needed health care.

3. If the applicant is applying for licensure for the first time in this state, but operates an opioid treatment program in another state, the applicant shall submit a copy of national and state certification and accreditation documentation, and copies of all survey reports written by national and state certification and accreditation organizations for each site where they have operated an opioid treatment program over the past six years.

4. After receiving approval, the prospective opioid treatment program shall obtain:

    a. Accreditation by an accreditation body.

    b. Certification from the United States department of health and human services substance abuse and mental health services administration. An opioid treatment program that has applied to the administration for provisional certification while the opioid treatment program is working towards accreditation with an accrediting body may apply for licensure under this chapter.

c. Registration from the United States department of justice, drug enforcement administration, office of diversion control.

d. As determined necessary for any physician with the opioid treatment program, a data 2000 waiver for buprenorphine.

5. A potential opioid treatment program shall:

a. Submit documentation to the division showing the potential opioid treatment program provider has completed an assessment of need to determine there is a need for the proposed opioid treatment program as required under subsection 2.

b. Provide documentation ensuring the location for the new opioid treatment program meets county, tribal, or city land use ordinances.

c. Submit a completed community relations plan developed in consultation with the county, city, or tribal authority, or their designees, to minimize the impact of the opioid treatment program on the business and residential neighborhoods in which the program will be located. The plan must include documentation of strategies used to:

(1) Obtain community input regarding the proposed location;

(2) Address any concerns identified by the community; and

(3) Develop an ongoing community relations plan to address new concerns expressed by the community as the concerns arise.

d. Submit a copy of the application for registration to the United States department of justice, drug enforcement administration.

e. Submit a copy of the application for certification to the center.

f. Submit a copy of the application for accreditation by an accreditation body.

g. Submit a plan describing reasonable transportation opportunities available to persons in need of treatment in their proposed service area to access the opioid treatment program.

h. Submit any additional information required by the division to assure the state and efficient operation of the facility.

6. An opioid treatment program shall enroll as an approved Medicaid provider in this state within ninety days of licensure under these rules.

History: Effective April 1, 2014.
General Authority: NDCC 50-31-08
Law Implemented: NDCC 50-31-08

75-09.1-10-03. Denial of application for opioid treatment program license.

1. The division shall deny an applicant's license:

   a. When it fails to meet the requirements of section 75-09.1-10-02.

   b. If the applicant has been denied, or has had revoked, the registration, accreditation, or certification required to be an opioid treatment program as set forth in subsection 22 of section 75-09.1-10-01.

   c. If any of the following occurred and was not resolved at a facility under the control of the applicant:

      (1) A license for a substance use disorder treatment service or health care agency was denied, revoked, or suspended in the past;

      (2) Found to have discriminated against, demonstrated cruelty, abuse, negligence, or misconduct toward, or indifference to the welfare of, a patient;

      (3) Misappropriation of patient property or resources;

      (4) Failed to meet financial obligations or contracted service commitments that affected patient care;

      (5) Has a history of noncompliance with state or federal regulations in providing substance abuse treatment;

      (6) Refused to allow the division access to records, files, books, or portions of the premises relating to operation of the substance abuse treatment program;

      (7) Willfully interfered with the preservation of material information or attempted to impede the work of an authorized department representative;

      (8) Advertised itself as licensed when a license has not been issued, or a license has been suspended or revoked; or

      (9) Has not demonstrated the capability to provide the appropriate services to assist patients in meeting goals, including:

         (a) Abstinence from opioids and opioid substitutes;

         (b) Obtaining mental health treatment;

         (c) Improving economic independence; and

         (d) Reducing adverse consequences associated with illegal use of controlled substances.

   d. If an owner or administrator of a facility under the control of the applicant:

(1) Has been convicted of child abuse or has been adjudicated as a perpetrator of child abuse;

(2) Has obtained or attempted to obtain a substance abuse treatment program license or health care provider license by fraudulent means or misrepresentation;

(3) Has been found guilty of, has pled guilty to, or has pled no contest to any of the offenses identified in paragraph 1 of subdivision c of subsection 1 of section 75-09.1-01-17;

(4) Has been found to have discriminated against, demonstrated cruelty, abuse, negligence, or misconduct toward, or indifference to the welfare of, a patient;

(5) Has misappropriated patient property or resources;

(6) Has failed to meet financial obligations or contracted service commitments that affect patient care;

(7) Has knowingly, or with reason to know, made a false statement of fact in the application or materials attached to the application;

(8) Has knowingly, or with reason to know, made a false statement of fact or failed to submit necessary information in any matter under investigation by the division; or

(9) Does not meet criminal background check requirements.

History: Effective April 1, 2014.
General Authority: NDCC 50-31-08
Law Implemented: NDCC 50-31-08

75-09.1-10-04. Issuing license to opioid treatment program.

The division shall issue a license after a review of application materials and an onsite visit confirms the applicant has the capacity to operate in compliance with this chapter. The division may issue an initial license for up to one year and subsequent licenses for up to two years.

History: Effective April 1, 2014.
General Authority: NDCC 50-31-08
Law Implemented: NDCC 50-31-08

75-09.1-10-05. Suspension and revocation of license - Appeal.

1. a. The division may suspend or revoke a license for one or more of the following reasons:

(1) The opioid treatment program has violated any of the opioid

treatment program licensing rules;

(2) The opioid treatment program has procured any license through fraud or deceit;

(3) The department, or any other state agency, has revoked any other license issued to the opioid treatment program;

(4) Any principal of the opioid treatment program has been found guilty of, has pled guilty to, or has pled no contest to any of the offenses identified in paragraph 1 of subdivision c of subsection 1 of section 75-09.1-01-17;

(5) The opioid treatment program has failed to report any important change in the information about a project as required;

(6) The opioid treatment program has failed to operate in accordance with the representations made in its application;

(7) The opioid treatment program has failed to operate in compliance with any applicable law, rule, or regulation;

(8) The opioid treatment program ceases to provide, or within one hundred eighty days from the date the license takes effect fails to commence to provide, the services it is authorized to provide.

b. The division shall provide the opioid treatment program written notice of which of the following actions is being taken and the basis for that action:

(1) Revocation of the operating license, without which the opioid treatment program may no longer operate;

(2) Suspension of the operating license, during which time, the opioid treatment program may not continue its operations;

(3) Limitation placed on the license temporarily or permanently prohibiting the opioid treatment program from operating certain identified programs or services, reducing the number of beds, restricting the number or types of patients served or imposing any other limitation determined appropriate by the division.

2. If an inspection of the opioid treatment program identifies that an opioid treatment program is not in compliance with any of the licensure requirements set forth by the division, the division shall notify the opioid treatment program in writing of the deficiencies identified.

3. The opioid treatment program shall respond to the notification of deficiencies within the time the division sets forth in the notice. The opioid treatment program shall include in its response a plan for the correction of the identified deficiencies or an explanation for its deviation from licensure requirements.

4. If the opioid treatment program fails to correct deficiencies or fails to provide a sufficient explanation for its failure to take action, the division may suspend or revoke the opioid treatment program's license or may require other corrective measures from the opioid treatment program. The division shall notify the opioid treatment program in writing of the action being taken.

5. If there are reasonable grounds for the division to believe that continued operation of the opioid treatment program presents an immediate danger to the health and welfare of the public or any person receiving services, the division may immediately suspend a license.

6. An opioid treatment program may request a hearing regarding any suspension, revocation, or limitation as provided in section 75-09.1-01-27.

7. If a license is revoked, the division may consider a new application for a license if the conditions upon which the revocations were based have been corrected and evidence of the corrections has been provided. A new license may be issued after the division has inspected the opioid treatment program and has found that the applicant has complied with all requirements for licensure.

History: Effective April 1, 2014.
General Authority: NDCC 50-31-08
Law Implemented: NDCC 50-31-08

75-09.1-10-06. Subsequent licensing inspection and review.

The division shall conduct licensure reviews of each licensed opioid treatment program at least once per year, with or without prior notice. The division shall inspect the opioid treatment program's services for compliance with all licensure requirements to determine the renewal term of the license. At the time of inspection, the opioid treatment program must have:

1. Maintained accreditation through an accreditation body;

2. Maintained certification from the administration;

3. Maintained registration with the United States department of justice, drug enforcement administration;

4. Maintained licensure as a substance abuse treatment program under any of the following chapters: 75-09.1-02, 75-09.1-02.1, 75-09.1-03, 75-09.1-03.1, 75-09.1-04, 75-09.1-04.1, 75-09.1-05, 75-09.1-05.1, 75-09.1-06, 75- 09.1-06.1, 75-09.1-07, and 75-09.1-07.1;

5. Must not have had any of the following occur without being resolved at a facility under the control of the applicant:

   a. The facility's license for a substance abuse treatment program or health care agency denied, revoked, or suspended and was not reinstated without restrictions or limitations;

   b. A finding that the facility discriminated against, demonstrated cruelty,

abuse, negligence, or misconduct toward, or indifference to the welfare of, a patient;

c. Misappropriation of patient property or resources;

d. Failure to meet financial obligations or contracted service commitments which affected patient care;

e. Noncompliance with state or federal regulations in providing substance abuse treatment;

f. Refusal to allow the division access to records, files, books, or portions of the premises relating to operation of the substance abuse treatment program;

g. Willful interference with the preservation of material information or attempt to impede the work of an authorized department representative;

h. The facility advertised itself as licensed when a license has not been issued, or a license has been suspended or revoked; or

i. Failure to demonstrate the capability to provide the appropriate services to assist patients in meeting goals, including:

(1) Abstinence from opioids and opioid substitutes;

(2) Obtaining mental health treatment;

(3) Improving economic independence; and

(4) Reducing adverse consequences associated with illegal use of controlled substances.

6. Must not have had an owner or administrator of a facility under the control of the applicant:

a. Be convicted of child abuse or be adjudicated as a perpetrator of child abuse;

b. Has obtained or attempted to obtain a health care provider license or substance abuse treatment program license by fraudulent means or misrepresentation;

c. Found guilty of, plead guilty to, or plead no contest to any of the offenses identified in paragraph 1 of subdivision c of subsection 1 of section 75-09.1-01-17;

d. Found to have discriminated against, demonstrated cruelty, abuse, negligence, or misconduct toward, or indifference to the welfare of, a patient;

e. Misappropriate patient property or resources;

f. Fail to meet financial obligations or contracted service commitments in a way that affected patient care;

g. Knowingly, or with reason to know, made a false statement of fact in the application or materials attached to the application;

h. Knowingly, or with reason to know, made a false statement of fact or fail to submit necessary information in any matter under investigation by the division; or

i. Not meet criminal background check requirements.

History: Effective April 1, 2014.
General Authority: NDCC 50-31-08
Law Implemented: NDCC 50-31-08

75-09.1-10-07. Opioid treatment program requirements.

All licensed opioid treatment programs must comply with the following:

1. Patients must receive appropriate, comprehensive behavioral therapy from a licensed clinical professional, such as a licensed addiction counselor, a licensed independent clinical social worker, a licensed psychologist, or a licensed psychiatrist who is providing intervention beyond pharmacological management.

2. The opioid treatment program may continue medication-assisted treatment as long as the patient derives benefit from the treatment, desires to continue treatment and the physician or health care professional agrees to continue the treatment. A fixed length of time in treatment is not required as indefinite medication-assisted treatment may be clinically indicated. The medical director shall consider other medications during the course of treatment.

3. Federally approved pharmacological treatments for opioid addiction may be dispensed only by a licensed opioid treatment program.

4. The opioid treatment program shall establish comprehensive education and training requirements for physicians and other health care professionals, pharmacists, and licensed alcohol and drug abuse and behavioral health counselors affiliated with the opioid treatment program, which include relevant aspects of behavioral therapy and pharmacological treatment.

5. The opioid treatment program shall establish written rules of conduct for patients, which include a clear description of violations that may result in a patient's discharge from the treatment program. These rules must require a patient to participate in urinalysis as the opioid treatment program may direct.

History: Effective April 1, 2014.
General Authority: NDCC 50-31-08
Law Implemented: NDCC 50-31-08

75-09.1-10-08. Care of adolescents in opioid treatment program.

For a patient younger than eighteen years of age to be eligible for maintenance treatment in the opioid treatment program, the patient is required to have had two documented attempts at short-term detoxification treatment or drug-free treatment within a 12-month period. The program physician or other health care professional shall document in the patient's record that the patient continues to be or is again physiologically dependent on narcotic drugs. A patient under eighteen years of age may not be admitted to a maintenance treatment program unless a parent, legal guardian, or other person authorized by law to consent to treatment for the patient completes and signs consent form, "Form FDA 2635 Consent to Methadone Treatment".

History: Effective April 1, 2014.
General Authority: NDCC 50-31-08
Law Implemented: NDCC 50-31-08

75-09.1-10-09. Treatment.

1. The opioid treatment program shall ensure the clinical assessment of each patient takes into account the patient's history of opioid addiction.

2. At all stages of treatment. psychosocial and medical treatment must be of sufficient intensity and duration to be effective.

History: Effective April 1, 2014.
General Authority: NDCC 50-31-08
Law Implemented: NDCC 50-31-08

75-09.1-10-10. Opioid treatment program administrative organization and responsibilities.

1. Each opioid treatment program shall develop a referral and consultative relationship with a network of agencies and providers capable of providing primary and specialty services for the range of behavioral difficulties, psychiatric comorbid conditions, medical complications, and communicable diseases that may be part of a patient's treatment needs. Any information exchanged across this network must facilitate treatment and protect patient privacy, consistent with the Health Insurance Portability and Accountability Act, and title 42, Code of Federal Regulations, part 2.

2. Each opioid treatment program shall create a written statement of its mission and goals for patient care.

3. An opioid treatment program shall maintain individualized personnel files as a record of employment. These files must contain employment and credentialing data, employment application data, date of employment, updated licensing and credentialing data, detailed job descriptions, performance evaluations, and appropriate training records.

4. An opioid treatment program shall require a criminal history record investigation as set forth under section 75-09.1-01-17 for an employee prior to allowing the

employee to work with either adult or adolescent patients.

5. An opioid treatment program shall complete outcomes and data reports as requested by the division.

6. An opioid treatment program shall utilize the prescription drug monitoring program at least quarterly ~~monthly~~ for each patient.

History: Effective April 1, 2014.
General Authority: NDCC 50-31-08
Law Implemented: NDCC 50-31-08

75-09.1-10-11. Facility and clinical environment.

1. Each opioid treatment program shall ensure that its facility:

   a. Has sufficient space and adequate equipment for the provision of services, including diagnosis, evaluation, and treatment of other medical, psychiatric, and behavioral disorders, if they are to be provided onsite.

   b. Is clean and well-maintained.

2. Each opioid treatment program shall ensure protection of patient confidentiality, in accordance with federal and state confidentiality requirements.

3. The program sponsor is the responsible party and assumes responsibility for all of the opioid treatment program's employees, including a practitioner, agent, or other person providing medical, rehabilitative, or counseling services at the opioid treatment program or any of its medication units. The program sponsor need not be a licensed physician but shall employ a licensed physician in the position of medical director. An opioid treatment program shall submit a proposed change in its program sponsor to the division for approval at least thirty~~sixty~~ days prior to the effective date of the proposed change.

4. The medical director of an opioid treatment program is responsible for monitoring and supervising all medical services provided by the program. Only a licensed physician may serve as the medical director of an opioid treatment program. If there is a change in medical director, the opioid treatment program shall notify the division in writing within thirty days of the change.

History: Effective April 1, 2014.
General Authority: NDCC 50-31-08
Law Implemented: NDCC 50-31-08

75-09.1-10-12. Risk management.

1. Each opioid treatment program shall:

   a. Establish procedures to guard against critical incidents.

   b. Provide a mechanism to address patient emergencies by establishing an

emergency contact system, as appropriate within confidentiality requirements.

c. Ensure that there are staff members on duty who are trained and proficient in cardiopulmonary resuscitation, management of opioid overdose, medical emergencies, and other techniques as appropriate.

d. Establish and regularly update policies and procedures which address safety and security issues for patients and staff, including training for staff to handle physical or verbal threats, acts of violence, inappropriate behavior, and other escalating and potentially dangerous situations, especially those in which security guards or police need to be summoned.

e. Shall provide information to patients on an ongoing basis, on the risks of discontinuing services, and on the potential consequences of using other substances.

f. Establish a policy on creation and use of individualized induction and dosing schedules for each patient.

g. Establish a policy for patients to take home medication for unsupervised use.

2. Each opioid treatment program shall create and maintain a plan for continuity of care for patients, including emergency procedures for obtaining access to medications in case of temporary program closure during service disruptions, such as those that may occur due to a major disaster or a more routine event, such as a snow storm. Each opioid treatment program shall develop and maintain an electronic database consisting of client identification, emergency contact information, patient's current dose, last date medication administered, and number of take-home doses allowed as part of the patient's plan and must include a mechanism for informing each patient of the emergency arrangements. If there is a service disruption, the opioid treatment program shall implement its emergency plan and shall forward its database and plan to the division.

3. Each opioid treatment program shall:

a. Develop procedures for reporting critical incidents to appropriate opioid treatment program staff, to the facility's accrediting body, and to the division within twenty-four hours of the critical incident.

b. Establish procedures to ensure:

(1) Full documentation of each critical incident.

(2) Prompt investigation and review of the situation surrounding each critical incident.

(3) Implementation of timely and appropriate corrective action.

(4) Corrective actions are monitored until their effectiveness is assured.

(5) Medication is dispensed safely if a patient presents with concerning behavioral or medical signs and symptoms.

4. If a patient chooses to discontinue services against medical advice, the opioid treatment program shall explain the risks of discontinuing services and offer information about, and referral to, alternative treatment options.

History: Effective April 1, 2014.
General Authority: NDCC 50-31-08
Law Implemented: NDCC 50-31-08

75-09.1-10-13. Opioid treatment program closures.

If an opioid treatment program closes involuntarily or voluntarily, the opioid treatment program shall:

1. Provide the division with a plan detailing procedures to ensure continuity of care for patients. The plan must include steps for the orderly transfer of patients, records, and assets to other programs or practitioners to:

   a. Assure appropriate referral of patients to avoid disruption in patient care;

   b. Preserve the confidentiality of patient records; and

   c. Ensure appropriate access to financial records and accounts.

2. The opioid treatment program shall notify the division of the anticipated closure at least ninety days prior to the closure, and identify the rationale for closure and the efforts to establish continuity of care for the patients. An opioid treatment program experiencing difficulties in maintaining its operations shall exercise due diligence to ensure patients have access to reasonable care upon the opioid treatment program's closure.

History: Effective April 1, 2014.
General Authority: NDCC 50-31-08
Law Implemented: NDCC 50-31-08

75-09.1-10-14. Diversion control.

Each opioid treatment program shall develop:

1. A diversion control plan that demonstrates accountability to its patients and to the community. The diversion control plan should reflect the efficient use of personnel and other resources to achieve the highest quality of patient care, while reducing possibilities for diversion of controlled substances from legitimate treatment to illicit use.

2. Each opioid treatment program shall inform its patients that diversion will be reported to law enforcement and the division and shall indicate how suspicions or evidence of diversion will be handled clinically. Each opioid treatment program

shall establish clinical procedures to minimize diversion risk to ensure appropriate treatment, such as:

a. Routine toxicology screens;

b. Pill call backs for counting;

c. Bubble packing of prescriptions; and

d. Making copies of the identification numbers listed on the "strip" packaging to be available for call backs.

3. Each opioid treatment program shall:

a. Provide regular and continuous staff education.

b. Review program policies and procedures at least annually.

c. Adhere to universal or standard infection control precautions promulgated by the centers for disease control and prevention.

History: Effective April 1, 2014.
General Authority: NDCC 50-31-08
Law Implemented: NDCC 50-31-08

75-09.1-10-15. Medical and behavioral health standards.

1. a. A physician or other health care professional for the opioid treatment program must diagnose opioid use disorder for an individual to be admitted for opioid treatment. The physician or other health care professional shall document or cosign the diagnosis, and admit each patient to maintenance treatment or detoxification treatment, as medically necessary. If pharmacological treatment is medically appropriate and prior to prescribing methadone, the physician or other health care professional shall assess whether it is appropriate to treat the patient with buprenorphine.

~~b. An individual must have a one-year history of addiction to be admitted to a maintenance treatment program. An individual with less than a one-year history of dependence may be admitted to undergo detoxification treatment. The absence of current physiological dependence is not an exclusion criterion; admission is acceptable when clinically justified. An opioid treatment program may accept arrest and medical records, information from significant others and relatives, and other information as documentation of the one-year history of addiction.~~

~~c. An opioid treatment program may waive the requirement that the individual have a one-year history of active addiction for an individual with a history of narcotic dependence who does not have current or active use, as a result of being released from a penal institution or having been previously treated.~~

d. A physician or other health care professional shall assess and review

assessment results with each patient before the patient is approved for treatment with an opioid agonist treatment medication. If the physician or other health care professional determines admission of an individual is an emergency, the physician or other health care professional may review a medical examination performed by another qualified health care professional to make the required diagnosis that would allow admission of the individual, provided the physician or other health care professional reviews and countersigns the patient record within seventy-two hours of the patient's admission. The physician or other health care professional would subsequently review the assessment with the patient and discuss the medical services to be provided.

e. An opioid treatment program shall make an intravenous drug injecting individual or a pregnant woman a priority when prioritizing individuals for admission.

2. At a minimum, an opioid treatment program shall provide each patient with the following:

a. A comprehensive physical examination of the patient, including a review of health history, identification of other chronic or acute health conditions, current objective measures of health, pregnancy status of female patients, and laboratory work determined to be medically appropriate by a physician or other health care professional.

b. Based on the individual's history and physical examination, an evaluation of the possibility of infectious disease, liver or pulmonary conditions, cardiac abnormalities, psychiatric problems, dermatologic sequelae of addiction, and possible concurrent surgical and other problems.

3. An opioid treatment program shall:

a. Obtain voluntary, written, program-specific informed consent to treatment from each patient at admission, and written releases of information for all ancillary providers.

b. Inform each patient about all relevant treatment procedures and services and about other policies and regulations throughout the course of the patient's treatment.

c. Obtain, before medicating a patient, voluntary, written, informed consent from the patient to the specific pharmacotherapy ordered by the physician or other health care professional.

d. Inform each patient that:

(1) The goal of medication-assisted treatment is stabilizing of the patient's functioning.

(2) At periodic intervals of the patient's present level of functioning, course of treatment, and future goals, without placing pressure on

the patient to withdraw from opioid agonist treatment medication or to remain on maintenance treatment unless the physician or other health care professional determines the proposed action to be medically indicated.

e. Inform each patient, at admission, about specific requirements and program policies regarding the report of suspected child abuse and neglect, danger of harm to self or others or both, abuse or neglect of a vulnerable individual, and other behaviors having negative impact on the patient or others.

f. Adhere to all requirements of federal confidentiality regulations, including the Health Insurance Portability and Accountability Act (Public Law 104-191; 110 Stat. 1936).

4. a. The medical director or other health care professional of an opioid treatment program shall refer a patient for medical or psychiatric treatment when the medical director or other health care professional determines it to be appropriate.

b. An opioid treatment program shall retain a patient in opioid treatment as long as treatment is clinically appropriate, medically necessary, acceptable to the patient, and the patient is considered to be adherent with the established rules of the program.

c. (1) When a patient relocates, transfers to another treatment program, or needs temporary care at another program, the original opioid treatment program shall ensure the patient makes as smooth a transition as is feasible, and when possible shall avoid interruptions in treatment that could lead to relapse.

(2) The original opioid treatment program shall forward relevant records to the receiving opioid treatment program, with patient consent in accordance with the privacy standards of title 42, Code of Federal Regulations, part 2.

d. The opioid treatment program shall continue to provide psychosocial treatment for a patient who elects to discontinue pharmacotherapy. The opioid treatment program may continue to offer treatment, or referrals for continued psychosocial supports to patients as needed.

5. An opioid treatment program shall retain all records required by title 42, Code of Federal Regulations, part 8.12 for a minimum of seven years from the last date of service.

a. An opioid treatment program is required under title 42, Code of Federal Regulations, part 8.11(f)(3) to comply with confidentiality requirements set forth under title 42, Code of Federal Regulations, part 2.

b. A physician or other appropriate health care professional with the opioid treatment program shall write each medication order and dosage change

on an acceptable order sheet and shall sign the sheet.

(1) Appropriate staff of the opioid treatment program shall make a record of each dosage the opioid treatment program dispenses, prepares, or receives and shall sign each entry to ensure a perpetual and accurate inventory of all medications and prescriptions, including controlled substances in stock at all times.

(2) Appropriate staff of the opioid treatment program shall document clearly the patient's individual medication dose history, the time that each dose is administered or dispensed, and the identification of who administered or dispensed the medication.

6. a. A physician or other health care professional:

(1) Who is with the opioid treatment program must be trained in the use of medication-assisted treatment to determine the individual dose of opioid medication for a patient.

(2) Who is with the opioid treatment program shall provide opioid agonist treatment medication as clinically indicated, and shall assess the patient's ability to tolerate the medication and whether the patient suffers negative effects.

(3) Who is with the opioid treatment program may not prescribe methadone on the first day it is administered to a patient in excess of fifty~~thirty~~ milligrams unless the physician documents a treatment need to prescribe a~~n~~ higher initial dose. ~~of forty milligrams.~~

(4) As clinically appropriate, may prescribe the admission of a patient to an opioid treatment program for detoxification treatment. Detoxification treatment is conducted as a voluntary and therapeutic process, agreed on between physician or health care professional and patient using current best practices.

b. An opioid treatment program shall have a procedure for calibrating medication-dispensing instruments, consistent with manufacturers' recommendations, to ensure accurate patient dosing and substance tracking.

c. An opioid treatment program may not adjust medication doses to reinforce positive behavior or to punish negative behavior, unless the patient is noncompliant with programmatic expectations and the taper constitutes the start of a detoxification treatment or a dosage increase needed to address the patient's symptoms.

d. The opioid treatment program should have the capability to obtain serum methadone levels when clinically indicated or urine-based buprenorphine or nor-buprenorphine levels.

7. An opioid treatment program shall take reasonable measures to prevent its

patients from enrolling in treatment from more than one opioid treatment program.

8. a. If an opioid treatment program administratively discharges a patient from treatment using an opioid agonist treatment medication, the opioid treatment program shall offer a humane schedule of detoxification treatment, if clinically appropriate, provided doing so does not compromise the safety of staff or patients of the opioid treatment program.

   b. An opioid treatment provider may determine during the process of ongoing assessment that a patient is not appropriate for treatment through the opioid treatment program and may be better served by other treatment modalities. Specifically, if a patient continues to use substances, engages in medication diversion, or fails to respond to the treatment plan, the opioid treatment program may find the patient is not appropriate for treatment through its programming and may administratively discharge the patient.

   c. An opioid treatment program shall work with a patient to develop a plan of continuing care that includes discharge and recovery planning. An opioid treatment program shall ensure the discharge planning process includes procedures that address the patient's physical and mental health problems following detoxification treatment. The opioid treatment program shall include in the discharge plan, a plan for continuing care following the last dose of medication, including making a referral for continuing outpatient care as needed, and planning for reentry to maintenance treatment if relapse occurs and resumption of care continues to be appropriate.

9. Each opioid treatment program shall:

   a. Use drug and alcohol screening and testing as aids in monitoring and evaluating patient's progress in treatment.

   b. Ensure that treatment personnel in a medication-assisted treatment program understand the benefits and limitations of toxicological testing procedures.

   c. Address results of toxicology testing with patients promptly.

   d. Document in the patient record the results of toxicology tests and shall follow therapeutic interventions.

   e. Ensure compliance with all federal regulations related to urine toxicology results, title 42, Code of Federal Regulations, part 8.12(f). An opioid treatment program must provide adequate testing of or analysis for drugs of abuse according to best practices.

   f. For patients in short-term detoxification treatment, the opioid treatment program shall perform at least one initial drug abuse test.

History: Effective April 1, 2014.
General Authority: NDCC 50-31-08
Law Implemented: NDCC 50-31-08

ARTICLE 75-09.2
SUBSTANCE USE DISORDER EARLY INTERVENTION

Chapter
75-09.2-01 Alcohol and Drug Early Intervention Program

CHAPTER ~~75-09.1-09~~

~~DUI SEMINAR ASAM LEVEL 0.5~~
DRIVING UNDER THE INFLUENCE EDUCATION PROGRAM

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75-09.1-09-01. Definitions.

As used in this chapter:

1. "Department" means the North Dakota ~~department of human services.~~Department of Health and Human Services.

2. “Division” means the Behavioral Health Division.

~~1.~~3. “DUI” means Driving Under the Influence.

4. "DUI seminar" means an evidence-based alcohol and drug ~~risk reduction education~~early intervention ~~program~~ class or course; delivered either in-person or virtually, for individuals who violate North Dakota Century Code section 39-08-01 or similar offenses.~~convicted of driving~~

~~under the influence or actual physical control.~~

5. "Program" means a Division-approved evidence-based alcohol and drug early intervention curriculum.

6. "Provider" means a DUI seminar instructor certified by the Division.

~~2.~~7. "DUI seminar instructor certification" means the approval issued to a provider by the Division to allow instruction of an evidence-based alcohol and drug early intervention program.

~~3. "Recommendation" means that a violation of the rule has occurred, however, on a very limited basis. Recommendation can also be given when there is general compliance with a rule but the procedures can be strengthened.~~

~~4. "Type I condition" means that a violation of the requirements of any applicable law or regulation has occurred in at least twenty-five percent of the cases reviewed.~~

~~5. "Type II condition" means habitual noncompliance with the requirements of any applicable law or regulation, including a type I condition that is still found to be occurring during subsequent visits, any illegal act, or any act that threatens the health and safety of a client.~~

History: Effective October 26, 2004.
General Authority: NDCC 50-06-16, 50-31
Law Implemented: NDCC 50-31

75-09.1-09-02. Application for ~~licensure.~~Driving Under the Influence seminar instructor certification.

1. Applicants shall submit to the division a signed application and all required information and documentation for DUI seminar instructor certification in the form and manner prescribed by the division.

2. The division shall consider an application for DUI seminar instructor certification complete when it has received all required information and documents in accordance with section 75-09.1-09-03. The division shall notify an applicant if an application is incomplete.

3. The division may declare an application for DUI seminar instructor certification withdrawn if an applicant fails to submit all required documentation within sixty days of notification to the applicant the application is incomplete.

4. The department may not approve, deny, or renew an application for a DUI seminar instructor certification who has been charged with an offense considered to have a direct bearing on the individual's ability to provide services until final disposition of the criminal case against the individual.

~~1. A DUI seminar must submit to the department an application for a license in the form and manner prescribed by the department.~~

~~2. The department shall consider an application for a DUI seminar license complete when it has received all required information and documents. The department shall notify an applicant if an application is incomplete.~~

~~3. The department may declare an application for a DUI seminar license withdrawn if an applicant fails to submit all required documentation within sixty days of notification of incompleteness.~~

~~4. A new application for a DUI seminar license must be filed by a program upon change of ownership or level of care.~~

History: Effective October 26, 2004.
General Authority: NDCC 50-06-16, 50-31
Law Implemented: NDCC 50-31

75-09.1-09-03. ~~License required.~~ Driving Under the Influence seminar instructor certification requirements.

1. A DUI seminar instructor certification may not be transferred and is valid only for the provider indicated on the issued certificate.

2. A provider shall make available or display its DUI seminar instructor certification in a place that is conspicuous to the public.

3. A provider shall be recertified by the division every three years, resubmitting all information under section 75-09.1-09-14.

4. The division may conduct scheduled or unscheduled reviews of a DUI seminar.

~~1. The department may issue a provisional license for the operation of a new DUI seminar upon approval of a new application.~~

~~2. A provisional license must expire at a set date not to exceed one year from the date of issuance.~~

~~3. Prior to issuing an unrestricted license, the department must conduct an onsite review to determine if a DUI seminar is in compliance with the standards contained in this chapter.~~

~~4. An unrestricted license is in effect for the period specified in the license not to exceed two years.~~

~~5. A DUI seminar license may not be transferred and is valid only for those programs indicated on the license.~~

~~6. The department shall conduct at least biennially a continued license review for any DUI seminar with an unrestricted license. The continued license review will be performed to determine continued compliance with the standards contained in this chapter.~~

~~7. The department may conduct scheduled or unscheduled visits of a DUI seminar at times other than a routine licensure review.~~

~~8. A DUI seminar must display its license in a place that is conspicuous to the public.~~

History: Effective October 26, 2004.
General Authority: NDCC 50-06-16, 50-31
Law Implemented: NDCC 50-31

~~**75-09.1-09-04. Licensure report procedures.**~~

~~1. Within thirty days of an onsite review, the department must send a license report to the DUI seminar reviewed.~~

~~2. A license report must contain a description of the programs and services reviewed, strengths, concerns, recommendations, and a description of any type I or type II conditions.~~

~~3. The department shall retain all reports of the licensure review while the DUI seminar that is the subject of the report is licensed and for at least seven years from the time the DUI seminar is no longer licensed.~~

~~**History:** Effective October 26, 2004.~~
~~**General Authority:** NDCC 50-06-16, 50-31~~

~~**Law Implemented:** NDCC 50-31~~

~~**75-09.1-09-05. Seminar authority and administration.**~~

~~1. A DUI seminar shall identify to the department an individual or entity that is responsible for the conduct of the DUI seminar.~~

~~2. A DUI seminar shall be responsible for providing qualified personnel, facilities, and equipment needed to carry out the goals and objectives and to meet the needs of clients.~~

~~3. A DUI seminar shall conform to applicable laws and regulations, including accessibility, affirmative action, equal employment opportunity, confidentiality, health and safety, and licensure.~~

~~**History:** Effective October 26, 2004.~~
~~**General Authority:** NDCC 50-06-16, 50-31~~
~~**Law Implemented:** NDCC 50-31~~

75-09.1-09-06. **Participant records and** **Information management.**

1. A DUI seminar shall prepare and maintain a single record for each participant so as to communicate the appropriate case information. This information must be in a form that is clear, concise, complete, legible, and current.

2. The record of each seminar participant must include:

   a. Seminar attendance records;

   b. Department-approved post-test;

   c. A copy of any Department of Transportation report of addiction treatment form;

   d. A copy of any consent to release of information form signed by the participant; and

   e. Any other correspondence related to the seminar participant

3. A DUI seminar shall implement a written policy addressing the process by which a participant may gain access to the participant's own record.

4. A program must secure the written consent of the participant or a participant's legal representative before releasing any confidential information about that participant and the release of information must conform to the following:

   a. Any information released must be limited to that necessary for the individual or agency requesting the information or for the provider to whom the participant is referred to address the purpose of the referral;

   b. A program must stamp or write on the records that are being released that any further disclosure of information is prohibited unless it is authorized by the participant or the participant's legal representative;

   c. A program's consent to release of information form must conform to applicable laws and regulations and must identify:

      1. The information to be released;

      2. The form in which the information is to be released such as written, verbal, audio, or electronic;

3. To whom the information is to be released;

4. The purpose of the information to be released;

5. The name and date of birth of the participant;

6. The date on which the consent to release of information is signed;

7. The length of time, event, or condition for which the consent to release of information is authorized or in the event or condition upon which the consent may be withdrawn; and

8. The signature of the participant or legal representative.

d. A program shall give to the participant or participant's legal representative a copy of the signed consent to release of information.

5. A DUI seminar must apply appropriate safeguards to protect participant records regardless of whether the records are electronically or manually maintained. These safeguards must include:

a. Limiting record access to authorized individuals;

b. Knowing the essential record location at all times;

c. Reasonably protecting records in a secure area where they will be reasonable protected against loss, damage, and inappropriate access

6. A DUI seminar must implement a policy so that files are not needlessly retained or prematurely discarded. The retention of records of participants and administrative records must be guided by professional and state research, administrative, and legal requirements.

7. A DUI seminar shall collect data as prescribed by the department, including information necessary for federal and state grant statistical requirements and fiscal information such as fee structure.

~~1. A DUI seminar shall collect data as prescribed by the department, including information necessary for federal and state grant statistical requirements and fiscal information such as fee structure.~~

~~2. A DUI seminar must apply appropriate safeguards to protect client records regardless of whether the records are electronically or manually maintained. These safeguards must include:~~

~~a. Limiting record access to authorized individuals;~~

~~b. Suitably maintaining a record indexing and filing system;~~

~~c. Knowing the essential record location at all times;~~

~~d. Securing and reasonably protecting records in a locked area where they will be reasonably protected against loss, damage, and inappropriate access; and~~

~~e. Protecting electronic records by routine backup.~~

~~3. A DUI seminar must implement a policy so that files are not needlessly retained or prematurely discarded. The retention of records of clients and administrative records must be guided by professional and state research, administrative, and legal requirements.~~

History: Effective October 26, 2004.

General Authority: NDCC 50-06-16, 50-31
Law Implemented: NDCC 50-31

75-09.1-09-07. Fiscal management.

1. A DUI seminar shall have an established schedule of fees that is available in printed form and applied equitably to all clients.

2. A DUI seminar shall implement a policy that prohibits fee splitting with other programs, agencies, entities, or individuals as consideration for referral of the client to be served.

History: Effective October 26, 2004.
General Authority: NDCC 50-06-16, 50-31
Law Implemented: NDCC 50-31

75-09.1-09-08. Physical facilities.

1. All locations owned, rented, or leased by a DUI seminar must meet standards of the state fire marshal or an equivalent code or provide a letter from the inspecting authority stating that inspections were not done and why.

2. A DUI seminar shall provide adequate toilet and lavatory facilities.

History: Effective October 26, 2004.
General Authority: NDCC 50-06-16, 50-31
Law Implemented: NDCC 50-31

75-09.1-09-09. Health and safety program.

1. A DUI seminar shall develop a written emergency procedure that includes provisions for dealing with bomb threats, fires, medical emergencies, natural disasters, and power failures.

2. At the beginning of the DUI seminar, the DUI seminar instructor shall point out emergency evacuation exits and routes to seminar participants.

3. A DUI seminar shall have first-aid facilities, equipment, and supplies readily available.

4. A DUI seminar shall implement a written policy that addresses the use of smoking products. The policy must address the needs of the seminar participants and visitors and comply with local, state, and federal laws.

History: Effective October 26, 2004.
General Authority: NDCC 50-06-16, 50-31
Law Implemented: NDCC 50-31

75-09.1-09-10. Infection control.

A DUI seminar shall take universal precautions in the handling of all bodily fluids and implement a written policy for the handling of bodily fluids.

History: Effective October, 26, 2004.
General Authority: NDCC 50-06-16, 50-31
Law Implemented: NDCC 50-31

75-09.1-09-11. Referral criteria.

1. A DUI seminar must secure the written consent of the client or the client's legal representative before releasing any confidential information about that client and the consent to release of information must conform to the following:

   a. Any information released must be limited to that necessary for the individual or agency

requesting the information or for the provider to whom the client is referred to be able to address the purpose of the referral;

b. A DUI seminar must stamp or write on the records that are being released that any further disclosure or redisclosure of information is prohibited unless it is authorized by the client or the client's legal representative; and

c. Be in accordance with applicable federal and state laws and must include at a minimum:

(1) The content to be released;

(2) The form in which the information is to be released such as written, verbal, audio, video, electronic;

(3) To whom the information is to be released;

(4) For what purpose the information is to be released;

(5) The name of the client and date of birth about whom information is to be released;

(6) The date on which the release is signed;

(7) The length of time, event, or condition for which the release is authorized or the event or condition upon which consent for release will be withdrawn; and

(8) The signature of the client or legal representative.

2. A DUI seminar shall give a copy of the signed consent to release of information to the client or client's legal representative.

History: Effective October 26, 2004.
General Authority: NDCC 50-06-16, 50-31
Law Implemented: NDCC 50-31

75-09.1-09-12. Client records.

1. A DUI seminar shall prepare and maintain a single record for each client so as to communicate the appropriate case information. This information must be in a form that is clear, concise, complete, legible, and current.

2. The record of each seminar participant must include:

a. Seminar attendance record;

b. Department approved post-test;

c. A copy of any department of transportation report of addiction treatment form;

d. A copy of any consent to release of information form signed by the client; and

e. Any other correspondence related to the seminar participant.

3. A DUI seminar shall implement a written policy addressing the process by which a client may gain access to the client's own record.

History: Effective October 26, 2004.
General Authority: NDCC 50-06-16, 50-31
Law Implemented: NDCC 50-31

75-09.1-09-13. Client rights.

~~1. A DUI seminar must assure the right of each client to:~~

~~a. Be treated with respect and dignity;~~

~~b. Be treated without discrimination based on physical or mental disability;~~

~~c. Be treated without regard to race, creed, national origin, sex, or sexual preference;~~

~~d. Have all information handled confidentially in accord with state and federal standards of confidentiality; and~~

~~e. Not be subject to physical, emotional, or sexual abuse or harassment by the staff or another client.~~

~~2. A DUI seminar shall implement a written procedure stating the form and manner in which a client may file a grievance that explains the grievance and appeal procedures in a manner that can be understood by the client.~~

~~**History:** Effective October 26, 2004.~~
~~**General Authority:** NDCC 50-06-16, 50-31~~
~~**Law Implemented:** NDCC 50-31~~

75-09.1-09-14. Provider criteria.

1. To receive a DUI seminar instructor certification, a provider shall submit proof of the following:

   a. A two-year degree or its equivalent of at least two years of professional work experience in an education, health, human services, or criminal justice field.

   b. Successfully pass a national criminal background check; and

   c. Complete a division-approved early intervention instructor training curriculum and submit the final completion certificate to the division.

2. A provider shall be recertified by the division every three years. To maintain certification by the division, a provider is required to do the following:

   a. Attend a minimum of six recertification training hours coordinated by the division.

   b. Successfully pass a national criminal background check; and

   c. Submit the application and verification of recertification training hours to the division.

3. A provider shall have an established schedule of reasonable fees that is applied equitably to all participants and available upon request.

4. To reapply for certification when a provider has allowed certification to lapse, the provider shall submit a letter to the division that must provide the following information:

   a. Evidence that the provider's curriculum has incorporated current information and educational changes since last certification;

   b. An explanation for lapse in certification; and

   c. A statement of confirmation that the provider has not provided services during the period that the certification lapsed.

5. A provider shall not conduct any seminar while engaging in the consumption of alcohol, illegal use of drugs, or while impaired from any licit or illicit substance

6. A provider shall not omit or provide false or misleading information during the application

process.

~~1. A DUI seminar instructor shall have at least a two-year degree or its equivalent or at least one year of professional work experience in the education, health, human services, or criminal justice field.~~

~~2. A DUI seminar instructor shall not engage in the illegal use of drugs nor conduct the DUI seminar while under the influence of alcohol or other mood-altering drugs.~~

~~3. A DUI seminar instructor shall be certified by the department to teach the department-approved curriculum. To achieve certification by the department, the instructor candidate shall meet all DUI seminar instructor requirements, shall successfully complete the department-approved DUI seminar instructor training, and shall submit the certification application to the department.~~

~~4. A DUI seminar instructor shall be recertified by the department every two years. To maintain certification by the department, a DUI seminar instructor shall teach the DUI seminar at least twice per certification cycle and attend DUI seminar instructor recertification training coordinated by the department.~~

~~5. To achieve certification when a DUI seminar instructor has allowed certification to lapse, a DUI seminar instructor shall submit a letter to the department that must:~~

~~a. Show evidence that the DUI seminar program's curriculum has incorporated current DUI information and educational changes;~~

~~b. Provide an explanation for the DUI seminar instructor's lapse in certification; and~~

~~c. Contain a statement that the DUI seminar program has not provided DUI seminar services during the time period that the certification had lapsed.~~

History: Effective October 26, 2004.
General Authority: NDCC 50-06-16, 50-31
Law Implemented: NDCC 50-31

75-09.2-01-05. Background check - Investigation.

1. Each applicant and provider shall disclose to the department if they have been found guilty of, pled guilty to, or pled no contest to a criminal offense.

2. The applicant and provider shall disclose to the department the type of offense and dates and location of having been found guilty of, pled guilty to, or pled no contest to a criminal offense. Such disclosure does not disqualify the applicant or provider, unless having been found guilty of, pled guilty to, or pled no contest to a crime having direct bearing on the capacity of the applicant or provider to provide a service under this chapter or the applicant or provider is not sufficiently rehabilitated.

3. The department may conduct a criminal background check on an applicant or provider.

4. The department shall determine the effect of an applicant or provider having been found guilty of, pled guilty to, or pled no contest to a criminal offense.

5. The department may investigate and inspect the applicant's or provider's activities, programs, qualifications, and proposed standards of care.

History: Effective April 1, 2018.
General Authority: NDCC 50-06-44
Law Implemented: NDCC 5-01-08, 50-06-44

75-09.2-01-06. Criminal conviction - Effect on provider status.

1. An applicant or provider may not be an individual who is known to have been found guilty of, pled guilty to, or pled no contest to:

   a. An offense described in North Dakota Century Code chapters 12.1-16, homicide; 12.1-18, kidnapping; 12.1-27.2, sexual performances by children; or 12.1-41, Uniform Act on Prevention of and Remedies for Human Trafficking; or in North Dakota Century Code sections 12.1-17-01, simple assault; 12.1-17-01.1, assault; 12.1-17-02, aggravated assault; 12.1-17-03, reckless endangerment; 12.1-17-04, terrorizing; 12.1-17-06, criminal coercion; 12.1-17-07.1, stalking; 12.1-17-12, assault or homicide while fleeing a police officer; 12.1-20-03, gross sexual imposition; 12.1-20-03.1, continuous sexual abuse of a child; 12.1-20-04, sexual imposition; 12.1-20-05, corruption or solicitation of minors; 12.1-20-05.1, luring minors by computer or other electronic means; 12.1-20-06, sexual abuse of wards; 12.1-20-07, sexual assault; 12.1-21-01, arson; 12.1-22-01, robbery; or 12.1-22-02, burglary, if a class B felony under subdivision b of subsection 2 of that section; 12.1-29-01, promoting prostitution; 12.1-29-02, facilitating prostitution; 12.1-31-05, child procurement; 14-09-22, abuse of child; or 14-09-22.1, neglect of child; or an offense under the laws of another jurisdiction which requires proof of substantially similar elements as required for conviction under any of the enumerated North Dakota statutes; or

   b. An offense, other than an offense identified in subdivision a, if the department determines the individual has not been sufficiently rehabilitated.

2. For purposes of subdivision b of subsection 1, an offender's completion of a period of five years after final discharge or release from any term of probation, parole, or other form of community correction, or imprisonment, without subsequent conviction, is prima facie evidence of sufficient rehabilitation.

3. The department has determined the offenses enumerated in subdivision a of subsection 1 have a direct bearing on the individual's ability to serve the public in a capacity involving the provision of services under this chapter.

4. In the case of a misdemeanor offense described in North Dakota Century Code sections 12.1-17-01, simple assault; 12.1-17-03, reckless endangerment; 12.1-17-06, criminal coercion; 12.1-17-07.1, stalking; or equivalent conduct in another jurisdiction which requires proof of substantially similar elements as required for conviction, the department may determine the individual has been sufficiently rehabilitated if five years have elapsed after final discharge or release from any term of probation, parole, or other form of community corrections or imprisonment, without subsequent conviction.

5. An individual is known to have been found guilty of, pled guilty to, or pled no contest to an offense when it is:

   a. Common knowledge in the community;

   b. Acknowledged by the individual;

   c. Reported to the department as the result of a background check; or

   d. Discovered by the department.

History: Effective April 1, 2018.
General Authority: NDCC 50-06-44
Law Implemented: NDCC 5-01-08, 50-06-44

75-09.1-09-15. Seminar ~~program~~ criteria.

1. A DUI seminar program shall follow the department-approved curriculum's sequence, schedule, format, process, and content equaling a total of no less than sixteen hours.

2. A DUI seminar instructor shall use only materials approved by the division for use.

3. A DUI seminar instructor shall provide each seminar participant with a new workbook in either paper or digital format. Workbooks become the property of the participant and are not to be reissued.

4. A DUI seminar instructor shall not continue a class for more than two hours without providing participants with a break.

5. A DUI seminar instructor shall not count time for breaks beyond three ten-minute breaks per four-hour period toward the required hours of education to be provided to participants.

6. A DUI seminar instructor shall conduct the seminar in classes that must last no more than eight hours per calendar day.

7. A DUI seminar instructor shall provide information on additional behavioral health services when requested.

8. A DUI seminar instructor shall ask all DUI seminar participants to complete a participant evaluation form at the conclusion of each seminar and will retain copies of the evaluations in accordance with its record retention policy.

~~1.~~9. A provider may request an exception to the preapproved list of division-approved curriculum. Exceptions will be reviewed by the division on a case-by-case basis. The provider shall submit to the division the program title, sample material, and evidence of effectiveness. The division may deny an exception requested under this subsection. The decision to deny an exception is not an appealable decision.

~~2. A DUI seminar program shall use only those videos approved by the department for use in the DUI seminar and shall use those videos only at the times when the curriculum schedule permits their use.~~

~~3. A DUI seminar program shall provide each seminar participant with a new student booklet. Books become the property of the client and are not to be reissued.~~

~~4. A DUI seminar program shall not continue a class for more than two hours without providing the clients with a break.~~

~~5. A DUI seminar program shall not count time for breaks beyond three ten-minute breaks per four-hour period toward the required hours of education to be provided to clients.~~

~~6. A DUI seminar program shall maintain a current list of licensed substance abuse programs and information on local recovery support groups.~~

~~7. A DUI seminar program shall ask all DUI seminar clients to complete a participant evaluation form at the conclusion of each seminar and will retain copies of the evaluations in accordance with its record retention policy.~~

~~8. A DUI seminar program shall not accept into the seminar a client who has completed the department-approved evaluation process more than six months prior to participation in the seminar.~~

~~9. A DUI seminar program shall conduct the seminar in classes that must last no more than four hours per session and only one session must be scheduled per calendar day unless an exception is granted by the department.~~

History: Effective October 26, 2004.

General Authority: NDCC 50-06-16, 50-31
Law Implemented: NDCC 50-31

~~**75-09.1-09-16. Seminar care criteria.**~~

~~1. In order to fulfill a DUI seminar care criteria, a client shall:~~

~~a. Complete all required activities and assignments;~~

~~b. Attend all seminar sessions in sequence;~~

~~c. Attain a passing mark on the seminar post-test; and~~

~~d. Notify the department of transportation regarding the incident.~~

~~2. A DUI seminar program shall not admit to a class in progress a client who is more then fifteen minutes late unless extenuating circumstances exist. A client who arrives late to a class will be required to meet with the DUI seminar instructor to make up what the client missed.~~

~~3. A client must attend all DUI seminar sessions sequentially and may not be allowed to attend the next session after missing a class. The client must wait until the next session of the class has started and then may start the class again from the point where missed.~~

~~4. A DUI seminar program shall prohibit the illegal use of drugs and alcohol at the seminar site and shall implement a written policy for referral of a client for further assessment of alcohol or drug problems if they occur.~~

~~5. If a client arrives at a DUI seminar under the influence or during the seminar is under the influence, a DUI program shall:~~

~~a. Not admit the client into the class;~~

~~b. Discharge the client from the class;~~

~~c. Inform the client that the program will notify law enforcement if the client drives upon leaving the program; and~~

~~d. Notify the department of transportation regarding the incident.~~

~~**History:** Effective October 26, 2004.~~
~~**General Authority:** NDCC 50-06-16, 50-31~~
~~**Law Implemented:** NDCC 50-31~~

~~**75-09.1-09-17. Discharge criteria.**~~

~~A DUI seminar program will discharge a client when:~~

~~1. The client has completed the seminar and all seminar requirements;~~

~~2. The client does not comply with the program; or~~

~~3. The client arrives at the seminar under the influence or is under the influence during the seminar.~~

~~**History:** Effective October 26, 2004.~~
~~**General Authority:** NDCC 50-06-16, 50-31~~
~~**Law Implemented:** NDCC 50-31~~

75-09.1-09-18. ~~**Sanctions.**~~**Program denials, suspensions, and revocations**

1. An applicant's application or renewal may be denied if:

a. The applicant fails to comply with seminar criteria pursuant to section 75-09.2-01-02;

b. The applicant fails to meet the provider criteria pursuant to section 75-09.2-01-08.

2. The Division may suspend a DUI seminar instructor certification at any time after the onset of an investigation.

3. The Division may revoke the certification of a provider based on a determination of one of the following:

a. The applicant fails to comply with seminar criteria pursuant to section 75-09.2-01-02;

b. The applicant fails to meet the provider criteria pursuant to section 75-09.2-01-08.

c. That it is necessary to protect the welfare, health, or safety of current and potential DUI seminar participants; or

d. For other good cause

4. The Division shall make notice to the public the suspension or revocation of a DUI seminar instructor certification.

5. A provider may reapply for certification, pursuant to section 75-03-43-06, no sooner than three hundred and sixty five days after determination of revocation.

~~1. The department may immediately revoke a DUI seminar's license upon a finding of a type II condition.~~

~~2. A DUI seminar must submit to the department a plan of corrective action within thirty days of the licensure visit when a type I condition has been found. A type I condition will result in a condition with ninety days allowed to implement the plan and satisfy the cited condition.~~

~~3. The department may conduct another onsite review prior to issuing a continued license after a DUI seminar has developed a plan of corrective action for any type I or type II condition.~~

~~4. The department shall issue a ninety-day suspension of a DUI seminar's license if the DUI seminar fails to timely satisfy a type I condition or develop a plan to satisfy the cited condition.~~

~~5. At the end of a ninety-day suspension of a DUI seminar license, the department may issue a provisional license that expires in no more than one year if the cited type I condition has been corrected.~~

~~6. The department shall revoke a DUI seminar license immediately if a DUI seminar fails to timely correct a type I condition.~~

~~7. During the three hundred sixty-five days following a license revocation for any type I or type II condition, a DUI seminar that has been the subject of a license revocation is prohibited from submitting a new application to the department for consideration for a new license for any facility or program.~~

History: Effective October 26, 2004.
General Authority: NDCC 50-06-16, 50-31
Law Implemented: NDCC 50-31

75-09.1-09-19. Appeals.

An applicant for or a holder of a DUI seminar license may appeal a decision to deny, suspend, or revoke a license by filing a written appeal with the department within thirty days of receipt of written notice of such a decision. Upon receipt of a timely appeal, an administrative hearing must be conducted in the manner provided in chapter 75-01-03.

History: Effective October 26, 2004.
General Authority: NDCC 50-06-16, 50-31
Law Implemented: NDCC 50-31

ARTICLE 75-09.2
SUBSTANCE USE DISORDER EARLY INTERVENTION

Chapter
75-09.2-01 Alcohol and Drug Early Intervention Program

CHAPTER 75-09.2-01
ALCOHOL AND DRUG EARLY INTERVENTION PROGRAM

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75-09.2-01-01. Definitions.

As used in this chapter, unless the context or subject matter otherwise requires:

1. "Department" means the North Dakota ~~department of human services.~~Department of Health and Human Services

2. "Division" means the ~~behavioral~~ Behavioral ~~health~~ Health ~~division~~Division.

3. "MIP" means Minor In Possession.

~~2.~~4. "MIP Seminar" means an evidence-based alcohol and drug early intervention class or course; delivered either in-person or virtually, for individuals who violate North Dakota Century Code section 5-01-08 or similar offenses.

~~3. "Minor in possession program certification" means a certification provided to a provider by the division to provide an evidence-based alcohol and drug early intervention program for individuals who violate North Dakota Century Code section 5-01-08.~~

5. "Provider" means a ~~minor in possession program~~ MIP ~~certified~~seminar instructor certified by the Division. ~~or implementer of an evidence-based alcohol and drug early intervention program.~~

~~4.~~ 6. "Program" means a division-approved evidence-based alcohol and drug early intervention curriculum.~~an evidence-based alcohol and drug early intervention program.~~

7. "MIP seminar instructor certification" means the approval issued to a provider by the Division to allow instruction of an evidence-based alcohol and drug early intervention program.

History: Effective April 1, 2018.
General Authority: NDCC 50-06-44
Law Implemented: NDCC 5-01-08, 50-06-44

75-09.2-01-02. Application for ~~minor~~ Minor in ~~possession~~ Possession ~~program~~ seminar instruction certification.

1. Applicants shall submit to the ~~division~~ division a signed application and all required information and documentation for ~~minor in possession~~MIP seminar instructor ~~program~~ certification in the form and manner prescribed by the ~~department~~division.

2. The division shall consider an application for ~~minor in possession program~~ MIP seminar instructor certification complete when it has received all of the required information and documents in accordance with section 75-09.2-01-04. The division shall notify an applicant if an application is incomplete.

3. The division may declare an application for ~~minor in possession program~~MIP seminar instructor certification withdrawn if an applicant fails to submit all required information and documentation within ~~thirty~~ sixty days of the division's notification to the applicant the application is incomplete.

~~3.~~4. The division shall not approve, deny, or renew an application for a MIP seminar instructor certification who has been charged with an offense considered to have a direct bearing on the individual's ability to provide services until final disposition of the criminal case against the individual.

History: Effective April 1, 2018.
General Authority: NDCC 50-06-44
Law Implemented: NDCC 5-01-08, 50-06-44

75-09.2-01-03. Minor in ~~possession~~ Possession seminar instructor certification requirements. ~~program certification required.~~

1. A ~~minor in possession~~ MIP seminar instructor ~~program~~ certification may not be transferred and is valid only for those providers and programs indicated on the ~~minor in possession program~~issued certification.

2. A provider shall make available or display its ~~minor in possession program~~MIP seminar instructor certification in a place that is conspicuous to the public.

3. A provider shall be recertified by the division every three years, resubmitting all information under section X.

~~3.~~4. The division may conduct scheduled or unscheduled reviews of a MIP seminar.

History: Effective April 1, 2018.
General Authority: NDCC 50-06-44
Law Implemented: NDCC 5-01-08, 50-06-44

75-09.2-01-08. Participant records and information management.

1. A MIP seminar shall prepare and maintain a single record for each participant so as to communicate the appropriate case information. This information must be in a form that is clear, concise, complete, legible, and current.

2. The record of each seminar participant must include:

   a. Seminar attendance records;

   b. Division-approved post-test;

   c. A copy of any consent to release of information form signed by the participant; and

   d. Any other correspondence related to the seminar participant

3. A provider must secure the written consent of the participant or a participant's legal representative before releasing any confidential information about that participant and the release of information must conform to the following:

   a. Any information released must be limited to that necessary for the individual or agency requesting the information or for the provider to whom the participant is referred to address the purpose of the referral;

   b. A provider must stamp or write on the records that are being released that any further disclosure of information is prohibited unless it is authorized by the participant or the participant's legal representative;

   c. A provider's consent to release of information form must conform to applicable laws and regulations and must identify:

      1. The information to be released;

      2. The form in which the information is to be released such as written, verbal, audio, or electronic;

      3. To whom the information is to be released;

      4. The purpose of the information to be released;

      5. The name and date of birth of the participant;

      6. The date on which the consent to release of information is signed;

      7. The length of time, event, or condition for which the consent to release of information is authorized or in the event or condition upon which the consent may be withdrawn; and

      8. The signature of the participant or legal representative.

   d. A provider shall give to the participant or participant's legal representative a copy of the signed consent to release of information.

4. A MIP seminar must apply appropriate safeguards to protect participant records regardless of whether the records are electronically or manually maintained. These safeguards must include:

   a. Limiting record access to authorized individuals;

   b. Knowing the essential record location at all times;

   c. Reasonably protecting records in a secure area where they will be reasonable protected against loss, damage, and inappropriate access

5. A MIP seminar must implement a policy so that files are not needlessly retained or prematurely discarded. The retention of records of participants and administrative records must be guided by professional and state research, administrative, and legal requirements.

6. A MIP seminar shall collect data as prescribed by the division, including information necessary for federal and state grant statistical requirements and fiscal information such as fee structure.

History: Effective April 1, 2018.
General Authority: NDCC 50-06-44
Law Implemented: NDCC 5-01-08, 50-06-44

75-09.2-01-04. Provider criteria.

1. To receive a ~~minor in possession program~~MIP seminar instructor certification~~, or minor in possession program recertification,~~ a provider shall submit proof of the following:

   a. A two-year degree or its equivalent of at least two years of professional work experience in an education, health, human services, or criminal justice field.

   ~~a. A bachelor's degree. The requirement of a bachelor's degree may be waived for driving under the influence seminar instructors licensed under chapter 75-09.1-09 prior to December 31, 2017;~~

   b. Successfully pass a national criminal background check; and

   c. Complete a division-approved early intervention instructor training curriculum and submit the final completion certificate to the Department.

   ~~c. Be certified in a department-approved program;~~

2. A provider shall be recertified by the Department every three years. To maintain certification by the Department, a provider is required to do the following:

   a. Attend a minimum of six recertification training hours coordinated by the division.

   b. Successfully pass a national criminal background check; and

   c. Submit the required information for recertification determined by the division.

3. A MIP seminar shall have an established schedule of reasonable fees that is applied equitably to all participants and available to view.

4. To reapply for certification when a provider has allowed certification to lapse, the provider shall submit a letter to the department that must provide the following information:

   a. Evidence that the provider's curriculum has incorporated current information and educational changes since last certification

   b. An explanation for lapse in certification

   c. A statement of confirmation that the provider has not provided services during the period that the certification lapsed

5. A provider shall not conduct any seminar while engaging in the consumption of alcohol, illegal use of drugs, or while impaired from any licit or illicit substance

6. A provider shall not omit or provide false or misleading information during the application process.

~~2. If recertifying, a provider shall submit required information in accordance with section 75-09.2-01-08; and~~

~~3. Provider's fees must be reasonable.~~

History: Effective April 1, 2018.
General Authority: NDCC 50-06-44
Law Implemented: NDCC 5-01-08, 50-06-44

75-09.2-01-05. Background check - Investigation.

1. Each applicant and provider shall disclose to the department if they have been found guilty of,

pled guilty to, or pled no contest to a criminal offense.

2. The applicant and provider shall disclose to the department the type of offense and dates and location of having been found guilty of, pled guilty to, or pled no contest to a criminal offense. Such disclosure does not disqualify the applicant or provider, unless having been found guilty of, pled guilty to, or pled no contest to a crime having direct bearing on the capacity of the applicant or provider to provide a service under this chapter or the applicant or provider is not sufficiently rehabilitated.

3. The department may conduct a criminal background check on an applicant or provider.

4. The department shall determine the effect of an applicant or provider having been found guilty of, pled guilty to, or pled no contest to a criminal offense.

5. The department may investigate and inspect the applicant's or provider's activities, programs, qualifications, and proposed standards of care.

History: Effective April 1, 2018.
General Authority: NDCC 50-06-44
Law Implemented: NDCC 5-01-08, 50-06-44

75-09.2-01-06. Criminal conviction - Effect on provider status.

1. An applicant or provider may not be an individual who is known to have been found guilty of, pled guilty to, or pled no contest to:

   a. An offense described in North Dakota Century Code chapters 12.1-16, homicide; 12.1-18, kidnapping; 12.1-27.2, sexual performances by children; or 12.1-41, Uniform Act on Prevention of and Remedies for Human Trafficking; or in North Dakota Century Code sections 12.1-17-01, simple assault; 12.1-17-01.1, assault; 12.1-17-02, aggravated assault; 12.1-17-03, reckless endangerment; 12.1-17-04, terrorizing; 12.1-17-06, criminal coercion; 12.1-17-07.1, stalking; 12.1-17-12, assault or homicide while fleeing a police officer; 12.1-20-03, gross sexual imposition; 12.1-20-03.1, continuous sexual abuse of a child; 12.1-20-04, sexual imposition; 12.1-20-05, corruption or solicitation of minors; 12.1-20-05.1, luring minors by computer or other electronic means; 12.1-20-06, sexual abuse of wards; 12.1-20-07, sexual assault; 12.1-21-01, arson; 12.1-22-01, robbery; or 12.1-22-02, burglary, if a class B felony under subdivision b of subsection 2 of that section; 12.1-29-01, promoting prostitution; 12.1-29-02, facilitating prostitution; 12.1-31-05, child procurement; 14-09-22, abuse of child; or 14-09-22.1, neglect of child; or an offense under the laws of another jurisdiction which requires proof of substantially similar elements as required for conviction under any of the enumerated North Dakota statutes; or

   b. An offense, other than an offense identified in subdivision a, if the department determines the individual has not been sufficiently rehabilitated.

2. For purposes of subdivision b of subsection 1, an offender's completion of a period of five years after final discharge or release from any term of probation, parole, or other form of community correction, or imprisonment, without subsequent conviction, is prima facie evidence of sufficient rehabilitation.

3. The department has determined the offenses enumerated in subdivision a of subsection 1 have a direct bearing on the individual's ability to serve the public in a capacity involving the provision of services under this chapter.

4. In the case of a misdemeanor offense described in North Dakota Century Code sections 12.1-17-01, simple assault; 12.1-17-03, reckless endangerment; 12.1-17-06, criminal coercion; 12.1-17-07.1, stalking; or equivalent conduct in another jurisdiction which requires proof of substantially similar elements as required for conviction, the department may

determine the individual has been sufficiently rehabilitated if five years have elapsed after final discharge or release from any term of probation, parole, or other form of community corrections or imprisonment, without subsequent conviction.

5. An individual is known to have been found guilty of, pled guilty to, or pled no contest to an offense when it is:

   a. Common knowledge in the community;

   b. Acknowledged by the individual;

   c. Reported to the department as the result of a background check; or

   d. Discovered by the department.

History: Effective April 1, 2018.
General Authority: NDCC 50-06-44
Law Implemented: NDCC 5-01-08, 50-06-44

75-09.2-01-07. ~~Program~~ Seminar criteria.

1. A MIP seminar provider shall follow the department-approved curriculum's sequence, schedule, format, process, and content equaling a total of no less than eight hours.

2. A MIP seminar instructor shall use only materials approved by the division for use.

3. A MIP seminar instructor shall provide each seminar participant with a new workbook in either paper or digital format. Workbooks become the property of the participant and are not to be reissued.

4. A MIP seminar instructor shall not continue a class for more than two hours without providing participants with a break.

5. A MIP seminar instructor shall not count time for breaks beyond three ten-minute breaks per four-hour period toward the required hours of education to be provided to participants.

6. A MIP seminar instructor shall conduct the seminar in classes that must last no more than eight hours per calendar day.

7. A MIP seminar instructor shall provide information on additional behavioral health services when requested.

8. A MIP seminar instructor shall ask all MIP seminar participants to complete a participant evaluation form at the conclusion of each seminar and will retain copies of the evaluations in accordance with its record retention policy.

9. A provider may request an exception to the preapproved list of division-approved curriculum. Exceptions will be reviewed by the division on a case-by-case basis. The provider shall submit to the division the program title, sample material, and evidence of effectiveness. The division may deny an exception requested under this subsection. The decision to deny an exception is not an appealable decision.

~~1. The program provided through the minor in possession program certification must be selected from a list of preapproved evidence-based programs identified by the division.~~

   ~~a. Provider is responsible to become and remain certified or credentialed in selected preapproved evidence-based programs.~~

   ~~b. Provider must meet all requirements for the selected program.~~

~~2. A provider may request an exception to the preapproved list. Exceptions will be reviewed by~~

~~the division on a case-by-case basis. The provider shall submit to the division the program title, sample material, and evidence of effectiveness. The department may deny an exception granted under this subsection. The decision to deny an exception is not an appealable decision.~~

History: Effective April 1, 2018.
General Authority: NDCC 50-06-44
Law Implemented: NDCC 5-01-08, 50-06-44

~~**75-09.2-01-08. Information management.**~~

~~Providers shall report annually to the division the following information:~~

~~1. Confirmation of program certification;~~

~~2. Number of individuals served through the program;~~

~~3. Number of repeat individuals served by the program; and~~

~~4. The number of classes provided.~~

~~**History:** Effective April 1, 2018.~~
~~**General Authority:** NDCC 50-06-44~~
~~**Law Implemented:** NDCC 5-01-08, 50-06-44~~

~~**75-09.2-01-09. Suspension.**~~

~~The division may suspend a provider's minor in possession program certification at any time after the onset of an investigation. The department shall post all suspensions and revocations for at least one year.~~

~~**History:** Effective April 1, 2018.~~
~~**General Authority:** NDCC 50-06-44~~
~~**Law Implemented:** NDCC 5-01-08, 50-06-44~~

75-09.2-01-10. Program denials, suspensions, and revocations.

1. An applicant's application or renewal may be denied if:
   a. The applicant fails to comply with section 75-09.2-01-02; or
   b. The applicant fails to meet the provider criteria pursuant to section 75-09.2-01-04
2. The division may suspend a MIP seminar instructor certification at any time after the onset of an investigation.
3. The division may revoke the certification of a provider based on a determination of one of the following:
   a. The applicant fails to comply with seminar criteria pursuant to section 75-09.2-01-02;
   b. The applicant fails to meet the provider criteria pursuant to section 75-09.2-01-08.
   c. That it is necessary to protect the welfare, health, or safety of current and potential DUI seminar participants; or
   d. For other good cause
4. The division shall make notice to the public the suspension or revocation of a MIP seminar instructor certification.

~~2.~~5. A provider may reapply for certification, pursuant to section 75-03-43-06, no sooner than three hundred and sixty five days after determination of revocation.

~~3. A program's minor in possession program certification may be revoked for failure to comply with sections 75-09.2-01-03, 75-09.2-01-04, 75-09.2-01-07, and 75-09.2-01-08.~~

History: Effective April 1, 2018.
General Authority: NDCC 50-06-44
Law Implemented: NDCC 5-01-08, 50-06-44

75-09.1-09-19. Appeals.

An applicant for or a holder of an MIP instructor certification may appeal a decision to deny, suspend, or revoke a license by filing a written appeal with the department within thirty days of receipt of written notice of such a decision. Upon receipt of a timely appeal, an administrative hearing must be conducted in the manner provided in chapter 75-01-03.

History: Effective October 26, 2004.
General Authority: NDCC 50-06-16, 50-31
Law Implemented: NDCC 50-31

ARTICLE 75-09.2
SUBSTANCE USE DISORDER EARLY INTERVENTION

Chapter

75-09.2-01 Alcohol and Drug Early Intervention Program

CHAPTER 75-09.2-01
CANNABIS EARLY INTERVENTION

Section

75-09.2-01-01. Definitions.

As used in this chapter, unless the context or subject matter otherwise requires:

1. "Department" means the North Dakota Department of Health and Human Services.
2. "Division" means the Behavioral Health Division.
3. “CEI” means Cannabis Early Intervention.
4. “Cannabis Early Intervention” means an evidence-based cannabis early intervention class or course; delivered either in-person or virtually, for individuals at risk of developing a cannabis use disorder, or who violate North Dakota Century Code section 19-03.1-23 or a similar offense.
5. “Program” means a Division-approved evidence-based alcohol and drug early intervention curriculum.
6. “Provider” means a CEI instructor certified by the Division.
7. “CEI instructor certification” means the approval issued to a provider by the Division to allow instruction of an evidence-based early intervention program.

History: Effective April 1, 2018.
General Authority: NDCC 50-06-44
Law Implemented: NDCC 5-01-08, 50-06-44

75-09.2-01-02. Application for Cannabis Early Intervention program certification.

1. Applicants shall submit to the division a signed application and all required information and documentation for CEI instructor certification in the form and manner prescribed by the department.
2. The department shall consider an application for CEI instructor certification complete when it has received all of the required information and documents in accordance with section 75-09.2-01-04. The division shall notify an applicant if an application is incomplete.
3. The department may declare an application for CEI instructor certification withdrawn if an applicant fails to submit all required information and documentation within sixty days of the

department's notification to the applicant the application is incomplete.

4. The department may not approve, deny, or renew an application for a CEI instructor certification who has been charged with an offense considered to have a direct bearing on the individual's ability to provide services until final disposition of the criminal case against the individual.

History: Effective April 1, 2018.
General Authority: NDCC 50-06-44
Law Implemented: NDCC 5-01-08, 50-06-44

75-09.2-01-03. Cannabis Early Education program certification required.

1. A CEI instructor certification may not be transferred and is valid only for those providers and programs indicated on the issued certificate.

2. A provider shall make available or display its CEI instructor certification in a place that is conspicuous to the public.

3. A provider shall be recertified by the division every three years, resubmitting all information under section X.

4. The Department may conduct scheduled or unscheduled reviews of a CEI provider.

History: Effective April 1, 2018.
General Authority: NDCC 50-06-44
Law Implemented: NDCC 5-01-08, 50-06-44

75-09.2-01-08. Participant records and information management.

1. A CEI shall prepare and maintain a single record for each participant so as to communicate the appropriate case information. This information must be in a form that is clear, concise, complete, legible, and current.

2. The record of each participant must include:

   a. Attendance records;

   b. Department-approved post-test;

   c. A copy of any consent to release of information form signed by the participant; and

   d. Any other correspondence related to the participant

3. A CEI shall implement a written policy addressing the process by which a participant may gain access to the participant's own record.

4. A program must secure the written consent of the participant or a participant's legal representative before releasing any confidential information about that participant and the release of information must conform to the following:

   a. Any information released must be limited to that necessary for the individual or agency requesting the information or for the provider to whom the participant is referred to address the purpose of the referral;

   b. A program must stamp or write on the records that are being released that any further disclosure of information is prohibited unless it is authorized by the participant or the participant's legal representative;

c. A program's consent to release of information form must conform to applicable laws and regulations and must identify:

1. The information to be released;

2. The form in which the information is to be released such as written, verbal, audio, or electronic;

3. To whom the information is to be released;

4. The purpose of the information to be released;

5. The name and date of birth of the participant;

6. The date on which the consent to release of information is signed;

7. The length of time, event, or condition for which the consent to release of information is authorized or in the event or condition upon which the consent may be withdrawn; and

8. The signature of the participant or legal representative.

d. A program shall give to the participant or participant's legal representative a copy of the signed consent to release of information.

5. A CEI must apply appropriate safeguards to protect participant records regardless of whether the records are electronically or manually maintained. These safeguards must include:

a. Limiting record access to authorized individuals;

b. Knowing the essential record location at all times;

c. Reasonably protecting records in a secure area where they will be reasonable protected against loss, damage, and inappropriate access

6. A CEI must implement a policy so that files are not needlessly retained or prematurely discarded. The retention of records of participants and administrative records must be guided by professional and state research, administrative, and legal requirements.

7. A CEI shall collect data as prescribed by the department, including information necessary for federal and state grant statistical requirements and fiscal information such as fee structure.

History: Effective April 1, 2018.
General Authority: NDCC 50-06-44
Law Implemented: NDCC 5-01-08, 50-06-44

75-09.2-01-04. Provider criteria.

1. To receive a CEI provider certification or recertification, a provider shall submit proof of the following:

a. A two-year degree or its equivalent of at least two years of professional work experience in an education, health, human services, or criminal justice field.

b. Successfully pass a national criminal background check; and

c. Complete a Department-approved early intervention instructor training curriculum and submit the final completion certificate to the Department.

2. A provider shall be recertified by the Department every three years. To maintain certification by the Department, a provider is required to do the following:

a. Attend a minimum of six recertification training hours coordinated by the Department.

b. Successfully pass a national criminal background check; and

c. Submit the required information for recertification determined by the Department

3. A CEI provider shall have an established schedule of reasonable fees that is applied equitably to all participants and available to view.

4. To reapply for certification when a provider has allowed certification to lapse, the provider shall submit a letter to the department that must provide the following information:

a. Evidence that the provider's curriculum has incorporated current information and educational changes since last certification;

b. An explanation for lapse in certification; and

c. A statement of confirmation that the provider has not provided services during the period that the certification lapsed.

5. A provider shall not conduct any CEI while engaging in the consumption of alcohol, illegal use of drugs, or while impaired from any licit or illicit substance.

6. A provider shall not omit or provide false or misleading information during the application process.

History: Effective April 1, 2018.
General Authority: NDCC 50-06-44
Law Implemented: NDCC 5-01-08, 50-06-44

75-09.2-01-05. Background check - Investigation.

1. Each applicant and provider shall disclose to the department if they have been found guilty of, pled guilty to, or pled no contest to a criminal offense.

2. The applicant and provider shall disclose to the department the type of offense and dates and location of having been found guilty of, pled guilty to, or pled no contest to a criminal offense. Such disclosure does not disqualify the applicant or provider, unless having been found guilty of, pled guilty to, or pled no contest to a crime having direct bearing on the capacity of the applicant or provider to provide a service under this chapter or the applicant or provider is not sufficiently rehabilitated.

3. The department may conduct a criminal background check on an applicant or provider.

4. The department shall determine the effect of an applicant or provider having been found guilty of, pled guilty to, or pled no contest to a criminal offense.

5. The department may investigate and inspect the applicant's or provider's activities, programs, qualifications, and proposed standards of care.

History: Effective April 1, 2018.
General Authority: NDCC 50-06-44
Law Implemented: NDCC 5-01-08, 50-06-44

75-09.2-01-06. Criminal conviction - Effect on provider status.

1. An applicant or provider may not be an individual who is known to have been found guilty of, pled guilty to, or pled no contest to:

   a. An offense described in North Dakota Century Code chapters 12.1-16, homicide; 12.1-18, kidnapping; 12.1-27.2, sexual performances by children; or 12.1-41, Uniform Act on Prevention of and Remedies for Human Trafficking; or in North Dakota Century Code sections 12.1-17-01, simple assault; 12.1-17-01.1, assault; 12.1-17-02, aggravated assault; 12.1-17-03, reckless endangerment; 12.1-17-04, terrorizing; 12.1-17-06, criminal coercion; 12.1-17-07.1, stalking; 12.1-17-12, assault or homicide while fleeing a police officer; 12.1-20-03, gross sexual imposition; 12.1-20-03.1, continuous sexual abuse of a child; 12.1-20-04, sexual imposition; 12.1-20-05, corruption or solicitation of minors; 12.1-20-05.1, luring minors by computer or other electronic means; 12.1-20-06, sexual abuse of wards; 12.1-20-07, sexual assault; 12.1-21-01, arson; 12.1-22-01, robbery; or 12.1-22-02, burglary, if a class B felony under subdivision b of subsection 2 of that section; 12.1-29-01, promoting prostitution; 12.1-29-02, facilitating prostitution; 12.1-31-05, child procurement; 14-09-22, abuse of child; or 14-09-22.1, neglect of child; or an offense under the laws of another jurisdiction which requires proof of substantially similar elements as required for conviction under any of the enumerated North Dakota statutes; or

   b. An offense, other than an offense identified in subdivision a, if the department determines the individual has not been sufficiently rehabilitated.

2. For purposes of subdivision b of subsection 1, an offender's completion of a period of five years after final discharge or release from any term of probation, parole, or other form of community correction, or imprisonment, without subsequent conviction, is prima facie evidence of sufficient rehabilitation.

3. The department has determined the offenses enumerated in subdivision a of subsection 1 have a direct bearing on the individual's ability to serve the public in a capacity involving the provision of services under this chapter.

4. In the case of a misdemeanor offense described in North Dakota Century Code sections 12.1-17-01, simple assault; 12.1-17-03, reckless endangerment; 12.1-17-06, criminal coercion; 12.1-17-07.1, stalking; or equivalent conduct in another jurisdiction which requires proof of substantially similar elements as required for conviction, the department may determine the individual has been sufficiently rehabilitated if five years have elapsed after final discharge or release from any term of probation, parole, or other form of community corrections or imprisonment, without subsequent conviction.

5. An individual is known to have been found guilty of, pled guilty to, or pled no contest to an offense when it is:

   a. Common knowledge in the community;

   b. Acknowledged by the individual;

   c. Reported to the department as the result of a background check; or

d. Discovered by the department.

History: Effective April 1, 2018.
General Authority: NDCC 50-06-44
Law Implemented: NDCC 5-01-08, 50-06-44

75-09.2-01-07. Cannabis Early Intervention criteria.

1. A CEI provider shall follow the department-approved curriculum's sequence, schedule, format, process, and content equaling a total of no less than eight hours.

2. A CEI instructor shall use only materials approved by the Department for use.

3. A CEI instructor shall provide each participant with a new workbook in either paper or digital format. Workbooks become the property of the participant and are not to be reissued.

4. A CEI instructor shall not continue a class for more than two hours without providing participants with a break.

5. A CEI instructor shall not count time for breaks beyond three ten-minute breaks per four-hour period toward the required hours of education to be provided to participants.

6. A CEI instructor shall conduct the CEI in classes that must last no more than eight hours per calendar day.

7. A CEI instructor shall provide information on additional behavioral health services when requested.

8. A CEI instructor shall ask all participants to complete a participant evaluation form at the conclusion of each CEI and will retain copies of the evaluations in accordance with its record retention policy.

9. A provider may request an exception to the preapproved list of Department-approved curriculum. Exceptions will be reviewed by the Division on a case-by-case basis. The provider shall submit to the division the program title, sample material, and evidence of effectiveness. The Department may deny an exception requested under this subsection. The decision to deny an exception is not an appealable decision.

History: Effective April 1, 2018.
General Authority: NDCC 50-06-44
Law Implemented: NDCC 5-01-08, 50-06-44

75-09.2-01-09. Program denials, suspensions, and revocations.

1. An applicant's application or renewal may be denied if:

   a. The applicant fails to comply with section X; or

   b. The applicant fails to meet the provider criteria pursuant to section X.

2. The Division may suspend a CEI instructor certification at any time after the onset of an investigation.

3. The Division may revoke the certification of a provider based on a determination of one of the following:

   a. The applicant fails to comply with criteria pursuant to section X;

   b. The applicant fails to meet the provider criteria pursuant to section X.

c. That it is necessary to protect the welfare, health, or safety of current and potential participants; or

d. For other good cause.

4. The Division shall make notice to the public the suspension or revocation of a CEI instructor certification.

5. A provider may reapply for certification, pursuant to section X, no sooner than three hundred and sixty five days after determination of revocation.

History: Effective April 1, 2018.
General Authority: NDCC 50-06-44
Law Implemented: NDCC 5-01-08, 50-06-44

75-09.2-01-10. Appeals

An applicant for or a holder of a CEI instructor certification may appeal a decision to deny, suspend, or revoke a license by filing a written appeal with the department within thirty days of receipt of written notice of such a decision. Upon receipt of a timely appeal, an administrative hearing must be conducted in the manner provided in chapter X.

History: Effective April 1, 2018.
General Authority: NDCC 50-06-44
Law Implemented: NDCC 5-01-08, 50-06-44