

Children's Residential Facilities
Chapter 2960 (Umbrella Rule)
Questions and Answers
Updated as of 10/28/2005

Note: This document is arranged in order of Rule Part.

MN Rule 2960.0010. PURPOSE AND APPLICABILITY.

Q. *Applicability: Which portions of the rule will be applied to chemical dependency treatment programs? Is it correct that chemical dependency treatment programs will need to meet General Requirements 2960.0010 – 2960.0120; Group Residential 2960.0130 – 2960.0220; and Chemical Abuse/Dependency 2960.0430 – 2960.0490?*

A. Yes.

MN Rule 2960.0020. DEFINITIONS. Subp 6., MN Rule 9530.0030. Subp. 2C6., and MN Rule 2960.0080. FACILITY OPERATIONAL SERVICES, POLICIES, AND PRACTICES. Subp. 8.

Q. *Is it the staff's responsibility to get someone to a place of spirituality/culture if they request it and their family, social work, etc. cannot take them?*

A. Staff is responsible to make services provided "at the licensed facility to meet the resident's basic needs for...spiritual and religious practice" available to individual residents. If resident requests help to reach a place of spiritual or religious practice and lacks a way to reach it, program staff may help the resident to do so. If conditions don't permit program staff to safely or affordably transport residents to a place of spiritual or religious practice, program staff should document the resident request, and include a description of the conditions that require the staff to refuse this request.

MN Rule 2960.0020. DEFINITIONS. Subp 8. Case manager.

Q. *Most of our clients come in referred by parents and they are not involved with Human Services or Corrections. How would that work since they don't have a case manager?*

Q. *Can you define a case manager?*

A. **Case manager.** "Case manager" means the supervising agency responsible for developing, implementing, and monitoring the case plan. (This would be the staff that represents the placing or referral agency). In the absence of a placing/referral agency, it is expected that someone at the facility must complete this responsibility.

MN Rule 2960.0020. DEFINITIONS. Subp. 24. Critical Incident.

- Q. The definition of "critical incident" includes "client-to-client sexual contact." Does this include clients over the age of 18 who are living independently in programs licensed as Transitional Programs?

Also, could you define "sexual contact" that constitutes a critical incident? Should all client-to-client sexual contact in licensed programs be reported to DHS?

- A. Yes, all clients in transitional programs. **Definition per critical incident form -** Any sexual conduct between residents or between residents and staff / volunteers. Sexual conduct includes intentional touching of another person's intimate parts, or the clothing covering the immediate area of the intimate parts, committed with sexual or aggressive intent.

MN Rule 2960.0020, DEFINITIONS. Subp. 28. Direct Contact.

- Q. *"Direct contact," means the provision of face-to-face care, training, supervision, counseling, consultation, or medication assistance to a resident.*

Would the DHS' interpretation apply this definition to care provided by non-professionals, such as CD Technicians?

- A. Yes. CD technicians are required to have background studies since they are providing face-to-face care. This rule requirement mirrors statutory language found in Minnesota Statutes, Chapter 245C, Human Services Background Studies.

MN Rule 2960.0020, DEFINITIONS. Subp. 46a. Medically licensed person.

- Q. *Could you be more specific regarding "medically licensed person"?*

- A. Medically licensed person. "Medically licensed person" means a person who is licensed or permitted by a Minnesota health-related board to practice in Minnesota and is practicing within the scope of the person's health-related license.

MN Rule 2960.0020, DEFINITIONS. Subp. 64. Screening.

- Q. *The definition of screening in the rule includes "observation" as a method. For certain areas, e.g. gender specific needs, it might be best practice to have a protocol for observation for a period of time and issues/concerns observed could be documented and used in treatment plan development. For example, at one of the gender specific programs, staff are asked to initially observe residents for differences in response and reaction to staff based on gender (as well as other things) as part of the assessment process in the first few days.*

A. Chapter 2960.0070 Subpart 5A, 1-6 and B-1 & 2

The gender specific screening tools being formalized do focus on observation. Screening tools have been created and are available on the DOC and DHS websites.

MN Rule 2960.0020. DEFINITIONS. Subp 78. Variance.

Q. If the minimum age requirement is age 21 for employees in DHS residential programs, is there a provision to apply for a variance?

A. Chapter 2960 defines a variance as "...[a] written permission from the commissioner of human services under Minnesota Statutes, section 245A.04, subdivision 9, or the commissioner of corrections under Minnesota Statutes, section 241.021, or their designee, for a license holder to depart or disregard a rule standard for a specific period of time. Minnesota Statutes, section 245A.04, subdivision 9 also states, in part, that "The commissioner may grant a variance to rules that do not affect the health and safety or persons in a licensed program... [Emphasis added.]

MN Rule 2960.0030. ADMINISTRATIVE LICENSING. Subp. 2. Application and license requirements.

Q. Is there a formal application process yet?

A. The application is now available on the DOC website and can be accessed at www.doc.state.mn.us. Please print a hard copy of appropriate documents and send them via U.S. mail to the address on the application. The application may also be obtained by calling the Department of Human Services, Division of Licensing at (651) 296-3971.

License certificates will be mailed out in the very near future (August 2005).

MN Rule 2960.0030, ADMINISTRATIVE LICENSING. Subp. 4. Criteria for licensure and certification by DHS. A. serve children through the age of 19 in a residential setting if the license holder meets the criteria in Minnesota Statutes, section 245A.04, subdivision 11, paragraph (b):

Q. Is the DHS applying this Umbrella Rule to 18 and 19 year olds?

A. Yes. DHS licensed Children's residential facilities may serve 18 and 19 year old residents if they meet the criteria contained in Minnesota Statutes, section 245A.04, subdivision 11, paragraph (b): Subd. 11. Education program; additional requirement.

(a) The education program offered in a residential or nonresidential program, except for childcare, foster care, or services for adults, must be approved by

the commissioner of education before the commissioner of human services may grant a license to the program.

- (b) A residential program licensed under Minnesota Rules, parts 9545.0905 to 9545.1125 or 9545.1400 to 9545.1480, may serve persons through the age of 19 when:
 - (1) the admission is necessary for a person to complete a secondary school program or its equivalent, or it is necessary to facilitate a transition period after completing the secondary school program or its equivalent for up to four months in order for the resident to obtain other living arrangements;
 - (2) the facility develops policies, procedures, and plans required under section 245A.65;
 - (3) the facility documents an assessment of the 18- or 19-year-old person's risk of victimizing children residing in the facility, and develops necessary risk reduction measures, including sleeping arrangements, to minimize any risk of harm to children; and
 - (4) notwithstanding the license holder's target population age range, whenever persons age 18 or 19 years old are receiving residential services, the age difference among residents may not exceed five years.

MN Rule 2960.0030, ADMINISTRATIVE LICENSING. Subp. 10. Policy and procedure review.

Q. *Policy and procedure review. - The license holder must submit the facility's program policies and procedures to the commissioner of human services or corrections for review.*

Will HCYF be required to submit these inasmuch as the program has been licensed previously under other DHS rules?

A. Programs seeking first-time certification, or changes in service licensure must submit the revised policy and procedure manuals, but others need not do so.

MN Rule 2960.0040. STATEMENT OF INTENDED USE. Subp. A-F.

Q. *For agencies that have multiple licensed programs – Residential, Foster, Community services, Day Care, CADI – can we do an “Umbrella” statement for the agency, with individual program descriptions?*

A. No. Each licensed program or certification program is required to have its own specific Statement of Intended Use response.

MN Rule 2960.0050. RESIDENT RIGHTS AND BASIC SERVICES. Subpart 1. Basic Rights. A. right to reasonable observance of cultural and ethnic practice and religion.

- Q. *In regards to cultural sensitivity – where would we get interpreters, and English language skill development people? How would this get funded?*
- A. The Department of Human Services (DHS) has a list of translators that have worked with the department who are very familiar with social services terminology in multiple languages. The list of companies can be provided by calling (651) 282-5082 (Lisa Slensiger). Also many counties have a list of the companies they use. The licensing rule does not address the question of who is responsible for the costs of these services.

MN Rule 2960.0050. RESIDENT RIGHTS AND BASIC SERVICES. Subp. 1J and Subp. 1M. and 2960.0080. FACILITY OPERATIONAL SERVICES, POLICIES, AND PRACTICES. Subp. 2C and 5A-4. Mail

- Q. *Can we withhold mail if the client gets mail that is not from a healthy friend? Currently we have an approved list of people who may correspond with a client. If the client receives mail from someone that is not on that list, we return it to the person. Is that okay?*
- A. It has always been a right for a juvenile to receive and send mail. Certainly, with contraband issues in some facilities, the mail can, by policy, be opened in front of the intended recipient by staff. However, only if there is probable cause to believe the mail is a safety or security issue for the facility or residents is it justifiable to withhold mail.

Case law, (Procurier v. Martinez 416 U.S. 396 (1974) sites first amendment issues with "censorship of protected expression without adequate justification."

- Q. *You reference "probable cause" in your answer to the question regarding when it is appropriate to withhold mail from a resident. If the county case manager, and parents, request that mail from certain parties be withheld based on past experience, would this qualify as "probable cause"?*
- A. If past experience had jeopardized the safety, security and general welfare of the placement facility, then probable cause would be evident.

MN Rule 2960.0060. PROGRAM OUTCOMES MEASUREMENT, EVALUATION, AND COMMUNITY INVOLVEMENT. Subp. 5 & 2960.0080, Subp. 16D.

- Q. *Must retain demographic information on a resident and must document the extent of the resident's program completion on a form designated by the commissioner of human services or corrections, and (D) use forms approved by the commissioner of human services or corrections and collect demographic information about*

residents and their families and outcome measures about the success of services that meet the requirements of Laws 1995, chapter 226, article 3, section 60, subdivision 2, clause (1)(iii).

Will DAANES data satisfy these requirements or is there another system?

- A. These data are to be collected and recorded on the DAANES forms and in the client treatment file.

NOTE: THIS QUESTION MAKES REFERENCE TO THE "ALL" SECTION, AND MY RESPONSE APPLIES ONLY TO SERVICES UNDER THE CHEMICAL DEPENDENCY TREATMENT CERTIFICATE, NOT THOSE REGULATED BY ANY OTHER CERTIFICATIONS. THIS ANSWER MAY NEED TO CONTAIN INFORMATION DIRECTED AT OTHER CERTIFICATE HOLDERS THAN JUST THE CD PROGRAMS.

MN Rule 2960.0060. PROGRAM OUTCOMES MEASUREMENT, EVALUATION, AND COMMUNITY INVOLVEMENT. Subp. 6. Community Involvement

- Q. *Can you say more about what you mean about meeting with community leaders? (The answer to this one is found in the "all" section.)*

- A. The primary purpose or intent of this requirement was "to ensure that the facility has a method to continually ascertain the needs of residents and community served by the facility. [Excerpt from the Statement of Need and Reasonableness, page 41]." Having community leaders "that represents the interests concerns and needs of the clients and community being served" is very important to the successful operation of the program. Persons who play key roles in the community, e.g., mayors, city council members or county commissioners, human services professionals, religious and members of civic organizations, neighbors, or philanthropic organizations, serving on the program's board of directors and advisory committee offer unique insight, skills and abilities that will improve the program's operation immeasurably.

MN Rule 2960.0070. ADMISSION POLICY AND PROCESS. Subp. 3B.3. Admission

- Q. *On the resident admission documentation it says last known address and permanent address would this include the place they are at such as primary program, etc.?*

- A. Last known address is the place the resident lived before this placement.

Permanent address is where the parent/guardian who has legal custody lives.

MN Rule 2960.0070. ADMISSION POLICY AND PROCESS. Subp. 5. Resident Screening

- Q. *Any update on screening tools identified and approved by the commissioner of human services and correction.*
- Q. *Previous FAQ answer noted existing screening instruments available. How are these made available?*
- Q. *Has any decision been made about whether existing screening tools will be identified as approved or should agencies proceed with developing tools?*
- Q. *Will there be a standard list of approved screening instrument from DHS/DOC or do we need to come up with our own and seek approval?*
- Q. *In looking at Umbrella Rule under the Overview section, 2960.0070, Subpart 5, what are considered to be the following: screening for sexually abusive behavior, vulnerability assessment, cultural screening, and gender-specific needs screening?*
- Q. *Has a screening tool been developed yet for the medical screening? How about screening tools for the other required screenings? Where can we obtain these screening tools?*
- A. The purpose of a screen is to determine if there is a need for further assessment. Screening tools have been created and are available on the DOC and DHS websites.

MN Rule 2960.0070. ADMISSION POLICY AND PROCESS. Subp. 5. Resident screening. A-1. Health screening.

- Q. *Subpart 5 A Clarify who would be responsible for reviewing the health screening. The standard notes, "review is to be done by a licensed professional in a related field."*
- A. Health screenings are to be done by trained staff. All screening instruments (forms), including the health screens, must be approved by commissioners of human services (DHS) and corrections (DOC). Screening instruments have been developed by DHS and DOC. License holders may use these forms, which will satisfy this rule requirement. A facility may add to the approved forms instruments.

MN Rule 2960.0070. ADMISSION POLICY AND PROCESS. Subp. 5. Resident screening. A-2. Mental Health screening.

- Q. *The rule talks about mental health screening must be administered. Is the rule talking about things like the MMPI? Can this be obtained from 3rd party contacts if it has already been complete before they get to TLC?*

A. *Please take note

**The POSIT screening tool is an approved instrument for the Mental Health, education and C.D. screens.

**The MAYSI II is an approved instrument for the Mental Health, and C.D. screens.

MN Rule 2960.0070, ADMISSION POLICY AND PROCESS. Subp. 5. Resident screening. A-3. Educational screening.

Q. *Can you say more about educational screening?*

A. The purpose of a screen is to determine if there is a need for further assessment. Screening tools have been created and are available on the DOC and DHS websites.

***Please take note**

The POSIT screening tool is an approved instrument for the Mental Health, **education and C.D. screens.

MN Rule 2960.0070, ADMISSION POLICY AND PROCESS. Subp. 5. Resident screening. A-4. Chemical Dependency screening.

Q. *I am the Program Manager for a transitional housing and emergency shelter program. We serve homeless youth ages 16-21. I am looking for some clarification on the screening requirements. I have looked at the screening tools that are on the web site that your address was posted. According to that information, for the mental health and chemical dependency screens it states that we need to have either a POSIT or MAYSI 2 screening tools or have a diagnostic assessment by a mental health or chemical health professional. I am wondering if this applies to us since most of the youth we serve do not have mental health or chemical health problems. Does this only apply to programs that specifically serve clients with chemical and/or mental health issues? If we need to use these screening tools, do you know where I could get them?*

A. Although shelter programs must meet the requirement found in parts 2960.0010 to 2960.0120, they are exempt from needing to comply with the standards found in parts 2960.0070, subpart 5, item A, subitem (1) - **resident screening**. Instead, shelter programs need to: (1) assess the resident's vulnerability to maltreatment and develop a plan to reduce the resident's risk of maltreatment while in the shelter; and (2) assess the resident's situation, condition, and immediate needs for basic services in part 2960.0080, subparts 2 and 3.

Q. I was able to access the screening tools from the DOC website. I noticed on the checklist that it only lists the POSIT and MAYSI for mental health and cd screening.

Since we have been reviewing a variety of protocols that are widely used and approved for mental health and cd screening and the umbrella rule only refers to using "approved" tools, is there a process for getting other screening tools "approved"?

Also, should the checklist possibly say "other" than POSIT or MAYSI, since there are many other possibilities?

A. There is no process available to approve others at this time.

MN Rule 2960.0070. ADMISSION POLICY AND PROCESS. Subp. 5A,1-6 and 5B,1-2.

Q. *We have developed our own screening instruments for short term, crisis shelter youth. For the most part, the instruments are client driven, self-assessments. Many of our stays are one or two days. Our current instruments could be amended to cover the all the critical issues outlined in the Umbrella Rule (i.e. physical health, mental health, education, chemical abuse, sexually abusive behaviors, cultural and gender needs and vulnerability). Our current assessments cover most of these concerns. If we amend our current assessments, how do we have them approved by the Commissioner? Would it be satisfactory to have them approved by professionals in the respective areas and submitted to the Commissioner?*

I asked this question some time ago. It sounded like the Commissioner of the Department of Human Services and the Department of Corrections might create and provide pre-approved screening instruments. I have not heard if the instruments exist or how to access them. I have been scanning the Umbrella Rule sites periodically looking for a link. There is the practical question of whether or not the screenings provided would lend themselves to, one or two day, crisis stays? Many youth already find the intake process wearisome. While one staff conducts the intake, their coworker is independently supervising the other children in the Shelter.

July approaches. I will amend our current screening tools to assess all the areas delineated by the Umbrella Rule. Professionals from these related fields will critique the screening instruments. I believe the end result will be good for our customers, our program and will satisfy the intent of the Department of Human Services and the Department of Corrections.

A. There is no process available to approve others at this time.

Q. *The Screenings: Health, Mental Health, Education, Chemical use, Sexual Abusive Behavior, and Vulnerable Adult.*

Currently in our state operated services, we have the Clinical Workstation software program. Do we need to separate all of the above out individually or what? Do

we need to document that an appropriate professional developed the screening tool or at least approved it?

- A. The Departments have approved the screening instruments (See DOC & DHS Licensing web sites). In some cases it is not important that the tools actually be separated but rather any tool used by the facility must contain all of the information or questions from the approved tools. In other cases you may need to have the tools separated for scoring purposes (MAYSI II, POSIT).

When combining tools please be aware that Minnesota Rule 2960.0070 Subpart 5. D requires that during the screenings process the license holder must document inquiries and the results of the inquiries regarding the degree to which the resident's family desires to be involved during the resident's stay at the facility. The resident and resident's family response must be documented.

MN Rule 2960.0070. ADMISSION POLICY AND PROCESS. Subp. 5B, 2

- Q. *Mean we have to have a male and female LADC for the program or what?*
- A. Chapter 2960.0070 Subpart 5A, 1-6 and B-1 & 2. The rule part cited does not require specific gender staffing unless the gender specific screening indicates a need for a specific gender staffing. If the screening indicates a need for a specific gender of staff then the provider must also comply with 2960.0150. Subp. 3. E

MN Rule 2960.0080. FACILITY OPERATIONAL SERVICES, POLICIES, AND PRACTICES. Subp. 8A. Spiritual services and counseling.

- Q. *This section states that spiritual services, activities, and counseling need to be done on a voluntary basis and that residents cannot be required to services or activities. How does this fit into chemical dependency programs that use the 12 Steps?*
- A. Although many, if not most, 12-Step programs have "spiritual" components, this section is not intended to prevent chemical dependency treatment programs from including 12-Step principles as elements of their CD treatment programs.

This section requires that the resident/client participate in "spirituality services, activities, and counseling only on a voluntary basis." Residents/clients, who are made knowledgeable upon admission of a CD treatment program's 12-Step emphasis, are considered voluntary participants in 12-Step activities. CD programs that discharge residents/clients for refusing to participate in program activities, including 12-Step Activities, are not in violation of this section.

Chemical dependency treatment programs are encouraged to make residents/clients aware of the program's component parts at the time of intake and orientation.

MN Rule 2960.0080. FACILITY OPERATIONAL SERVICES, POLICIES, AND PRACTICES. Subp. 11. Health and hygiene services.

- Q. *Previously licensed Rule 5 settings had expectations for psychotropic medication monitoring. Is it correct that under the Umbrella Rule only programs that are certified to provide services to individuals with severe emotional disturbances (2960.0580-2960.0700) are required to have policy and procedures for use of psychotropic medications?*
- A. This is correct. There are other general medication requirements under this rule.

MN Rule 2960.0080. FACILITY OPERATIONAL SERVICES, POLICIES, AND PRACTICES. Subp. 11D. Health and hygiene services.

- Q. *Do staff need to be med certified? Can you explain if we need to dispense or administer medication?*
- A. The rule requires that facility staff responsible for medication assistance, other than a medically licensed person, must have a certificate verifying their successful completion of a trained medication aide program for unlicensed personnel offered through a postsecondary institution, or staff must be trained to provide medication assistance according to a formalized training program offered by the license holder and taught by a registered nurse.
- Q. *What are the expectations for consultation and review of the licenses holders' administration of medication? Does it include delegation, development of policy & procedures, problem solving or correction of problems with administration of medication, and/or child assessment for efficacy or side effects of medication?*
- A. The expectation is that the medical consult on medication issues for a facility could include P & P development, problem solving, side effects etc. If someone is hired to perform the review of administration of medications, they would have a vested interest in how medications/medication issues are handled in the facility.

MN RULE 2960.0080. FACILITY OPERATIONAL SERVICES, POLICIES, AND PRACTICES. Subp. 15.

- Q. *What rights, if any, do parents have to restrict their child's communication and/or visitation contacts with others? We have a client requesting contact with her grandparents, telephone and visits, and her parents are adamantly opposed to this contact stating that the grandparents engage in unhealthy splitting and are enabling of the child's dysfunctional behaviors. We do not have first hand knowledge that this is in fact the case so it would be difficult for us to document this restriction in the treatment plan. What is the rule on this? Can a parent restrict contacts against their child's wishes? When and when not? Does it matter how old the client is? What are acceptable reasons to restrict communication?*

- A. This section requires the license holder to have a written policy about resident's communications and visiting with others inside and outside the facility. When a child's placement is supervised by a county social service agency, the county social worker is responsible for developing a visitation plan as part of the out-of-home placement plan. The facility consults with the county social worker about the plan. (Reference MN Statutes, section 260C.212, subdivision 1.) The facility's written plan should reflect the responsibility of the county agency to determine visitation and provide this information to the facility.

Subb. 15b. prohibits the license holder from restricting the visiting rights of the parent's of a resident beyond the limitations placed on those rights by a court order under MN Statute, section 260C.201, subdivision 5 or limits in the Out-of-Home Placement Plan, which is found in MN Statute, section 260C.212, subdivision 1. When a placement is supervised by a county social service agency, the faculty should refer parent's request to alter the visitation plan to the county social service agency. If the placement is not supervised by a county social service agency, the child's legal custodian (usually one or both parents) can request a faculty to restrict the visitation of a child. The faculty works with the child's legal custodian to determine the best interest of the child. In this type of placement, it may be necessary for a faculty to consult with an attorney to determine the faculty's responsibilities in a specific situation.

MN Rule 2960.0080. FACILITY OPERATIONAL SERVICES, POLICIES, AND PRACTICES. Subp. 17. Critical incident and maltreatment reports.

- Q. *There is reference in the new rules to programs reporting critical incidents to licensing on "an approved form". Will this form be developed for use by all or should each program develop their own form and hope it is approved? 1/19/05 M. Regan*
- Q. *"The license holder must report critical incidents of a serious nature that involve or endanger the life or safety of the resident or others to the commissioner of human services or corrections within ten days of the occurrence on **forms approved by the commissioner of human services or corrections.**"*
- 1. Are these forms available and where can I find them?*
 - 2. What are "critical incidents of a serious nature that involve or endanger the life or safety of the resident or others"? I would assume this would include suicide attempts with life threatening injury or assault with life threatening injury.*
- A. The approved critical incident reporting form is available on the DOC and DHS websites. Incident definitions included on form.

MN Rule 2960.0100, PERSONNEL POLICIES. Subpart 1. Staffing plan. The license holder must have a staffing plan that: A. is approved by the commissioner of human services or corrections.

- Q. *Will this need to be submitted with the application?*
- A. 2960.0150 Subpart 3-Staffing plans need to be completed and in compliance with Chapter 2960. However, they will be reviewed at the time of the site visit.

MN Rule 2960.0100. PERSONNEL POLICIES. Subp. 6C

- Q. *Do volunteers need to be 21?*
- A. They need to be 21 years of age if they perform the duties and accept the responsibilities of paid staff.

MN Rule 2960.0150. PERSONNEL POLICIES. Subp. 1. Job descriptions.

- Q. *In Minnesota Rule 2960.0150, Subp. 1, it states, "The license holder must have written job descriptions for all position classifications and post assignments that define the responsibilities, duties, and qualifications staff need to perform those duties."*

Please define "post assignments"-does this mean at the initial hiring or on an ongoing basis that assignments must be posted in the facility?

- A. The intent of Minnesota Rule 2960.0150 Subpart 1, is for the license holder to have available written job descriptions for all position classifications. The job description should define the position responsibilities, duties, and the qualifications needed to perform those responsibilities and duties. Post assignments as synonymous with position classification.

MN Rule 2960.0150. PERSONNEL POLICIES. Subp. 3. Staffing plan.

- Q. *What is the staff ratio per client? We have 16 female clients. Does staff need to be 21?*
- A. Staffing ratios vary by rule part based on what type of facility you are. Based on your statement of intended use and the license and certifications you pursue, there are sections in the rule part that will answer your staffing ratio needs and what age staff must be. Please see those sections after determining which license/certifications are applicable to you.

Age is also determined based on rule part. Please refer to the parts of the rules that are applicable to you. In the personnel section, there is information on what age a staff must be in each type of facility.

Also, note there are administrative staffing requirements and supervisory requirements depending on the size of your facility.

Example: If you met the ALL, and GR Residential rule parts applicable to you, and you had 16 residents in your program, you would need two staff on during awake hours and one staff on at night. Please keep in mind these are minimum requirements. (Group Residential 1:12 awake hours 1:25 sleeping hours) (2960.0150 Subpart 3-G).

- Q.** *With regard to providing supervision at bedtime for our clients, we were able to find the staff to client ratio in the 2960 rule, but were not able to find a time limit on how many checks should occur per hour. Is there a specific time allotted for checks, or is it at the program's discretion?*
- A.** There are no prescribed time limits required by rule. Although 24 hour supervision is required and the License Holder must to determine the frequency of bed checks. The Department recommends that the bed check be random with a policy standard for frequency.

MN Rule 2960.0180. FACILITY OPERATIONAL SERVICE POLICIES AND PRACTICES. Subp. 3B. Retention Schedule

- Q.** *This section lists 11 different kinds of records, which must be maintained "according to state law". There is no statutory reference to the length of time to retain these records.*

Please list the record retention schedule according to state law for each of the 11 categories.

- A.** There are different laws and rules that apply depending upon the organizational structure of the program (non profit) or other licenses the program may have (Supervised Living Facility, Hospital or Board and Lodge) or there may be no statutory requirements for record retention for the program. The Department's intent is that the program must meet any law or statute that pertains to their records. In the past, the Departments have offered guidance that records should be maintained for seven years (See DHS bulletin #00-50-2).

MN Rule 2960.0430. PURPOSE.

- Q.** *Any suggestions with how to be compliant with Rule 31 in January and 2960 in July?*
- A.** Programs that serve no one over 21 years of age and will ultimately be governed by Rule 2960 may request a variance to permit them to comply with that rule, rather than with Rule 31 for the first half of 2005 and then Rule 2960 thereafter. A variance application form may be found on the FORMS page at <http://edocs.dhs.state.mn.us/lfserver/Legacy/MS-2086-ENG>.

MN Rule 2960.0440. APPLICABILITY.

Q. *We currently have a rule 35 license. Our population is age 13-19 would we fall under the umbrella rule or would we get a variance for rule 31?*

Does the umbrella rule fall within our age group? Do we need to be rule 31 facility for the 18 and 19-year-old clients?

A. This section requires that a program-serving individuals younger than 16 years of age must be licensed under the umbrella rule. Programs serving only individuals older than 15 years of age but younger than 21 years of age may choose licensure under either Rule 2960(Umbrella) or Rule 9530 (Rule 31.)

MN Rule 2960.0450. CHEMICAL DEPENDENCY TREATMENT SERVICES. Subp. 3A.

Q. *It states that Family Counseling must be provided by a family therapist. How does the department define Family Therapist? More specifically, can a Licensed Psychologist provide family therapy?*

A. In this instance, a "family therapist" is defined as a Licensed Family and Marriage Therapist (LMFT) or a licensed professional whose scope of practice includes the provision of chemical or mental health family therapy.

MN Rule 2960.0460. STAFF QUALIFICATIONS. Subp. 7C. Documentation of alcohol and drug counselor qualifications.

Q. *The CD certification references non-existent accrediting or licensing entities. Will there be new language added, or directions given, for ways to meet credentialing requirements?*

A. The reference to counselor certification in 2960.0460 Subp. 7 C is in error. The reference to certification should instead be to counselor licensure as defined and regulated under Minnesota Statutes 148C.01

MN Rule 2960.0460. STAFF QUALIFICATIONS. Subp. 8. Documentation of CD Staff

Q. *Lists that the personnel file of overnight staff employed by a residential program must include the documentation required in subpart 7 (Documentation of alcohol and drug counselor qualifications). Does this mean that overnight staff must be a licensed or qualified alcohol and drug counselor (cannot be a chemical dependency technician)?*

A. No, the reference to 2960.0460 subpart 7 was an error. The correct reference was to 2960.0460, subpart 2, item B. Overnight staff are not required to be Licensed Alcohol and Drug Counselors.

- Q.** *Also, there is no connection on the flow chart of "How to read the Umbrella Rule" between the Chemical Dependency Program and the Restrictive Technique Certification. Does that mean we cannot get a Restrictive Techniques certification for our chemical dependency program?*
- A.** Chemical Dependency treatment programs seeking a Restrictive Techniques certification must submit a request for variance to allow both the CD and Restrictive Techniques certifications to be simultaneously held by a single program. The variance request may be found at the following link: [Variance request](#)

MN Rule 2960.0490. INDIVIDUAL TREATMENT PLAN. Subp. 4. Progress notes.; 9530.6425. Subp. 2 & 3.

- Q.** Some shelters are required to have the permission of their local county social worker to use restrictive techniques as part of the case plan. However, this is not always feasible for initial intervention programs, in which the child is not known to the workers. The restrictive techniques certification doesn't address this issue. Is the certification sufficient to use restrictive techniques without extrinsic permission?
- A.** This is not a licensing issue. If the county has a contract with the provider, and they have a stipulation that there should be no use of restrictive techniques with their clients, or only with permission from the county, and both parties signed that contract, than its agreed, but that's between the county and the provider.

MN Rule 2960.0490. INDIVIDUAL TREATMENT PLAN. Subp. 4. Progress notes.

- Q.** *A Colleague and I are practicing daily charting on our clients, and since this is quite a process, we want to make sure that we are doing it right and not creating unnecessary work for ourselves. My colleague went to a conference recently, and discovered from other counselors in other programs that they are not charting daily or even more than once weekly. We want to make sure we are remaining in full compliance with the Umbrella Rule and Rule 31 requirements, so would you please send me an example of what a charting entry would need to look like so we can compare ours to it to monitor our process. We are also exploring the inclusion of additional group services, and want to make sure we have our "basic" required groups covered first before we do this.*
- A.** We encourage each licensed program to carefully review the requirements of their license(s) and certification(s), and make certain that their practices are consistent with those requirements.

We do not provide charting examples. We are aware that licensed providers have sometimes been willing to share their manuals and forms with others. This may

be an option for you as well. We do not have a list of which providers are willing to consult or share their expertise with other providers.

MN Rule Part 2960.0500. TRANSITIONAL SERVICES CERTIFICATION. Subp. 1. Purpose

- Q. *"A transitional services program provides congregate, scattered site, or cooperative housing for residents considered to be targeted youth".*
- A. 2960.0500, Subpart 12 B states that "For a resident served by the transitional services program, the license holder must designate an on-call staff person who must be at least available by telephone or pager to respond to requests for assistance from a resident during hours when a staff person is not on site. A resident must be seen by a staff person at least three times per week. Each site where a resident resides must be visited by a staff person at least three times per week."
- Q. *Does this provision apply to **scattered sites** (which is not indicated in the language in the rule) whether or not the client signs their own lease?*
- A. This section of the rule would apply to scattered sites regardless of who signs the lease. The intent of the regulation is to set a minimum service provision. If a staff person is not actively engaged with program participants, as the rule requires, the program would fall short of the definition of provision of transitional services to youth.

MN Rule, Part 2960.0500. TRANSITIONAL SERVICES CERTIFICATION. Subp. 10. Admission. Transition Certification

- Q. *The first paragraph states that the admission criteria for transitional services certification must meet the criteria in part 2960.0070, subpart 2. However, the last paragraph in subpart 10 states that the license holder must use the admission requirements of this subpart instead of the admission requirements in part 2960, subpart 2. These two statements contradict each other.*
- A. It is correct that the rule is somewhat contradictory in this part. It appears that the reason for the initial reference to the general admission requirements is to give the program information to decide if the individual is appropriate for the transitional services program. The language will be cleaned up in the future to clearly state that the admission criteria in this section supersedes the general admission requirements.
- Q. *Some of our agency staff have received differing responses from their DHS contacts regarding the following question. Please clarify at your earliest convenience.*

Question: Will programs that are being "grandparented" in on July 1, 2005 automatically receive a certification that they have not previously had? Example: A program that has been licensed as a Rule 8 but more appropriately meets the criteria for a transitional program. Will this program be given an all facilities license with a group residential facilities license or an all facilities license with a transitional certification?

- A. Programs currently licensed under DHS Rule 8 (Minnesota Rules, parts 9545.1400 – 9545.1480), and had a **variance** to provide transitional services, will not need to apply for a DHS license under the "all" standards in the rule and transitional services certification standards. Their license will "automatically" be issued. They will, however, be expected to be in compliance with all relevant licensing standards.

MN Rule, Part 2960.0500. TRANSITIONAL SERVICES CERTIFICATION. Subp. 12. Supervision standards

- Q. *Defines minimum supervision standards. Part A describes 12 hours of on-site supervision during weekday evening and early morning hours. Is this a total of 12 hours per week? If so, should there be some coverage each day?*
- A. The requirement of 12 hours of on-site supervision during weekday evening and early morning hours cited in Rule 2960.0500, Subpart 12, Section A refers to 12 hours of on-site supervision each weekday and then 16 hours on weekends
- Q. *Subpart 12, Section B states that a resident must be seen by a staff person at least three times per week. Is this a separate provision from Section A or could it be fulfilled during the minimum supervision requirements?*
- A. This part states that a resident must be seen by a staff person at least three times per week. This refers to face-to-face contact between the resident and the staff person. This requirement may be fulfilled via Section A if during the time each day when the staff person is providing on-site supervision that face-to-face contact with the resident occurs. However, this may not always be the case. If not, additional visits by the staff person may be necessary to fulfill this requirement.

MN Rule, Part 2960.0520. SERVICES. Shelter Certification

- Q. *We are looking at remaining licensed under the new umbrella rule as a Shelter Program. Our license already provides for this. The majority of the youth we serve only stay 3-5 days. Other youth may stay up to the 90 days allowed under the Shelter Program. The question we have is . . . If a client resides within the unit for up to 90 days but goes off our unit to a Youth Partial Hospital Program (Rule 29) (also within Woodland Centers) during the day hours Monday through Friday, do we need to apply for a Group Residential Facility and then certify for the SED program?*

A. No, you are a shelter program and the client is receiving additional services under another license.

Q. *If a group residential (all and additional) wants to get a shelter certification for a particular number of beds or as needed when shelter placement is needed, can they comply with shelter cert standards for those particular placements only?*

A. It would depend on the specific rule requirements, please contact your licenser for further discussion.

MN Rule, Part 2960.0580. PURPOSE. Mental Health Certification

Q. *Since current rules require that all children admitted to a Rule 5 licensed facility qualify as SED, will this also be required for programs who obtain the mental health certification under Chapter 2960?*

A. Yes, children admitted to a program with a mental health certification will need to meet the definition for SED. In addition, there must be a determination that the child needs residential treatment.

MN Rule 2960.0620. USE OF PSYCHOTROPIC MEDICATIONS. Subp 1-8

Q. *Previously licensed Rule 5 settings had expectations for psychotropic medication monitoring. Is it correct that under the Umbrella Rule only programs that are certified to provide services to individuals with severe emotional disturbances (2960.0580-2960.0700) are required to have policy and procedures for use of psychotropic medications?*

A. That is correct. There are other general medication requirements under 2960.0080 subpart 11.

MN Rule 2960.0620. USE OF PSYCHOTROPIC MEDICATIONS. Subp. 2. Monitoring Medications

Q. *It refers to needing to monitor for side effects weekly for six weeks after starting a new medication or after a significantly increased or decreased dose. It also refers to minor increases and decreases not needing to be monitored as frequently. I am wondering about what is considered significant and what is minor? Also, what sort of time frame is included in not as frequently?*

A. These are definitions that your medically licensed person should define.

MN Rule 2960.0690. STAFFING PATTERN AND MINIMUM STAFF-TO-RESIDENT RATIO. Subp. 1-3.

Q. *We are a 45-bed residential treatment center licensed under rule 5 standards. With regard to providing supervision at bedtime for our clients, we were able to find the staff to client ratio in the 2960 rule, but were not able to find a time limit on how many checks should occur per hour. Is there a specific time allotted for checks, or is it at the program's discretion?*

A. There are no prescribed time limits required by rule. Although 24 hour supervision is required and the License Holder must to determine the frequency of bed checks. The Department recommends that the bed check be random with a policy standard for frequency.

MN Rule 2960.3000. FOSTER FAMILY SETTINGS.

Q. *Could you tell me what licensing rule or rules apply to Family foster homes .vs. Group homes that are in Ramsey County that deal with children; an example would be the Robert Lawrence Group home .vs. the Charlotte Karas home. I know that each is licensed differently, one by MNDOC and the other by Ramsey County yet I am confused as what rule 8, 4, or 5 applies and why I can't use CTSS services in the Robert Lawrence home but I can in the Charlotte Karas home? Was there a grandfather rule for those homes that are basically family foster care homes that are still licensed through the MNDOC?*

A. 2960.3000-2960.3100 Family foster settings
2960.3200-2960.3310 Family residence settings
2960.3320-2960.3340 Treatment Foster care requirements
As of January 1, 2004, all family foster settings, foster residence settings and treatment foster care is licensed under the same standards, Chapter 2960. Both DOC and DHS facilities are under the new Chapter 2960. A copy of the standards is available on the DOC or DHS website.

There is no longer rule 8, or rule 5. Those rules were repealed and programs formerly licensed under those rules are now under the jurisdiction Chapter 2960. Rule 4 has not changed but the programs that are licensed by rule 4 agencies are now monitored under Chapter 2960.

Other Related Rules

Q. *I attended the umbrella rule training but need a clarification. It was stated that a program can't mix both shelter and detention kids. Can a program receive certifications in both shelter and detention for the same building if the residents are separated in different wings of the building or do the buildings need to be separate – one for detention and one for shelter?*

Where do I find this information? I've looked on both the DHS and DOC sites for the FAQ's per training to the umbrella rule?

- A. A program can receive certifications in both shelter and detention settings provided they meet all relevant rule requirements. If the detention certification application is for a secure detention program, complete physical plant separation must be evident. However, both certified programs could be in the same building provided state building and fire codes are met.

If the licensing applications are for a non-secure detention and shelter certification, separation issues would be addressed by the licensing authority based upon information presented in the applicant's statement of Intended Use sections.

- Q. *What is the link to downloading the latest version?*

- A. The current and final version of Chapter 2960 (also known as the "Umbrella Rule") can be found on the Minnesota Office of the Revisor's website at:
www.revisor.leg.state.mn.us/revisor/pages/forms/getrulechap.php

- Q. *How will out of state facilities be reviewed under the new licensing standards, will they be required to meet the restrictive procedures standards by July 1, 2005. Have the out of state facilities been notified of the new rules?*

- A. Discussions regarding the umbrella rule have occurred over the last couple years during certifications with out of state facilities. They will be getting a reminder in the form of a letter soon that will give them information as to how to access the rule. The expectations for them are the same as for the in state programs.

The expectation at this time is that out of state facilities would also need to send information regarding their restrictive technique use/training to the person who reviews their facility for conditional approval prior to July 1, 2005.

- Q. *What certifications would we need to have?*

- A. Rule 2960 requires that programs for adolescents providing CD Services, licensed under the rule, fulfill the requirements for: licensure under the ALL section (2960.0010 to 2960.0120,) and certification under the GROUP RESIDENTIAL FACILITIES section (2960.0130 to 2960. 02220) and certification under the CHEMICAL DEPENDENCY PROGRAM section, 2960.0430 to 2960.0490.

Programs may choose other certifications if they intend to provide services governed by those certification sections of the Rule.

- Q. *If a mental health professional is providing services to clients in a group residential facility that does not have mental health certification, are they reimbursable as a third party payee? Would they be eligible under the CTSS rules for reimbursement if the agency has a provider certification to deliver CTSS services?*

A. The Umbrella Rule is limited to standards related to program services, treatment and care. It does not include or otherwise address funding standards or issue. Therefore, this is not an Umbrella Rule FAQ. However, it may be asked of staff of DHS' Children's Mental Health Division at (651) 297-5242.

Q. *Can a minor child consent to release of information without parent permission? When and at what age?*

A. Generally, a minor child cannot consent to a release of > information without parental permission. Under Federal and State laws and rules for data practices purposes, a minor and the minor's parents are considered the same person. Thus, giving the parents the right to determine to whom the minor child can release information. The only circumstances where this does not routinely apply would be in the case of terminated parental rights or of an emancipated minor (i.e. minor who is living apart from the parents and managing their own financial affairs). Minors who have been married or have a child may give consent for medical treatment for the child and themselves.

Q. *Many agencies currently have one license but operate multiple programs under that license. Under the new rules, will there continue to be one license but various certifications for the different programs?*

A. Yes.