

**MARATHON COUNTY SCHOOL-BASED COUNSELING PROGRAM (MCS-BCC)
MEMORANDUM OF AGREEMENT**

This Agreement is entered into on the date of signing, by and between the NAME School District (“District”) and CLINIC NAME (“Clinic/Clinics”).

DEFINITIONS

District: A Wisconsin Public School District.

School: All Public School buildings belonging to a Wisconsin Public School District.

Clinic: An Outpatient Mental Health Clinic or an Outpatient Alcohol and Other Drug Abuse Clinic certified by the State of Wisconsin to provide psychotherapy or substance abuse counseling.

Consortium: The Marathon County School-Based Counseling Consortium (“MCS-BCC”)

Licensed Treatment Professional: An individual licensed as a physician under s. [448.03](#), Stats., who has completed a residency in psychiatry; a psychologist or a private practice school psychologist licensed under ch. [455](#), Stats., a marriage and family therapist licensed under s. [457.10](#) or [457.11](#), Stats., a professional counselor licensed under s. [457.12](#) or [457.13](#), Stats., an advanced practice social worker granted a certificate under s. [457.08 \(2\)](#), Stats., an independent social worker licensed under s. [457.08 \(3\)](#), Stats., or a clinical social worker licensed under s. [457.08 \(4\)](#), Stats.; and includes any of these individuals practicing under a currently valid training or temporary license or certificate granted under applicable provisions of ch. [457](#), Stats. “Licensed treatment professional” does not include an individual whose license or certificate is suspended, revoked, or voluntarily surrendered, or whose license or certificate is limited or restricted, when practicing in areas prohibited by the limitation or restriction.

Mental Health Professional: A licensed treatment professional, a mental health practitioner, a qualified treatment trainee, or a recognized psychotherapy practitioner.

Qualified Treatment Trainee: A “QTT” is either of the following:

- a. A graduate student who is enrolled in an accredited institution in psychology, counseling, marriage and family therapy, social work, nursing or a closely related field.
- b. A person with a graduate degree from an accredited institution and course work in psychology, counseling, marriage and family therapy, social work, nursing or a closely related field who has not yet completed the applicable supervised practice requirements described under ch. [MPSW 4](#), [12](#), or [16](#), or [Psy 2](#) as applicable.

Certified Substance Abuse Counselor: A substance abuse therapist certified and titled by the State of Wisconsin as a Substance Abuse Counselor.

Clinic Administrator: The individual with the legal authority to make decisions on behalf of a Wisconsin Certified Outpatient Mental Health Clinic or Wisconsin Certified Outpatient Alcohol and Other Drug Abuse Clinic.

Educator: A State of Wisconsin Licensed Teacher employed by the School District.

Department/DHS: The Wisconsin Department of Health Services.

DPI: The Wisconsin Department of Public Instruction.

PREAMBLE

WHEREAS, Clinic is engaged in the business of providing outpatient mental health services and/or alcohol and other drug abuse counseling services (“AODA”), collectively known as “Services,” benefiting student populations; and

WHEREAS, Clinic wishes to have access to the District’s facilities in order to provide Services for students in the District, who would otherwise seek such services, subject to the terms and conditions contained herein; and

WHEREAS, the District and School recognize that offering on-site Services and education and support to school staff and student families, provides significant benefits without substantial disruption to the educational process.

WHEREAS, Clinic participates in a consortium of clinics (“Consortium”) that provide outpatient mental health services and/or alcohol and other drug abuse counseling services to a student age population that is designed to provide quality and coordinated services in the communities where the School is located and the Program model is summarized in ATTACHMENT A to this Agreement;

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, the parties agree as follows:

1. GENERAL RESPONSIBILITIES, OVERSIGHT, ROLES, AND LIMITATIONS

- a. All entities ensure that the boundaries and parameters of their respective expertise will be adhered to and kept separate as follows:

- i. Mental health and substance abuse counseling services provided in the school-based branch office will be consistent with applicable state licensure statutes and administrative rules.
 - ii. Educational services to public school students delineated under federal and state statute and administrative rules will be provided by DPI-licensed educators.
- b. All entities agree to mutually understand, define, and adhere to policies and procedures relative to:
 - i. Roles and responsibilities of the clinic staff and school personnel.
 - ii. Referral processes that provide recommendation for assessment or treatment from a psychotherapist, substance abuse counselor, or physician.
 - iii. Provision of a rent-free, HIPAA complaint space for conducting confidential therapy appointments that is maintained by the District.
 - iv. Prominent display of Client's Rights information in the branch office.
 - v. Prominent display of Clinic signage and information, as may be required by the Clinic's regulatory entities.
 - vi. Entrance and egress policies. vii. Operating hours, including potential operation outside regular school hours.
 - viii. Parameters for school staff access to the branch office space within the school (e.g., maintenance and cleaning, emergencies).
 - ix. DHS and other regulatory agency on-site reviews of the branch office, including unannounced visits, which are to comply with District rules regarding visitors, student access, emergency drills and procedures, and entrance and egress policies and procedures.
 - x. Clinical documentation requirements and the security of such documentation.
 - xi. Communication between Mental Health Professionals, clinic staff, and school personnel.
 - xii. Provision of interpretation services to non-English speaking students and/or students' legal guardians.

- xiii. Communication and provision of required releases of information when multiple Clinics serve a single school location.
- xiv. Confidentiality and authorization processes for sharing of information, which is only allowed via properly created and executed releases of information or as otherwise authorized in the law, consistent with s. Chapter 51 and 118, Stats.; 42 CFR 2; and 34 CFR 99 (Family Education Rights and Privacy Act).
- xv. The District's/School's crisis plan and the Clinic's/District's/School's roles in responding to violent or self-harming behavior.
- xvi. Adherence to school rules, including participation in emergency drills and procedures.
- xvii. Supervision of students.
- xviii. Management of disagreements between the Clinic and/or Mental Health Professionals and school and/or District staff.
- xix. The Clinic Administrator is responsible for oversight of staff activity in the school-based branch office and ensures that:
 - a) The Mental Health Professional or Certified Substance Abuse Counselor providing school-based services have the necessary training and education for provision of age-appropriate services.
 - b) The practice of psychotherapy and/or substance abuse counseling is within the scope of practice of the Mental Health Professional or Certified Substance Abuse Counselor.
 - c) Copies of current Wisconsin clinical licenses are prominently displayed at the school-based branch office.
- xx. The collection, reporting, security, and management of consortium-defined measurements and data sets:
 - a) School Counselors/Pupil Services staff complete, and submit consortium-approved student satisfaction surveys with students receiving onsite mental health counseling:
 - (1) Surveys are completed either at the end of counseling or end of the semester, whichever occurs first.

- (2) Survey data is entered into the Consortium’s survey tracker. Schools are not precluded from maintaining individual school data, but are restricted from using or reporting any identifiable data.
 - (3) Whether at the Clinic, Consortium, School, or District level, all reported data must be de-identified.
- b) Clinics conduct, score, and submit consortium-approved student progress assessments with students receiving onsite mental health counseling:
- (1) Clinics agree to use the same tool(s) and tracking template, as distributed through the Consortium.
 - (2) Each school year, upon request, Clinics submit their data to the Marathon County Health Department’s Consortium support staff for aggregation.
 - (3) Whether at the Clinic, Consortium, School, or District level, all reported data must be de-identified.

2. INDEMNIFICATION AND INSURANCE

- a. Indemnification. All parties hereby hold each other harmless, defends and indemnifies all affiliates, officers, directors, employees and representatives from and against each and every demand, claim, loss, liability, or damage of any kind, including actual attorney’s fees and expenses, whether in tort or contract, whether personal injury or property damage, that may incur by reason of, or arising out of, (i) any claim made by any third party with respect to the Services or any work product provided as part of the Services, or (ii) any misrepresentation made in, or breach of the terms or warranties of, this Agreement, including without limitation any claim or action of any type or nature by or related to the infringement or misappropriation of any copyright, trade secret, patent or other intellectual property right with respect to the distribution, use or creation of such work product.
- b. Insurance. Clinic and District shall, during the term of this Agreement, maintain, at its individual expense, all necessary insurance, including but not limited to malpractice insurance and general liability insurance. Upon request, each party shall provide the other with a certificate of insurance evidencing such coverage.
- c. General Liability Insurance. The District shall provide general liability insurance for the physical environment of the Clinic’s branch office and shall make reasonable efforts to ensure that the physical environment is free of hazards.

3. CLINIC OBLIGATIONS

- a. Clinic shall maintain all appropriate licenses required by the State of Wisconsin. If at any time the Clinic has allowed its licenses to lapse, expire, or otherwise become invalid, or if any other actions or omissions of the Clinic render the Clinic or its clinician(s) unfit or unable to perform the Services, this Agreement shall immediately terminate.
- b. Clinic assumes all risk of property loss or damage and of personal injury or death, other than that caused solely by the gross negligence of the District, or its employees, which may be sustained by the Clinic or its providers as a result of or arising in connection with performing Services
- c. As often as possible, Clinics will assign dedicated staff in order to provide consistency in therapy and build relationships with students, parents, teachers, and other school staff.
- d. Clinic shall actively participate in the activities of the Consortium. Clinic shall provide services in accordance with standards and protocols agreed to by the Consortium.
- e. Compliance with Board Policies and Administrative Regulations. Clinic shall comply with all applicable School Board policies and Administrative Regulations, including, but not limited to those, governing its presence on school grounds and interactions with staff, students, and community members. Clinic shall receive a copy of, and agree in writing to adhere to all District policies and procedures. Clinic shall not, however, be obligated to disclose confidential information to the District, its officers or agents, except as required by law.

4. EQUIPMENT, FACILITIES, SUPPLIES & RECORDS

- a. Equipment. Clinic agrees to provide, at no cost to the District, all equipment and/or supplies necessary for the Clinic to perform the Services.
- b. Records. Clinic shall maintain appropriate records for all clients and maintain such records according to the requirements of the Health Insurance Portability and Accountability Act and other applicable state and federal laws (45 CFR 164 Subparts C and E, Wis. Stat. §§ 51.30 and §§ 146.81-84, Wis. Admin. Code DHS 92, and 42 CFR Part 2). Records maintained by the Clinic are not pupil records (Wis. Stat. § 118.125) or public records (Wis. Stat. §§ 19.31-19.39). Further, the Clinic shall not have access to any pupil records maintained by the District without express written consent in accordance with Board policies and Administrative Regulations.

- c. Use of District Facilities. The District provides, at no cost to the Clinic, a HIPAA compliant space that is appropriate for the provision of Services and includes basic office furniture and equipment (desk, office chair, client chairs, a locking file cabinet, and telephone) and access to a copier and fax machine. See ATTACHMENT B for space requirements.

The District shall provide the Clinic with access to adequate facilities within the District, to provide the Services to the students in the District. However, the Clinic's access to such facilities does not constitute "use" of District facilities, per District Regulations. As such, the Clinic is not required to pay fees to the District related to the use of the District's facilities. The Clinic is not responsible for operational costs (such as utilities) related to their use of the District facility(ies). The Clinic will not be charged rent for use of the District facility(ies).

- d. Fees. To the extent the Clinic charges a student (or parent/guardian) for the Services provided, the District shall not be involved in any recordkeeping or collection related thereto.
- e. Hours of Access. Mutually, the District and Clinic shall establish the schedule when the Clinic is permitted to offer the Services at the facility(ies) within the District, in order to avoid interfering with the operations of the District. Upon request, the Clinic shall provide the District with its schedule within those approved times. Nothing herein shall be interpreted as the District regulating or monitoring the Clinic's hours of work. The Clinic maintains control over its hours of work. The Clinic will not be issued any type of key or badge by the District to allow access to a locked area of the school facility, but will be given access to the area of the facility where services are to take place by Clinic personnel.
- f. Notice. The District may provide periodic written notice to students and families about the Services offered by the Clinic and the method to be used to access the Services. The District affirms that client use of such school-based services is of a voluntary nature and not a requirement of the District. If the Clinic intends to share information with the public regarding the Services offered at the District's facility(ies), the Clinic must submit such information to the District and obtain written approval from the District before publishing/issuing it. Such information must include explicit language stating that the Services are NOT SCHOOL SPONSORED SERVICES.

5. RELATIONSHIP

- a. Independent Agency. Clinic shall perform under this Agreement as an Independent Contractor, and not as an agent, employee, representative or partner of the District. Neither party shall have any right, power or authority to act or create any obligation,

express or implied, on behalf of the other party, except as otherwise provided herein.

- b. Rights of Clinic. Clinic shall have the right to perform work for others as long as the Clinic fulfills its obligations hereunder.
- c. Tax Obligations of Clinic: Indemnity. Clinic shall pay and report all applicable taxes, fees, and assessments, including without limitation federal, state and local income tax withholding, social security, Medicare and similar taxes, and unemployment insurance, if applicable. Clinic shall file all required forms and make all required payments, as applicable. Clinic acknowledges that because the Clinic and its providers are not employees of the District, the District will not provide the Clinic with any benefits of employment, such as health or disability insurance, retirement or welfare benefits, and the like.

Clinic hereby indemnifies the District, and each of its officers, directors and employees from and against all payments, losses, costs, liability, expenses, damages, fines, penalties or judgments (including without limitation actual attorney's fees and expenses) as a result of a failure by Clinic: (i) to pay all the taxes due in connection with the payments made to Clinic under this Agreement; (ii) to respond to any administrative inquiry concerning Clinic's payment of such taxes; or (iii) to defend against any administrative or judicial proceeding with respect to Clinic's payment of such taxes.

- d. Non-assignment of Rights or Obligations. Clinic shall not assign its rights or obligations under this Agreement or any other Agreement entered into between the Clinic and the District.
- e. Exclusive Relationship. The District may not enter into an Agreement with a non-Consortium Clinic to provide similar (or the same) school-based services to the students in the District as those provided by the Clinic.
 - i. Comprehensive Community Services (CCS) and other legally-required counseling agencies are exempt from the exclusivity requirement.
 - ii. Schools will make every effort to ensure appropriate coordination for/communication of non-consortium services and maintain available space for Clinic schedules.

6. DISPUTES

In the event of a dispute regarding the terms of this Agreement, the Clinic and School shall first seek to mutually settle disputes. If a mutual agreement cannot be made, the Clinic or the School shall notify the Consortium of the dispute. Consortium Clinics shall work

together toward resolution, including reassignment of the Clinic to an alternate school. Nothing herein shall limit the legal rights of either party to this Agreement.

7. COMPLIANCE WITH STATUTES AND REGULATIONS

- a. All parties warrant and certify that in the performance of this Agreement, they will comply with all applicable statutes, rules, regulations and orders of the United States, and of any state or political subdivision thereof, including laws and regulations pertaining to labor, wages, hours and other conditions of employment; and that the Services delivered hereunder shall be produced in compliance with the Fair Labor Standards Act and any other applicable labor law.
- b. Clinic is solely responsible for payments related to any medical, disability, retirement or other welfare or pension benefits to which any employee of the Clinic is entitled. Clinic shall comply with all requirements of the Health Insurance Portability and Accountability Act, the Family Educational Rights and Privacy Act, and Wisconsin Pupil Records Law. Clinic personnel shall treat all persons he/she encounters on a work assignment with respect and dignity and will not engage in any type of harassment or discrimination prohibited by state, federal or local law. Clinic hereby indemnifies the District for any expenses and/or damages arising from a lawsuit that may be brought against the District based on Clinic's discriminatory or harassing behavior.
- c. During the performance of this Agreement, both parties will comply with any applicable federal, state or municipal law or regulation governing nondiscrimination and affirmative action in employment as may be applicable.
- d. Any records released from the Clinic to the District remain protected under § 51.30, Stats. and Wis. Admin. Code DHS 92, as well as 42 CFR Part 2 if the released information is related to substance abuse treatment. Such information may not be re-disclosed without consent in accordance with Section 42 CFR 2.32.
- e. The District will also provide reasonable access to the clinic's branch offices within the District to representatives of the State of Wisconsin, for the purposes of program monitoring and evaluation and, if requested by the consumer or parent/guardian, and to representatives of Disability Rights Wisconsin, the State's official protection and advocacy agency for individuals with a mental illness.

8. WAIVERS

No waiver of any right or remedy with respect to any occurrence or event shall be deemed a waiver of such right or remedy with respect to such occurrence or event in the future. No waiver of any of Clinic's obligations under this Agreement shall be effective unless in writing and signed by the District. No failure on the part of either party to exercise, and no delay in the exercising of, any right or remedy shall operate as a waiver thereof; nor

shall any single or partial exercise of any right or remedy hereunder preclude any other or future exercise thereof or the exercise of any other right or remedy granted hereby, by any related document or by law.

9. AMENDMENTS

This Agreement may not be and shall not be deemed or construed to have been altered, modified, clarified, amended, rescinded, canceled or waived in whole or in part, except by written instrument signed by the parties hereto.

10. GOVERNING LAW

This Agreement is governed by laws of the State of Wisconsin, without regard to its conflict of laws provision.

11. SEVERABILITY

If any provision, or part of a provision, of this Agreement is held to be invalid or unenforceable under any applicable statute or rule of law, then the parties shall use their best efforts to replace the invalid or unenforceable provision with a provision that, to the extent permitted by applicable law, achieves the purposes intended under the original provision. The balance of this Agreement shall remain valid, unchanged and in full force and effect.

12. TERMINATION

- a. The District or Clinic may terminate this Agreement with ninety (90) days' notice with or without cause, with or without a hearing, by providing written notice to the other party. Consideration must be given to ensure continuity of care for students and the avoidance of client abandonment.
- b. The Agreement is effective upon signing and will remain in effect until:
 - i. Terminated by any party per Section (a) above or
 - ii. Replaced with an MOA from a replacing Consortium Clinic or
 - iii. Replaced with an MOA updated by the Consortium or
 - iv. The Consortium ceases to exist.

13. NOTICES

All notices regarding the Program and this Agreement will be delivered to:

CLINIC CONTACT:

DISTRICT CONTACT:

NAME

NAME

Clinic/Program Administrator

TITLE

ADDRESS

ADDRESS

CITY, STATE ZIP

CITY, STATE, ZIP

PHONE

PHONE

EMAIL

EMAIL

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

Agreed and Accepted by:

Clinic Name
Clinic Authorized Signatory

School District Name
School District Superintendent/Designee

Signature

Signature

Printed Name

Printed Name

Title

School(s) Serviced:

School Name	Principal Name	Principal Signature
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ATTACHMENT A

CONSORTIUM PROGRAM MODEL

1. PROGRAM REQUIREMENTS

- a. The Program is coordinated by the Marathon County School-Based Counseling Consortium (“Consortium”).
 - i. The Consortium is comprised of area outpatient Mental Health Clinics, outpatient Alcohol and Other Drug Abuse Clinics, and additional community partners who desire to mutually support the provision of school based Services to Marathon County schools.
 - ii. The Consortium provides programmatic consistency, shared goals, practices, and measurements, and mutual supports.
 - iii. Consortium Clinics have mutually agreed to a common operating agreement.
 - iv. Consortium Clinics have deemed themselves to be compliant with the requirements set forth by the Consortium, this Memorandum of Agreement (“MOA”), Wisconsin Administrative Code, Chapter DHS 35 and Chapter DHS 75.13 requirements, and DPI guidance.
- b. Consortium Clinics complete a Memorandum of Agreement with each District in which they are providing Services.
- c. Throughout the school year, Clinics provide three mutually supporting activities to the school(s):
 - i. Outpatient mental health services and/or alcohol and other drug abuse counseling services provided directly to students in a designated branch office. Services may include individual, family, or group services. Prior to the provision of family counseling or group therapy services, the Clinic will first consult with the school to determine any legal issues which may need consideration. Services are provided in-person at the School or in-clinic. Services may be provided via telemental health means (video and/or telephone) during times when in-school or in-clinic services are unable to be provided. Referrals to an appropriate clinic setting are made when the Clinic determines that a student’s need is not appropriate for a school-based setting.
 - ii. Regular training for school staff on the program and relevant mental health topics, as mutually agreed upon by the Clinic and school.

- iii. Regular education to parents and students on the Program and relevant mental health topics, as mutually agreed upon by the Clinic and school.
- d. In the summer months, Clinics will continue to provide counseling services directly to students. Where school building access is unavailable, services will be provided at an alternate location, which may include Clinic office(s), other school location(s), or via telemental health (video and/or telephone.)

2. PROGRAM BENEFITS

a. Students and Families.

- i. Increased youth access to outpatient mental health services and/or alcohol and other drug abuse counseling services.
- ii. Increased student time in the classroom, by mitigating travel time to and from off-site appointments.
- iii. Deepened ties between community mental health providers, school administrators, and pupil services staff.
- iv. Increased family engagement and access to outpatient mental health services and/or alcohol and other drug abuse counseling services in the school community, which may reduce time away from work for parents.
- v. Protections that come from utilizing licensed treatment professionals and qualified treatment trainees who are overseen by state regulators and who deliver outpatient mental health services and/or alcohol and other drug abuse counseling services in a safe and supportive school environment.

b. Educators and Clinics.

- i. The consistent use of evidence-based programs and interventions.
- ii. The use of clinics who provide licensed treatment professionals and qualified treatment trainees overseen by state regulators.
- iii. Consultation and mutual support between public and private agencies on mental health issues.
- iv. School staff training, to better understand behavioral health issues and implications on learning.
- v. Collaboration through referrals and teaming with students, families, and school staff on shared goals and strategies.

- vi. A receptive climate and understanding of children's mental health issues in schools, in particular addressing issues related to stigma.
- vii. Parental/Guardian consent and family involvement in the delivery of outpatient mental health services and/or alcohol and other drug abuse counseling services.
- viii. Recognition of the important role of school mental health providers (school counselors, nurses, psychologists and social workers) as well as community providers (therapists, psychologists and counselors) in continuing to support the mental health needs of students.

ATTACHMENT B

IN-SCHOOL THERAPY SPACE REQUIREMENTS

1. SCHOOL REQUIREMENTS

- a. In-school therapy space must provide for privacy and security of confidentiality of student information, both written and verbal. To ensure this, each school will dedicate at least one (1) space for the provision of therapy services that meets the following minimum requirements. Requirements include space that:
 - i. Has no through or cross traffic and is free from interruptions
 - ii. Allows for confidentiality, which may be accomplished through thick doors, the use of a white noise/noise cancelling machine, or other means, and is determined to be acceptable by the Clinic
 - iii. Has any glass door panels and windows covered
 - iv. Has a lockable drawer, for short-term document storage
- b. In-school therapy space should provide a safe, comfortable environment in which students can feel at ease and therapists can adequately work. Additional requirements include space that:
 - i. Has an internet connection available, whether through a secure wireless or wired means
 - ii. Has a phone or an acceptable means to contact school staff in an emergency
 - iii. Has a power supply available
 - iv. Contains at least one (1) desk or table and two (2) chairs
 - v. Is at least 8'x8' in size. Closets are not considered acceptable therapy space.

2. CLINIC REQUIREMENTS

- a. Clinics shall provide their own necessary supplies, including office supplies, computers, printers, and therapy aides.
- b. Clinics shall obtain permission from the appropriate school designee prior to making any space changes such as adding furniture, storage, décor, etc.