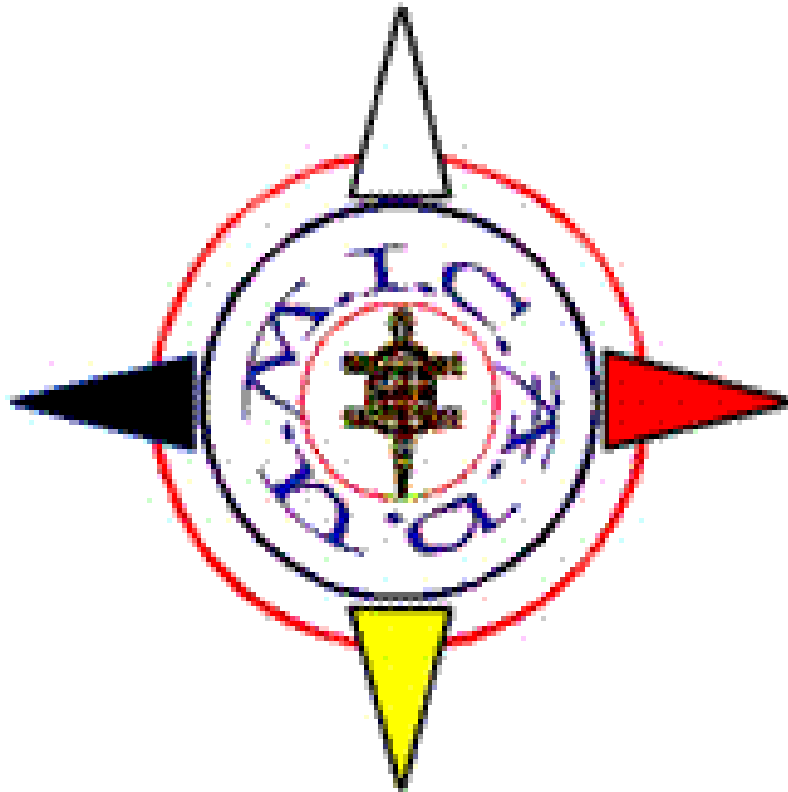


# CODE OF CONDUCT



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Upper Midwest Indian Council of Addictive Disorders, Inc.

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## **PREAMBLE**

The Upper Midwest Indian Council on Addictive Disorders (referred to herein as “The Board” or “UMICAD”) provides voluntary certification for alcohol and drug counselors in the Bemidji Area as a way of assuring professional competence to clients, to the public, and to employers. The UMICAD is dedicated to the principle that counselors in the field of alcohol and drug treatment must conform their behavior to the highest standards of ethical practice. To that end, the UMICAD has adopted this Counselor Code of Conduct, to be applied to all counselors certified by or seeking certification by the Board or having a counselor certification development plan on file.

The Code is divided into three sections: (1) a Glossary of key terms used in the Code; (2) the Rules of Conduct, which set forth the standards which counselors are required to observe and discussions of selected standards; and (3) the Disciplinary Procedures that will be followed by the Board in investigating suspected or alleged violations of the Rules. The Board is committed to investigate and sanction those counselors who breach this Code. Counselors are therefore encouraged to thoroughly familiarize themselves with the Code and to guide their behavior according to the Rules set forth below.

## **Glossary**

Client/Patient – Any person seeking or assigned the services of a counselor, regardless of the counselor’s work setting.

Complainant – a person who files a formal complaint with the UMICAD against a counselor under UMICAD jurisdiction.

Counselor – A person who holds or applies for a UMICAD counselor classification.

Executive Committee – UMICAD standing committee charged with the responsibility to sanction counselors who breach the Code of Conduct. The committee is comprised of the UMICAD elected officers: the President, Vice-President, President-elect, Treasurer, and Secretary.

Hearing Committee – Three UMICAD Board members and a non-voting Hearing Officer appointed to hear a Respondent’s appeal.

Hearing Officer – Person who presides over a Respondent’s appeal hearing

Plagerism – An act of appropriating the language, ideas, or thoughts from another person and then representing them as one’s own original.

Public Reprimand – A sanction that is formal, written, published reproof or warning to a Respondent who the Executive Committee has determined to have breached the Counselor Code of Conduct.

Respondent – A counselor who becomes the subject of a formal complaint alleging that the counselor has breached the UMICAD Counselor Code of Conduct.

Revocation – A sanction resulting in the complete forfeiture of UMICAD counselor certification or a counselor certification development plan for a period of time to be determined by the UMICAD.

Suspension – A sanction resulting in temporary forfeiture of UMICAD counselor certification or a counselor certification development plan for a period of time to be determined by the UMICAD

Treatment Continuum – The range of services deemed appropriate and necessary for an individual client/patient. Such services may include but are not limited to, prevention intervention, outreach, information and referral, detoxification, inpatient/outpatient services, extended care, transitional living facilities, and aftercare.

#### UMICAD Counselor Classifications

1. Person with a Counselor Certification Development Plan on file
2. Certified AODA Counselor I – CADC I
3. Certified AODA Counselor II – CADC II
4. Certified AODA Counselor III – CADC III

Written Caution – The least restrictive disciplinary action that a Respondent may receive due to breaching the Code of Conduct. This sanction is a formal, private, non publicized letter of warning to the Respondent that cautions the Respondent against certain conduct of behavior.

### **Rules of Conduct**

\*\*The following Rules of Conduct, adopted by the Upper Midwest Indian Council of Addictive Disorders Board, set forth the minimum standards of conduct which all counselors are expected to honor. Failure to comply with an obligation or prohibition set forth in the Rules may result in discipline by the UMICAD.

Discussion sections accompany some of the Rules. These discussions are intended to interpret, explain, or illustrate the meaning of the rules, but the rules themselves remain the authoritative statements of the conduct for which disciplinary action may be imposed.

## I. APPLICABILITY

Rule 1.1 – The rules within this UMICAD counselor Code of Conduct apply to all counselors certified by or seeking certification by the Board or having a counselor certification development plan on file.

## II. PROFESSIONAL STANDARDS

Rule 2.1 – A counselor shall not fail to meet and comply with all terms, conditions, or limitations of a certification or license.

Rule 2.2 – A counselor shall not engage in conduct which does not meet the generally accepted standards of practice

Discussion: A counselor must continually enrich his or her professional knowledge and must competently comprehend and perform the global criteria within the twelve counseling core function. The counselor shall not perform any client/patient services in a manner, which falls below the minimum standards of competence for the AODA counseling profession

It is recognized that honest disagreements may exist between counselors as the best form of clinical service for a given client/patient. Competency does not mean perfection; nor is incompetence normally established by the showing of an isolated instance in which performance has been inadequate. However, when a counselor demonstrates multiple inadequacies in the performance of counseling functions, or when a counselor's behavior portrays a gross neglect of a client's counseling rights and condition, a finding of incompetence will be warranted and disciplinary action imposed.

A copy of a malpractice judgment of negligence from a court of proper jurisdiction shall be conclusive evidence of a violation of generally accepted standards of practice, but evidence of such act shall not be limited to a malpractice or negligence judgment.

Rule 2.3 – A counselor shall not perform services outside of the counselor's area of training, expertise, competence, or scope of practice.

\*\*A variety of resources were reviewed to develop the Rules of Conduct within this counselor Code of Conduct. Resources such as: the Grounds of Discipline – Universal developed by the Council on Licensure, Enforcement and Regulation (CLEAR) located in Lexington, KY; the Codes of Professional Responsibility (1994, 3<sup>rd</sup> ed.). Edited by Rena Gorlin and published by BNA Books; and the Journal of Counseling and Development, Vol 64 (1986, January).

Discussion: A counselor should not use a modality or a technique if the counselor does not have the education, training, or skills to perform a modality or a technique in a competent or qualified manner.

Rule 2.4 – A counselor shall not fail to obtain an appropriate consultation or make an appropriate referral when the client’s problem is beyond the counselor’s area of training, expertise, competence, or scope of practice.

Discussion: Most counselors strive to achieve and maintain the highest level of professional competence. In order to provide the highest standard of therapy for client, counselors must maintain the commitment to assess their own personal strengths, limitations, biases, and effectiveness.

When a counselor recognizes that a client’s therapeutic needs exceed the counselor’s education, training, and capabilities, the counselor must pursue advice and counsel from colleagues and supervisors. When a client’s therapeutic issues are outside the counselor’s level of professional functioning or scope of practice, the counselor must refer the client/patient to another professional who will provide the appropriate therapeutic approach for the counselor’s client/patient.

Rule 2.5 – A counselor shall not in any way participate in discrimination on the basis of race, color, sex, sexual orientation, age, religion, national origin, socio-economic status, political belief, psychiatric or psychological impairment, physical disability, or the amount of previous therapeutic or treatment occurrences.

Rule 2.6 – A counselor shall not refuse to seek therapy for any psychoactive alcohol and other drug abuse or dependence, psychiatric or psychological impairment, emotional distress, or for any other physical health related adversity that interferes with the counselor’s professional functioning, and where any such conditions exist and impeded the counselor’s ability to function competently, a counselor shall request inactive status for medical reasons for so long as is necessary.

Discussion: A counselor's private conduct remains a personal matter to the same degree as any other person. However, when the counselor's conduct compromises the fulfillment of professional responsibilities, the counselor bears the responsibility for any misconduct in all areas of the counselor's professional life. When a counselor's personal life begins to adversely affect the counselor's professional performance, the counselor must take sufficient and immediate action to resolve any personal adversity that interferes with the counselor's professional functioning. This may include but is not limited to seeking professional assistance or requesting inactive status for medical reasons.

The counselor should expect his or her employer to intervene when the counselor's personal problems begin to adversely affect the counselor's professional performance with clients/patients and co-workers.

Rule 2.7 – The counselor shall not discontinue professional services to a client/patient nor shall the counselor abandon the client/patient without facilitating an appropriate therapeutic closure of professional services for the client/patient.

Discussion: The counselor shall not discontinue professional services to a client/patient unless:

1. Services have been completed;
2. The client/patient requests the discontinuation;
3. Alternative or replacement services are arranged; or
4. The client/patient is given reasonable opportunity to arrange alternative or replacement services.

Rule 2.8 – A counselor shall not reveal confidential information obtained as the result of a professional relationship, without the prior written consent from the recipient of services, except as authorized or required by law.

Discussion: Except as may otherwise be indicated in this Code, counselors are expected to preserve all client/patient confidences and refrain from revealing confidential information obtained as a result of the counselor- client relationship, except as may be authorized by the client/patient or required or authorized by law. Counselors are expected to be familiar with

and act in accordance with federal and state regulations concerning confidentiality of patient records and identifying information.

### III. PROFESSIONAL STANDARDS

Rule 3.1 – A conviction for any felony or misdemeanor relating to the counselor’s ability to practice the AODA counseling profession shall be grounds for disciplinary action.

Discussion: A certificate of conviction shall be deemed conclusive evidence of a counselor’s guilt of the felony or misdemeanor for which he or she has been convicted. If that felony or misdemeanor relates to the individual’s ability to practice the AODA counseling profession, the fact of conviction shall also be proof of violation of this Rule. Some specific examples within this section include but are not limited to crimes involving violence, use or sale of drugs, fraud, theft, sexual misconduct, or other felonies. All proceedings in which the sentence has been deferred, suspended, or a conviction expunged shall be deemed a conviction within the meaning of this section.

Rule 3.2 – A counselor shall not be convicted of any misdemeanor or any felony that involves the use of any controlled or psychoactive alcohol and other drugs.

Discussion: A certificate or conviction shall be deemed conclusive evidence of a counselor’s guilt of the felony or misdemeanor for which he or she has been convicted.

### IV. SEXUAL MISCONDUCT

Rule 4.1 – A counselor shall not engage in any form of sexual contact/behavior with clients, nor engage in any form of sexual contact/behavior with former therapy clients for two years after the cessation or termination of professional services within the client’s continuum of care. The prohibition shall apply with respect to any client/patient of the agency by which the counselor is employed, regardless of whether or not the client/patient is on the counselor’s caseload.

### V. FRAUD-RELATED CONDUCT

Rule 5.1 – A counselor shall not:

1. Present or cause to be presented a false or fraudulent claim, or any proof in support of such claim, to be paid under any contract or certificate of insurance;
2. Prepare, make or subscribe to a false or fraudulent account, certificate, affidavit, proof of loss or other document or writing, with knowledge that the same may be presented or used in support of a claim for payment under a policy of insurance; or
3. Present or cause to be presented a false or fraudulent claim or benefit application, or any false or fraudulent proof in support of such a claim or benefit application, or false or fraudulent information, which would affect a future claim or benefit application, to be paid under any employee benefit program.

Discussion: The term “fraudulent claim” includes but is not limited to charging a client/patient or a third-party payer for a service not performed or submitting an account or charge for services that is false or misleading. It does not include charging for an unkept appointment.

Rule 5.2 – A counselor shall not use misrepresentation in the preparation of a counselor certification development plan or in the procurement of certification or recertification as an alcohol or drug counselor, or assist another in the preparation of a certification development plan or in the procurement of registration, certification or re-certification through misrepresentation. The term “misrepresentation” includes but is not limited to the misrepresentation of professional qualifications, certification, accreditation, affiliations, employment experience, the plagiarism of application and recertification materials, or the falsification of references.

Rule 5.3 – A counselor shall not use a title designation, credential or license, firm name, letterhead, publication, term, title, or document, which states or implies an ability, relationship, or qualification that does not exist.

Rule 5.4 – A counselor shall not practice under a false name or under a name other than the name under which his or her certification or license is held.

Rule 5.5 – A counselor shall not sign or issue in the counselor’s professional capacity a document or a statement that the counselor knows or should have known to contain a false or misleading statement.

Rule 5.6 – A counselor shall not produce, publish, create, or partake in the creation of any false, fraudulent, deceptive, or misleading advertisement.

## VI. EXPLOITATION OF CLIENTS

Rule 6.1 – A counselor shall not develop, implement, or maintain exploitative relationships with current or past clients.

Discussion: Dual relationships take many forms and remain inherent to helping professions regardless of their work setting or client/patient population. Counselors must remain honest and self-searching in determining the impact of their behavior on the client/patient. Ethical problems are often raised when a counselor blends his or her professional relationship with a client/patient with another kind of relationship. Behavior is unethical when it reflects a lack of awareness or concern about the impact of the behavior on the clients. Counselors who engage in more than one role with clients may be trying to meet their own financial, social, or emotional needs. (1993, Corey G., Corey M., & Callanan, P)\*\*\*

The nature of the client-counselor relationship is such that the client/patient remains vulnerable to the real or perceived influences of the counselor. Counselors who are in a position to influence a client's behavior may impose their own desires upon the client/patient.

Rule 6.2 – A counselor shall not misappropriate property from a client/patient.

Rule 6.3 – A counselor shall not enter into a relationship with a client/patient which involves financial gain to the counselor or a third party resulting from the promotion or the sale of services unrelated to treatment or of goods, property, or any psychoactive alcohol and other drugs.

Rule 6.4 – A counselor shall not promote to a client/patient for the counselor's personal gain any unnecessary, ineffective or unsafe psychoactive substance, or any unnecessary, ineffective or unsafe device, treatment, procedure, product or service.

Rule 6.5 – A counselor shall not solicit gifts or favors from clients.

Discussion: When a counselor "plays" or "preys" upon the clients gratitude for counseling services or covertly or overtly implies or states that the client/patient remains indebted to the counselor and should "repay" him or her through gifts or other favors, the counselor's unique position of trust and responsibility with the client/patient not only becomes jeopardized, but the counselor has also engaged in actions antithetical to the counseling profession.

\*\*\*A resource and reference utilized regarding the Exploitation of Client's section was Issues and Ethics in the Helping Professions (1993, 4<sup>th</sup> ed.) by G. Corey, M. Corey, P. Callanan published by Brooks/Cole

Rule 6.6 – A counselor shall not offer, give, or receive commissions, rebates, or any other forms of remuneration for a client/patient referral.

Discussion: Notwithstanding this provision, a counselor may pay an independent advertising or marketing agent compensation for advertising or marketing services rendered on the counselor's behalf by such agent, including compensation for referrals of clients identified through such services on a per client/patient basis.

## VII. SAFETY & WELFARE

Rule 7.1 – In circumstances where the counselor becomes aware, during the course of providing or supervising professional services, that a condition of clear and imminent danger exists that a client/patient may inflict serious bodily harm on another person or persons, the counselor shall, consistent with federal and state regulations concerning the confidentiality of alcohol and drug counseling records, take reasonable steps to warn any likely victims of the client's behavior.

Discussion: If during the course of treating a patient, a counselor becomes aware that a client/patient intends or is likely to commit some act which may result in serious bodily harm to another person or persons and there is a clear and imminent danger of such harm occurring, the counselor has a duty to take reasonable steps to warn such persons. In doing so, the counselor should be aware that state and federal regulations set forth rules concerning the confidentiality of counselor-client communications and client/patient records and identifying information. In cases where the threat is of the commission of a crime on agency premises or against agency personnel, the rules may allow disclosure of the circumstances of the threatened crime and identity of the client/patient directly to law enforcement officers. In some instances, however, in order to warn the likely victims of the client's actions it may be necessary for the counselor or the counselor's agency to make an emergency application to a court for an order permitting disclosure of information concerning the client/patient or communications from the client/patient before such information can be disclosed.

Rule 7.2- In circumstances where the counselor becomes aware, during the course of providing or supervising professional services, that a condition of clear and imminent danger exists that a client/patient may inflict serious bodily harm to him or herself, the counselor shall, consistent with federal and state regulations concerning the confidentiality of alcohol and drug counseling records, take reasonable steps to protect that client/patient.

Discussion: If during the course of treating a patient, a counselor becomes aware that a client/patient intends or is likely to inflict serious bodily harm to himself or herself and that

there is a clear and imminent danger of such harm occurring, the counselor has a duty to take reasonable steps to protect the client/patient. In doing so, the counselor should be aware that state and federal regulations set forth rules concerning the confidentiality of counselor-client communications and client/patient records and identifying information.

Under those rules, it may be permissible in some cases to communicate information about an individual if done in a manner that does not disclose the individuals' status as an alcohol or drug abuse patient. In other cases, however, in order to protect the client/patient it may be necessary for the counselor or the counselor's agency to make an emergency application to a court for an order permitting disclosure of information concerning the client/patient or communications from the client/patient before such information can be disclosed.

#### VIII. RECORDS MANAGEMENT

Rule 8.1 – A counselor shall not falsify, amend, knowingly make incorrect entries, or fail to make timely essential entries into the client/patient record.

Rule 8.2 – A counselor shall follow all Federal and State regulations regarding client/patient records.

#### IX. ASSISTING UNLICENSED PRACTICE

Rule 9.1 – A counselor shall not refer a client/patient to a person that the counselor knows or should know is not qualified by training, experience, certification, or license to perform the delegated professional responsibility.

#### X. DISCIPLINE IN OTHER JURISDICTIONS

Rule 10.1 – A counselor shall not practice AODA counseling during the period of any denial, suspension, revocation, probation, or other restriction or discipline on certification, license, or other authorization to practice issued by any certification authority or any state, province, territory, tribe, or the federal government.

#### XI. COOPERATION WITH THE BOARD

Rule 11.1 – A counselor shall cooperate in any investigation conducted pursuant to this Code of Conduct and a counselor shall not interfere with an investigation or a disciplinary proceeding or attempt to prevent a disciplinary proceeding or other legal action from being filed, prosecuted, or completed. Interference attempts may include but are not limited to:

1. The willful misrepresentation of facts before the disciplining authority or its authorized representative;
2. The use of threats or harassment against, or an inducement to, any client/patient or witness in an effort to prevent them from providing evidence in a disciplinary proceeding or any other legal action;
3. The use of threats or harassment against, or an inducement to, any person in an effort to prevent or attempt to prevent a disciplinary proceeding or other legal action from being filed, prosecuted or completed.

Rule 11.2 – A counselor shall report any violation of the Counselor Code of Conduct. Failure to report a violation may be grounds for discipline.

Rule 11.3 – A counselor who has firsthand knowledge of the actions of a respondent counselor or a complaint shall cooperate with UMICAD complaint investigation or disciplinary proceeding. Failure or an unwillingness to cooperate in a UMICAD complaint investigation or disciplinary proceeding shall be grounds for disciplinary action.

Rule 11.4 – A counselor shall not file a complaint or provide information to the UMICAD, which the counselor knows or should have known, is false or misleading.

Rule 11.5 – In submitting any information to the Board, a counselor shall comply with any requirements pertaining to the disclosure of client/patient information established by the federal or state government.

Discussion: The counselor's primary commitment is to the health, welfare, and safety of a client/patient. As an advocate for the client/patient, the counselor must take appropriate action to report instances of incompetent, unethical, or illegal practice by other counselors that places the rights or best interests of the client/patient in jeopardy.

## **DISCIPLINARY PROCEDURES**

### I. CONFIDENTIALITY of PROCEEDINGS

Except as is otherwise provided herein, all information received and all reports, decisions, files, transcripts or any other documents, of any kind, generated or

received during the course of a disciplinary proceeding shall be kept confidential by the UMICAD and the respondent.

## II. CODE of CONDUCT SANCTIONS

### A. Possible sanctions for violation of the Code of conduct include:

- i. Denial of an application for a Counselor Certification Development Plan I
- ii. Denial of an Application for a Registered or Certified AODA Counselor Credential
- iii. Written Caution
- iv. Public Reprimand
- v. Suspension of a Registered or a Certified AODA Counselor Credential
- vi. Suspension of a Counselor Certification Development Plan
- vii. Revocation of a Counselor Certification Development Plan
- viii. Revocation of a Registered or Certified AODA Counselor Credential

The UMICAD may impose education and training requirements in conjunction with any of the above disciplinary actions.

B. Past disciplinary actions taken against a counselor may be considered in setting sanctions. Two or more written cautions or reprimands issued against a counselor in a two-year period shall result in a suspension or a revocation of the counselor's credential.

C. Except as may be provided for in a consent order, in all cases where a public reprimand, suspension, or revocation is issued by the UMICAD, there shall be cited in the UMICADs INK and Annual Report, the UMICAD website, the name of the respondent, the rule violated, and the sanction imposed, and in all cases where a revocation has been issued. The same information shall be published in the newspaper or record within the county where the offense occurred and in the newspaper of record within the county where the respondent is employed or was previously employed; and the same information shall be referred to other pertinent certifying/licensing organizations such as but not limited to the ICRC/AODA Data Bank and ICRC member states.

## III. COMPLAINTS

A. Persons wishing to file a complaint against a certified counselor or against a person under UMICAD jurisdiction seeking certification may do so by obtaining and filling out a formal complaint form. Complaint forms may be obtained from the UMICAD office or Website>

- B. All complaint forms must contain the complainant's address and a phone number where the complainant can be contacted. The complainant must sign and date the complaint form.
- C. Completed complaint forms shall be mailed to:
  - Executive Director – Investigation
  - Upper Midwest Indian Council on Addictive Disorders Board
  - P.O. Box 69
  - L'Anse, Michigan 49946
- D. The UMICAD Executive Director, or, in the Executive Director's absence, the UMICAD Complaints Investigator, shall be the only persons to open mail addressed to the Executive Director – Investigation.
- E. The Executive Director shall acknowledge receipt of the complaint and initiate the investigation process.

#### IV. INVESTIGATION PROCESS

- A. The Executive Director shall conduct on initial review of all complaints filed with the UMICAD and shall initiate and direct an investigation, to the extent the Executive Director deems sufficient, of all instances of possible professional misconduct by a counselor, regardless of whether such possible misconduct comes to the attention of the Board by means of a formal complaint or by other means. In supervising investigations, the Executive Director may use the UMICAD Complaints Investigator and other investigators where deemed appropriate. Except as otherwise provided herein, all UMICAD investigator information remains confidential. If during the course of the investigation it appears that criminal behavior may have occurred, the UMICAD's Executive Director may report the alleged criminal behavior to the appropriate authority.
- B. If a complaint has been filed, the Executive Director may, report the alleged criminal behavior to the appropriate authority.
- C. In cases where, upon initial review, the Executive Director deems that no violation has occurred and that no further investigation is warranted, this conclusion shall be reported to the Executive Committee within 60 days. The Executive Committee shall either return the matter to the Executive Director for investigation or affirm the Executive Director's decision. If there is no further investigation, the Executive Director shall send a notice to the complainant, informing him or her that the complaint is dismissed.
- D. In all cases in which, following initial review, an investigation is conducted, the Executive Director shall, during the course of the investigation, notify the respondent by certified mail of the name of the complainant(s), if any, and the alleged violation(s) pertaining to this UMICAD counselor Code of Conduct. The

Executive Director shall call upon the respondent to submit a typed response on a UMICAD response form.

- E. The UMICAD recognizes that there may be some cultural difference regarding the interpretation of rules. For example, Native American communities may differ in the definition of what constitutes a “family”... Treatment of extended family members using the cultural definition may not violate the Code of Conduct. In cases where cultural norms are used as defense against a complaint, the Executive Director may seek assistance of cultural leaders, teachers, or elders to assist in understanding the cultural norms in question. The UMICAD Executive Committee will strive to be appropriately sensitive to cultural differences.
  - F. After the respondent receives the notice of investigation, the respondent must return a response to the UMICAD office within 20 days unless the Executive Director has allowed the respondent additional time. During the investigation, the respondent shall disclose all facts and circumstances pertaining to the alleged misconduct, as well as the respondent’s interpretation of the situation or conduct which is the subject of the investigation. Misrepresentation by a respondent, failure to provide information, or failure to cooperate with the investigation shall be independent grounds for disciplinary action.
  - G. In cases in which an investigation has been conducted, the Executive Director shall, no sooner than thirty (30) days after mailing of the request for response to the respondent, submit an Investigation Summary Report to the Executive Committee recommending either that the compliant be dismissed or that disciplinary action be imposed. The grounds for the recommendation shall be stated in the report and, if disciplinary action is recommended, a statement of the nature of discipline recommended shall be made. A copy of the Response Form received from the respondent shall be included with the report.
- V. ACTION by the EXECUTIVE COMMITTEE
- A. Within 30 days of receipt of a recommendation from the Executive Director, the Executive Committee shall issue a Decision concerning the complaint, based on the materials provided by the Executive Director, calling for one of the following:
    - a. Dismissal of the complaint;
    - b. Return of the complaint to the Executive Director for further investigation; or,
    - c. Imposition of sanction.
  - B. A conclusion as to which Rules of Conduct have been violated, and the sanction to be imposed. The Decision shall recite the nature of the complaint, the investigation conducted, and the respondent’s rebuttal to the complaint. Within seven (7) days after the issuance of the Executive Committee’s Decision, the Executive Director shall mail a

copy to the respondent, by certified mail, together with a notice of the right to appeal any Executive Committee Decision, which calls for disciplinary action.

- C. If a request for an Appeal Hearing is timely filed, and disciplinary action imposed by the Executive Committee shall be stayed pending the decision of the Hearing Committee. However, in the event that a request for appeal is not filed within the time period prescribed hereafter, the Decision of the Executive Committee shall be final, and any disciplinary action imposed shall take effect upon passage of the prescribed time period. When any disciplinary action takes effect, the Executive Director shall notify the complainant of the results of the disciplinary process.

#### VI. APPEAL PROCESS

- A. If the Executive Committee rules that disciplinary action be taken, the respondent may appeal the decision by submitting a request for an appeal hearing to the UMICAD. Such requests shall be mailed to the UMICAD by certified mail and postmarked no later than twenty (20) days after receipt of the Decision.

Appeal requests should be addressed to:

Executive Director

UMICAD Certification Board

P.O. Box 69

L'Anse, Michigan 49946

- B. If a timely request for an appeal hearing is submitted to the UMICAD, the Board shall appoint from the UMICAD a three-person Hearing Committee. No member of the Hearing Committee shall be a member of the Executive Committee, nor shall anyone be appointed to the Hearing Committee who has a potential conflict of interest with either the complainant or the respondent. All potential conflicts of interest will be discussed prior to the appointment. Within twenty-one (21) days after the UMICAD receives a request for an appeal hearing, a hearing into the facts contained in the Decision of the Executive Committee shall be scheduled, and the Executive Director shall send by mail a notice of the hearing to the complainant and the respondent. Notice to the respondent shall be mailed by certified mail. The hearing shall be scheduled no less than twenty-one (21) days nor more than forty-five(45) days from the date of the hearing notice.
- C. The notice of hearing shall advise the respondent and the complainant of the following:
  - a. The date, time, and the location of the hearing and identity of the Hearing Committee members.

- b. At the respondent's own expense, the respondent may be represented by counsel at the hearing.
  - c. The executive Committee or its representative shall present evidence in support of its recommendation at the hearing. Such evidence shall be limited to the issues and charges contained in the Decision of the Executive Committee previously served on the respondent.
  - d. The complainant shall not be a party to the appeal hearing, although the complainant may be called upon to give evidence.
  - e. The respondent may present and rebut evidence and present and cross-examine witnesses.
  - f. The hearing Committee shall not be bound by common law or statutory rules of evidence, and Hearing Committee may consider all evidence having reasonable probative value, but a decision to impose discipline may not be based solely on a declarant's oral hearsay statement unless it would be admissible under common law or statutory rules of evidence.
  - g. The Hearing Committee will base its decision as to whether a violation of the Code of Conduct has occurred solely upon the evidence presented at the hearing.
  - h. At the respondents own expense the respondent may have a registered court reporter present to transcribe the proceedings, provided that the UMICAD is notified of such election at least five (5) days prior to the hearing and is supplied with a copy of the transcript.
  - i. No discovery shall be permitted, and no access to UMICAD files shall be allowed to the respondent or the complainant.
  - j. Any request by the respondent for postponement of the hearing must be immediately served in writing to the UMICAD, and the decision to grant or deny such request is discretionary with the UMICAD, acting through its representative.
  - k. There shall be no contact prior to the hearing between the complainant and the respondent, nor shall the complainant or the respondent be in contact with any UMICAD members for the purpose of discussing in any way the complaint or the Decision of the Executive Committee.
- D. The hearing shall be governed by the following rules
- a. Evidence may be presented and witnesses examined and cross-examined by both sides. The evidence presented by the UMICAD shall be limited to the issues and charges contained in the Decision of the Executive Committee previously served on the respondent.
  - b. The hearing Committee shall not be bound by common law or statutory rules of evidence and may consider all evidence having reasonable probative value.

However, a decision to impose discipline shall not be based solely on a declarers oral hearsay statement unless it would be admissible under common law or statutory rules of evidence.

- c. The hearing shall be presided over by a Hearing Officer, and the Officer shall resolve objections concerning evidence. The Hearing Officer shall be a non-voting member of the Hearing Committee.
  - d. The Hearing Committee's Decision shall be based solely upon the testimony and evidence presented at the hearing.
  - e. The hearing shall be closed to the public.
- E. Failure of the respondent to attend the hearing shall be deemed a waiver of the appeal. In such cases the hearing will be dismissed and the Decision fo the Executive Committee shall take immediate effect.
- F. Within twenty-one (21) days after to completion of the hearing, the Hearing Committee shall prepare a written decision containing Findings of Fact and a Conclusion as to whether any of the ethical principles or rules of the counselor Code of Conduct have been breached. If the Hearing Committee determines that the respondent did breach the Counselor Code of Conduct, the committee will impose a disciplinary sanction, which shall be specified in the Committee's decision. The Hearing Committee shall submit its decision to the UMICAD. The Board shall mail a copy of the decision to the respondent by certified mail and to the complainant by ordinary mail.

The decision of the Hearing Committee shall be deemed that of the UMICAD, shall be effective upon issuance or at such date as the Hearing Committee shall specify, and shall be final, without further action by the UMICAD.

- G. At any time prior to the issuance of the Hearing Committee's written decision, the respondent and the UMICAD, acting through its representative, may enter into a consent order, agreeing upon the sanctions or requirements to be imposed upon the respondent. Such consent order shall state the nature of the complaint and the sanctions agreed upon and shall supersede any prior decision in the case. Sanctions imposed pursuant to a consent order are not limited ot those listed under Section I.

## VII. PROCEDURES and REINSTATEMENT FOLLOWING DISCIPLINARY ACTION

- A. If a respondent's UMICAD credential has been suspended or revoked and the respondent does not appeal the Executive Committee's Decision, or if the Hearing Committee upholds the respondent's suspension or revocation, the respondent shall return his or her credential certificate and the UMICAD identification card to the UMICAD office no later than twenty-one days after the suspension or revocation takes

effect. The UMICAD credential certificate and identification card remain the property of the UMICAD.

- B. UMICAD credential reinstatement following a suspension: upon expiration of the suspension period, the Executive Committee shall authorize reinstatement of the counselor for the balance of the counselor's certification development plan period or certification period, unless:
  - a. Another suspension or revocation of the respondent's certification or certification development plan has occurred; or
  - b. The respondent has committed another violation of the Counselor Code of Conduct; or
  - c. The respondent has failed to remit the annual renewal of certification fee or make an application for renewal of certification in a timely manner, according to the respondent's renewal or certification date, or has failed to file his or her annual certification development plan; or
  - d. The respondent has failed to comply fully with the terms of his or her suspension.
- C. UMICAD credential reinstatement following revocation: following a respondent's UMICAD credential revocation, the UMICAD maintains sole discretion to grant the respondent permission to petition for removal of revocation. Such petition shall only be considered after:
  - a. The passage of twenty-four (24) months from the effective date of the revocation;
  - b. The respondent seeking such permission has submitted a written request and provided the Executive Committee a rational why permission should be granted; and
  - c. The respondent has reimbursed the UMICAD for the costs of the disciplinary proceedings, which costs shall be limited to the costs of investigation, the attorney fees, if any, incurred by the Board in the investigation and prosecution of the disciplinary proceedings, and any hearing costs (including, but not limited to, the fees of the Hearing Officer) which have been incurred by the Board.

In the event that UMICAD approves a petition for removal of revocation, the respondent must follow the procedures prescribed for normal applications for a counselor development plan or certification and pass all required tests.