

September 19, 2022

Michael Cheney, OASIS Director
OASIS Sex Offender Treatment Program
MCF-Rush City
7600 525th Street
Rush City, MN 55069

Re: Certification of the Offenders Achieving Safety in Society (OASIS) Sex Offender Treatment Program at MCF-Rush City under Minnesota Rules, Chapter 2965

The certification of the OASIS Sex Offender Treatment Program at MCF-Rush City expired on July 31, 2020. Due to the COVID-19 pandemic, the on-site inspection for the certification of the program originally planned for May 2020 was postponed due to health and safety concerns. This office sent a letter dated July 23, 2020 authorizing the continued operation of the OASIS sex offender treatment program at MCF-Rush City until the certification inspection and report was completed and the new certificate issued by the commissioner.

Shortly after the onset of the COVID-19 pandemic it was apparent that the operations of governed programs required significant modifications and adjustments for client and staff health and safety. On April 16, 2020, this office issued a blanket authorization to exempt governed programs from the requirement to apply for variances when making significant changes that would affect rule compliance. This authorization allowed programs to respond quickly and adapt to unanticipated and changing conditions imposed by the pandemic without burdensome bureaucratic imposition as long as adequate documentation was maintained.

At that time, it was assumed the pandemic and OASIS program condition would improve in the recent future. Unfortunately, the pandemic continued to limit the operation of the facility and the program. MCF-Rush City implemented a series of level 3/Red status protocols and others procedures which limited outside access to the facility. Several dates that were set for the on-site inspection process had to be canceled and the certification inspection was postponed for much longer than anticipated and continued into 2021. Several significant changes occurred in the OASIS program during this time (discussed more fully below) including the appointment of Michael Cheney as the new administrative/clinical director at the end of March 2021. As Mr. Chaney was new to the position, he requested a further authorization to continue the operation of the OASIS program so that he could familiarize himself with the program and its continuing adaptation to the pandemic. During this process, Mr. Cheney maintained contact with office seeking information on program issues and rule compliance as well as reporting updates on program implementation.

With regular reports and updates from Mr. Cheney, the first year of the certification cycle passed and plans were made to conduct the inspection virtually (not on site). The date was set for February 1, 2022. Given that July 31, 2022 was the expiration date of this cycle, upon further discussion it was noted that it made no sense to have to conduct another certification inspection by May-June 2002. Moreover, the August 1, 2020 to July 31, 2022 cycle remained certified under Chapter 2965 by authority of the July 23, 2020 letter authorizing the extension of certification. Since this period was under certification, the February 1, 2022 inspection would cover the upcoming cycle of August 1, 2022 to July 31, 2024. The actual dates of the

virtual inspection were February 1, 2, and 7, 2022, with the exit interview on February 7, 2022.

Based on the findings of this limited virtual inspection, the Offenders Achieving Safety in Society (OASIS) Sex Offender Treatment Program at MCF-Rush City is certified to operate under the conditions described below for a two-year term effective August 1, 2022 through July 31, 2024.

VIRTUAL INSPECTION

The virtual inspection process consisted of the following activities.

1. Review of the application for certification and thorough discussion of the self-rated compliance with Chapter 2965 in Form D of the application and the responses to previous correction actions with the OASIS administrative director/clinical supervisor.
2. Review of compliance documentation, including the program policy and procedures manual, a sample of personnel and client files in the electronic data base, and quality assurance/program improvement information.
3. Structured interviews with the psychological services director, the administrator/clinical supervisor, several clinical staff (corrections program therapists [CPTs]), a psychologist, and a correctional officer.
4. An exit interview conducted on February 7, 2022.

All persons interviewed were informed of the limits of confidentiality in the inspection procedure and stated that they understood the terms and were willing to participate in the process.

This report summarizes the information regarding rule compliance and program operation gathered during the inspection and discussed at the exit interview.

OVERALL FINDINGS

The program's census at the time of this inspection was 28 clients in the pre-treatment phase, 28 clients in the primary treatment phase for a total of 56 clients. This total does not include 5 clients who are in the aftercare phase.

At the start of the pandemic and positive COVID-19 cases in early 2020, MCF-Rush City implemented a series of level 3/Red status protocols and others procedures which limited outside access to the facility. During this period, the OASIS program adapted by limiting program services, with some staff working remotely. The OASIS administrative/clinical director resigned and was replaced on April 1, by Michael Chaney. The OASIS program at this time was short two CPTs and one psychologist. Mr. Cheney reported that the program was adapting on a week-by-week basis regarding in-person programming, distance learning protocols, space availability, and staff on medical leave. In fact, shortly after Mr. Cheney's appointment, he took a six-week parental leave. While other qualified DOC staff provided fill-in services during Mr. Cheney's absence, and existing staff had to pick-up some of his job functions, there was an obvious impact on the stability and operation of the program. Two more CPTs resigned and left the program. During the course of the pandemic, five of the seven CPT positions were vacant and the only office administrator took an unexpected long-term leave.

Mr. Cheney's request for the authorization of the continued operation of the program was based on the following considerations. Mr. Cheney reported that to adequately administer and supervise the program he needed to experience and learn how the program actually implemented, to address critical staffing issues, and provide fill-in services for the vacant CPTs, the psychologist, and the office administrator, Mr. Cheney reported further that the existing CPTs were also providing services far above their normal workload and noted that the CPT's were feeling stress and somewhat demoralized through it all. He was seriously concerned about the staff culture and developed plans to address it.

Another significant issue raised by all program staff was the large number of clients in the pre-treatment phase, namely 28 clients. When Chapter 2965 was promulgated, no programs had a pre-treatment phase. With the consolidation of sex offender treatment at MCF-Lino Lakes the need for a small pool of clients on site ready to enter the program when an opening occurred was evident. To accommodate this unanticipated need, the pre-treatment phase was developed and implemented; it was intended to be limited to no more than 10% of a program's population. As the pre-treatment phase is not included in the Chapter 2965, there is no regulatory authority over how programs implement and manage this phase. The 28 clients in the pre-treatment phase is far beyond the intended 10% cap and makes serious demands on staff, programming, primary treatment phase clients, and the therapeutic milieu. The large number of clients in this phase is partly due to the conditions of the pandemic and the need to fill beds in the facility. Mr. Cheney and the administration are certainly aware of the issues involved in this situation and are determined to reduce the number as staffing and the conditions of the pandemic improve.

The CPTs provided a similar account of the program's operation and the impact of the pandemic, the large number of clients in the pre-treatment phase, and staff shortages on their overburdened workload. The CPTs agreed that at the time of Mr. Cheney's appointment, the program was struggling and the existing CPTs were chafing under the situational strain; two CPTs resigned in addition to the two CPTs who resigned before Mr. Cheney was appointed. It was agreed further that CPT morale was suffering and the staff culture was disturbed but that, because of the limited contact with clients, there was limited influence on the therapeutic milieu and the clients (beyond the disturbance caused by the pandemic and the limits on access to treatment). In fact, the CPTs and Mr. Cheney were concerned about the limited contact with clients – especially in groups – but believed that client progress in treatment was not necessarily impeded the CPTs could still provide good clinical service via distance learning and more individual meetings. Ultimately, the clients had to be “more self-motivated” and it was the CPTs job to help and support client motivation. And, they felt that the clients were “buying-in[to]” the process “more and more.”

The CPTs said the correctional staff were supportive of them and the program, noting a high level of communication between the CPTs and the correctional staff – even under the limited contact conditions. In this regard, the correctional staff remarked that they were aware of the issues the CPTs were dealing with and the negative impact on their morale but agreed that the impact on the therapeutic milieu and the clients was minimal. And the correctional staff also agreed that while the therapeutic milieu and the living unit has had its “ups-and-down” it was, overall, operating relatively “smoothly” – especially when compared to other cell blocks in the facility where there were often fights between offenders. The correctional staff found the resumption of weekly community meetings an important stabilizer and cultural support and noted the important contribution of the client mentors in this process.

During this virtual inspection, no clients were interviewed. While the technology for virtual meetings is available, the space and the required conditions for confidentiality and privacy precluded the use of this technology at this time.

During this virtual inspection, there was no direct observation of the therapeutic milieu in operation. Based on information provided by Mr. Cheney, the CPTs, and correctional staff, the therapeutic milieu has not been consistently implemented and maintained so the levels of accountability and client change are not known. However, as noted above, the milieu appears to be operating “smoothly,” and is believed to be relatively safe and secure.

Under the conditions of the pandemic, the program’s living unit is a larger concern than usual. As noted in past reports, the program occupies one wing of a two-wing cell block. This living space is a negotiated compromise regarding the definition of a residential adult sex offender treatment program (2965.0010, subpart 23) in terms of an exclusive living space set apart from the general correctional population. The compromise involves the open boundary between the two wings with the other wing housing non-sex offenders and the strict enforcement of that boundary. Under the conditions of the pandemic, this enforcement of this boundary takes on the additional function of preserving and protecting both the health of the residents both wings. During this virtual inspection, there was no direct observation of the living unit. Relying on the information provided by Mr. Cheney, the CPTs, and correctional staff, the boundary between the two has been well enforced and there has been no health or safety issues regarding the boundary.

COMPLIANCE ISSUES

A sample of client files in the electronic database was reviewed with dates of admission to the OASIS program during this certification period. A sample of files in the electronic data base of clients who were discharged during this certification period was reviewed. The file review found compliance issues regarding the time-line for completion of intake assessments in several client files. However, the *OASIS QA Plan Results for FY 2020 and FY 2021* indicates that for the dates the intake assessments were past due, the program had suspended Chapter 2965 rule requirements due to the COVID-19 pandemic.

No compliance issues were found in any of the personnel files reviewed.

1. Citation: Individual Treatment Plans: Minnesota Rules Chapter 2965.0110, subparts 1 to 3.

- 2965.0010, subpart 1. Initial individual treatment plan.
- Subpart 2. Explanation, signature, and copies required.
- Subpart 3. Plan contents.

Compliance Issue: Violation.

At the previous certification inspection, the individual treatment plans were found to be in violation of the requirement to (a) note the date of the team meeting to review the plan, and (b) be completed within 30-days of client admission to the program. At this inspection, the electronic data base has two files which provide the template for individual treatment plan. One template is for the pre-treatment phase and the other is for the primary treatment phase. Neither of these templates provides a format that includes the requirements of subparts 1, 2 and 3 of 2965.0090. As all of the clients’ individual treatment plans reviewed in the electronic data base used these formats, none of the plans complied with the requirements of subparts 1, 2, and 3 for 2965.0090.

Corrective Action Order #1:

The discrepancy between the individual treatment plans which were in compliance at the previous is significant. Immediately upon receipt of this report, the certificate holder will ensure that all individual treatment plans comply with the requirements of 2965,0090, subparts 1, 2, and 3.

CONDITIONS OF CERTIFICATION

The following rule requirements are on-going, developmental projects that both anchor and drive the treatment program. As such, they require continued review and evaluation. Consequently, issues in these areas as are not cited as rule violations – rather, they are considered to be conditions of certification.

1. **Rule Requirement:** Basic treatment protocol and policies and procedures for the therapeutic milieu: Minnesota Rules, Chapter 2955.0140, subparts 1A and 1B.

2955.0140, subpart 1. Program policy and procedures manual. Each program must develop and follow a written policy and procedures manual. The manual must be made available to clients and program staff. The manual must include, but is not limited to:

- A. *policies and procedures for the basic treatment protocol.*
- B. *policies and procedures for the therapeutic milieu.*

Current Status:

At the time of this inspection, the current version of the policies and procedures for the basic treatment protocol and therapeutic milieu is located in the document, *Minnesota Correctional Facility-Rush City, Offenders Achieving Safety in Society Theory Manual* (revised June 28, 2016). These policies and procedures are operationalized in the *OASIS Therapist Training Manual* (revised July 2020).

While the previous administrator/clinical director did revise the *OASIS Therapist Training Manual* in July 2020, no changes have been made to the *Minnesota Correctional Facility-Rush City, Offenders Achieving Safety in Society Theory Manual* since June 28, 2016. Mr. Cheney and the CPTs reported that programming continued to apply the framework developed in the *Theory Manual* and the procedures outlined in the *Training Manual*. They noted that striving to adapt and provide direct services to clients within the context of the “ever-changing safety protocols” was their key focus during this certification period. For the reasons described above, they made the case that they were unable to review and revise the policies and procedures for the basic treatment protocol and therapeutic community.

Mr. Cheney stated that as the pandemic is beginning to recede, program delivery is improving and expanding in scope. In addition, there is renewed emphasis on staff recruitment, development and retention. It is hoped that several new CPTs will be joining the program in the near future. As these improvements occur, Mr. Cheney said that more attention will be paid to updating the policies and procedures of the basic treatment protocol and therapeutic milieu and their application. Based on the information provided by Mr. Cheney and the CPTs, there appear to be several concerns and possible disagreements about the goals of the program and certain methodological and practical applications of the basic treatment protocol. This condition of certification will provide an opportunity to examine these issues and develop an agreed upon approach to delivering the program and its programming.

Condition of Certification #1

The conditions noted in the previous certification report apply to this certification period. In that report, it was required that the *Theory Manual* needed to incorporate updated references to more current theorizing, empirical research, and policy considerations. In addition, the *Theory Manual* needed to include and expand on important theoretical and empirical material regarding, for example, cognitive distortions, empathy, attachment, and the good lives model. In particular, since CPTs discussed the application of the trauma-informed cognitive-behavioral therapy approach and the manual does not discuss this approach in any depth, the manual must present the basis of and support for this approach and provide guidance for its implementation.

No later than November 4, 2022, the certificate holder must also submit to this office a report that provides the following information.

1. An assessment of how well the manual provides the necessary grounding, support, and direction to the programing. This assessment will address the considerations noted above.
2. A discussion of any necessary and/or proposed additions and/or modifications to the policies and procedures. This includes the integration of more recent references and related refinement of theory and updating the research base. The logic model will need to be updated to be consistent with the changes in theory and treatment content. The discussion of the therapeutic milieu should consider recent research on the use of therapeutic community with sex offenders, especially in prison environments.

The discussion of the therapeutic milieu should consider recent research on the use of therapeutic community with sex offenders, especially in prison environments.

The criteria used to evaluate the policies and procedures for the basic treatment protocol and therapeutic milieu are described in Form D of the application for certification.

This office has available much of the contemporary theorizing, research, and evaluative literature and is available for technical consultation.

2. **Rule Requirement:** Quality assurance and program improvement: Minnesota Rules, Chapter 2955.0170.

2955.0170. Each program must maintain and follow a quality assurance and program improvement plan and procedures to monitor, evaluate, and improve all components of the program. The review plan must be written and consider the:

- A. *goals and objectives of the program and the outcomes achieved;*
- B. *quality of service delivered to clients in terms of the goals and objectives of their individual treatment plans and the outcomes achieved;*
- C. *quality of staff performance and administrative support and their contribution to the outcomes achieved in items A and B;*
- D. *quality of the therapeutic milieu, as appropriate, and its contribution to the outcomes achieved in items A and B;*
- E. *quality of the client's clinical records;*
- F. *use of resources in terms of efficiency and cost-effectiveness;*
- G. *feedback from referral sources, as appropriate, regarding their level of*

satisfaction with the program and suggestions for program improvement; and
H. effectiveness of the monitoring and evaluation process.
The review plan must specify the manner in which the requisite information is objectively measured, collected, and analyzed. The review plan must specify how often the program gathers the information and document the actions taken in response to the information.

Current status:

The quality assurance plans reviewed in the previous certification report address all eight dimensions required by 2955.0170, describe the variables measured in each dimension, how they were measured, and a summary of the data collected on each variable, and the results. As noted in that report, the plans were well organized and provided much relevant information. It was suggested that the plans would be more complete and thereby useful if they provided follow-up information about the decisions and subsequent actions that were taken regarding results on programming, progress in treatment, the therapeutic community, etc.

While the policies and procedures for the basic treatment protocol and therapeutic milieu were not a focus during this certification period, the quality assurance plan was implemented to a significant degree. Data was collected in all eight dimensions for FY 2020 and FY 2021 and provided in the *OASIS QA Plan Results* for those years.

Condition of Certification #2:

No later than November 4, 2022, the certificate holder must also submit to this office a report that provides the following information.

1. As in the previous certification report, this condition requires the certificate holder to discuss any necessary and/or proposed additions and/or modifications to address identified performance deficiencies, issues in treatment implementation, data collection, refinement of outcome measures, etc. over this certification period. The discussion must also include a timeline for implementing and evaluating the necessary and/or proposed additions and/or modifications. Refer to the items discussed in the previous certification report regarding the conditions of certification for quality assurance/program improvement.

The criteria used to evaluate the policies and procedures for the quality assurance/program improvement plan are described in Form D of the application for certification.


This office has a relatively up-to-date database on program theory, theories of change, program development and evaluation, continuing quality improvement, and more. This database is accessible to program staff upon request. Technical assistance is also available on request.

Chapter 2965 requires programs providing residential treatment to adult sex offenders to be accountable for their operations, outcomes, and continuous quality improvement plans. This certification inspection has identified the compliance issues described above and prescribed the actions necessary to meet that accountability. This office remains at your service to discuss any issues or concerns about this report and to provide technical assistance in achieving compliance with Chapter 2965. Please do not hesitate to contact me at 651-361-7148 or Alan.Listiak@state.mn.us.

Michael Cheney, Corrections Program Director
Certification of the OASIS Sex Offender Treatment Program at MCF-Rush City
under Minnesota Rules Chapter 2965
September 19, 2022

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Yours truly,

A handwritten signature in cursive script, appearing to read "Alan Listiak".

Alan Listiak
Administrator of Sex Offender Program Certification
Inspection & Enforcement Unit

cc: Michelle Saari, Psychological Services Director, MCF-Rush City
Jesse Pugh, Warden, MCF-Rush City
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