

**RESOLUTION OF THE GOVERNING BODY
OF THE THREE AFFILIATED TRIBES OF
THE FORT BERTHOLD RESERVATION**

WHEREAS, This Nation having accepted the Indian Reorganization Act of June 18, 1934, and the authority under said Act; and

WHEREAS, The Constitution of the Three Affiliated Tribes generally authorizes and empowers the Tribal Business Council to engage in activities on behalf of and in the interest of the welfare and benefit of the Tribes and the enrolled members thereof; and

WHEREAS, The Three Affiliated Tribes recognizes that the health care needs of the residents of the Fort Berthold Reservation are of prior and paramount importance especially with the alarming rate of diabetic patients that have end stage renal failure; and

WHEREAS, The Three Affiliated Tribes has an existing and operable kidney dialysis project that provides outpatient dialysis treatment and associated services to stable end stage renal disease patients; and

WHEREAS, The Tribal Dialysis Unit of the Three Affiliated Tribes is in need of entering into an affiliation contract with a full service regional health care center which includes an acute care hospital that can provide a range of medical services, including services to assist and aid end stage renal disease patients who are in need of obtaining a transplant; and

WHEREAS, It is the considered judgment of the Three Affiliated Tribes to enter into an affiliation contract with UniMed of Minot, North Dakota, which is recognized as a center for kidney dialysis treatment, which said kidney dialysis services are utilized by patients throughout the region; and

WHEREAS, UniMed Medical Center operates a full service regional health care center which includes a hospital at its principal place of business and can provide services to the tribal dialysis unit such as medical evaluations, vascular access placements, acute and chronic hemodialysis, social services and dietary evaluations; including, the assistance to patients in need of transplants; and

NOW, THEREFORE, BE IT RESOLVED, The Tribal Business Council of the Three Affiliated Tribes hereby approves the *AFFILIATION AGREEMENT BETWEEN UNIMED MEDICAL CENTER AND THE THREE*

Attachment to R#97-244-DSB
(1 of 9 pages)

AFFILIATION AGREEMENT BETWEEN UNIMED MEDICAL CENTER
AND THREE AFFILIATED TRIBES DIALYSIS UNIT

This Agreement is made effective as of the 3 day of December, 1997, by and between The Tribal Dialysis Unit, [hereinafter referred to as "TDU"], of the Three Affiliated Tribes, a federally recognized Indian tribe, located in New Town, North Dakota, and UniMed Medical Center, a non-profit corporation licensed, organized and existing under the laws of the State of North Dakota, with its principal business location at 3rd Street and Burdick Expressway, Minot, North Dakota, [hereinafter referred to as "UniMed"].

WHEREAS, UniMed operates a full service regional health care center which includes a hospital at its principal place of business in Minot, North Dakota. UniMed is recognized as a center for kidney dialysis treatment, which kidney dialysis services are utilized by patients throughout the region; and

WHEREAS, UniMed currently provides the End Stage Renal Disease ["ESRD"] patients with a range of services which includes medical evaluation, vascular access placement, acute and chronic hemodialysis, social services and dietary evaluation. UniMed does not provide services related to peritoneal dialysis or renal transplantation. All services provided by UniMed are presently available to the New Town ESRD patients. Dialysis services presently include, among other things, in-center hemodialysis, both acute and chronic, and

WHEREAS, the TDU provides outpatient dialysis treatment and associated services to stable ESRD patients. ESRD patients transferring into the TDU will be evaluated by the TDU Medical director prior to transfer to the TDU.

UniMed will assist the attending physician for the referral of the ESRD patient to the regional transplant center of the patient's choice, (i.e. Bismarck MedCenter One, Fargo, Mayo Clinic, or the University of Minnesota). UniMed will make available services within its scope, to assist and aid the ESRD patients who may be seeking a transplant (i.e. blood work and diagnostic test pre-transplant).

The parties to this Agreement herein have adopted and established the following guidelines to outline the duties and obligations of the parties.

1. Location: The parties have mutually agreed that the kidney dialysis unit located in New Town, North Dakota as presently located is satisfactory for the kidney dialysis unit. The site shall remain the property of the TDU and will at all times be within the physical control of TDU.

In order to maintain the site functioning as a kidney dialysis unit, TDU agrees to undertake at its expense all necessary renovations, maintenance and upkeep of the space according to all state, federal and other governmental regulations, laws, requirements imposed for dialysis facilities including but not limited to:

- a. 100 square feet of space per machine;
- b. Emergency equipment (oxygen, vacuum and suction setup, cardiac monitors, crash carts, dynamap, etc.);
- c. Water treatment system; and
- d. Area to be "no through traffic".

The TDU will provide those furnishings necessary for the care and comfort of the patients and staff of the kidney dialysis unit including such items as television sets,

necessary furniture, chair scales, patient chair loungers, imprinter, pictures, clocks and similar items. The kidney dialysis unit is currently completed to the extent where it is fully operable, including disposable supplies, machines and water systems.

2. Management of Kidney Dialysis Unit: The kidney dialysis unit shall be managed by the employees and staff of TDU. The TDU shall furnish the on-site staffing as described in this Agreement.

3. Lab: Routine Lab services will be handled by the New Town Indian Health Services (i.e. Chemistry Profile and CBC), Hepatitis, Aluminum and Parathyroid Hormone will be referred through Indian Health Services lab. The cost of certain ESRD laboratory services performed by either facility are included within the composite rate and may not be billed separately to the Medicare program unless justified. Kidney dialysis blood work that cannot be directly furnished by the TDU or the Indian Health Services Lab may be processed through the facilities at UniMed located in Minot, North Dakota, and the TDU shall be billed accordingly for such lab services.

4. Treatment of Patients: The decisions as to where patients shall receive treatment shall always be the decision of the patient after consultation with the patient's immediate family and personal physician. The parties hereto believe that the combined services at UniMed and the TDU offer to each patient an exceptional opportunity to receive quality care in an area near the patient's home, thereby providing not only access to high quality medical care, but also to the opportunity of minimizing costs.

Patients from the New Town region with ESRD may receive their stabilization therapy at UniMed, or at such other facilities as they may choose and as their professional

physicians may recommend. Patients are entitled to receive their initial professional team assessment and evaluation, social services and dietary counseling from referring facilities.

Patients who receive hemodialysis outpatient treatment will be transferred to the TDU with appropriate therapeutic prescription as per physician orders.

Each patient at either UniMed or at the TDU shall have as a primary physician a qualified physician who holds staff privileges at that facility where the patient is being treated.

Patients who are referred to the kidney dialysis unit in New town, North Dakota by Dr. Robert Lefebvre will continue to be managed by Dr. Robert Lefebvre via the attending Indian Health Services' physician.

Patients requiring emergency care, may be transferred to UniMed where inpatient dialysis services are provided.

The Indian Health Center will direct a physician at the Indian Health Center to respond to emergencies in the kidney dialysis unit during the dialysis. ESRD patients desiring to be evaluated for transplant status will be worked up at the transplant center chosen by the patient.

5. Patient Transfer: UniMed may transfer stabilized chronic renal dialysis patients who reside in the service area of the TDU in New Town, North Dakota. Appropriate transfers of patient records will precede or accompany such patient transfer. The appropriate records will be transferred from TDU to UniMed within at least one (1) working day in order to assure continuity of care. The transferring facility assures the security of and is accountability for the patient's personal effects until admission to the

admitting facility. The admitting facility assures the security of and is accountable for the patient's personal effects following admission. Upon discharge from the dialysis program, the dialysis permanent record shall be required to be maintained in accordance with all applicable laws by the TDU. The TDU may transfer ESRD patients to the UniMed Kidney Dialysis Unit for any or all of the following purposes:

- a. Initial and ongoing evaluations of the patient;
- b. Assessment and stabilization of the patient's general medical and/or dialysis needs;
- c. Assistance for complications related to the hemodialysis or other complications based on agreement of the accountable physician at the TDU and the medical director of the UniMed Kidney Dialysis Unit;
- d. Evaluation of the ESRD patient's self care potential including assessment of the patient's home environment, and the psycho-social status;
- e. Surgical placement or revision of access sites.

Final decisions on transfers of patients to the TDU rests with the medical director of UniMed's Kidney Dialysis Unit, except when the attending physician determines that a medical emergency exists. Appropriate medical records will precede or accompany the transfer of any such patient.

At the time of or before any patient transfers, information regarding the medical care of the patient will be communicated from the transferring physician. In addition, transmittal of pertinent medical information including long term plans of care will precede or

accompany the patient's transfer within one working day between UniMed and the TDU.

6. Billing: Billing to Medicare, third party payors and individuals for outpatient treatment provided at the kidney dialysis unit in New Town, North Dakota will be the responsibility of the TDU, which shall collect and keep the composite rate reimbursement. All non-routine services paid by Medicare will be reimbursed to the TDU at the Medicare reimbursement rate.

7. Liability and Insurance: The parties hereto agree that at all times there shall be no agency created by this Agreement, and each party hereto shall remain fully and completely responsible for its own acts and the acts of its employees. Neither party is at any time authorized to act on behalf of the other party, nor to contract or otherwise create a responsibility, liability or obligation for the other party.

Nothing contained in this Agreement shall constitute or be construed to be or to create a partnership or joint venture between UniMed and the TDU with respect to the kidney dialysis unit or any equity interest in the kidney dialysis unit. The relationship of UniMed and the TDU shall in no way entitle the respective parties to an interest in the other entity. UniMed shall not, by entering into this Agreement become liable for any of the existing or future obligations, liabilities, or debts of the TDU, and UniMed by providing the services to the TDU as contemplated by this Agreement shall not assume or become liable for any of the obligations, debts or liabilities of the kidney dialysis unit.

The TDU shall be liable to UniMed in connection with any damage or loss sustained by UniMed by reason of the dishonesty, misconduct, or negligence of TDU's employees in the operation of the kidney dialysis unit during the term of this Agreement.

Each party agrees that it shall remain in effect a comprehensive general liability coverage in an amount not less than One Million Dollars (\$1,000,000) per person, per occurrence, and Three Million Dollars (\$3,000,000) aggregate per occurrence limit. Appropriate certificates of insurance shall be furnished by each party to the other party.

Each party agrees to hold the other harmless from any liability or claim, including the cost of defending the same, which may arise by virtue of the acts or omissions of any employee of a party of this Agreement.

8. Government Access to Books, Documents and Records: To the extent that Section 952 of the United States Government's Omnibus Reconciliation Act of 1980 [the "Act"], and all amendments to the Act, or regulations promulgated under the Act are applicable to this Agreement, each party agrees that until the expiration of four years after the furnishing of services under this Agreement is shall, upon written request, make available to the Comptroller General of the United States, the Secretary of the Department of Health and Human Services and their duly authorized representatives, this Agreement and such books, documents and records of these parties or of any related corporation that are necessary to certify the nature and extent of the cost under this Agreement or under any subcontract based upon the services contracted for under this Agreement. The provision shall apply only if the parties are subject to the laws of the United States and only if the value or cost of this Agreement and supplements to it equal the sum of Ten Thousand Dollars, (\$10,000) or more in any twelve month period. The availability of the parties books, documents or records shall be subject at all times to such reasonable criteria and procedures for seeking and obtaining accesses may be promulgated by

regulations and other applicable laws. The Comptroller General or the Secretary must furnish a written request which gives a reasonable basis for seeking access to such books, documents and records. A disclosure by either party, or by a related party under this paragraph shall not be construed as a waiver of any legal rights to which the parties may be entitled under existing or future laws or regulations.

9. Term: This Agreement shall be effective as of the date set forth above and shall continue for a period of one (1) year, through December 2, 1998, and shall automatically extend from year to year thereafter unless either party provides written notice of the desire to terminate as provided for herein. Either party to this Agreement may terminate the terms and conditions hereof at any time by giving notice in writing, mailed by certified mail, to the other party at least (90) days prior to the specified date of termination.

Upon termination of this Agreement, either by the expiration of the term, or by written notice of termination, all equipment, policy manuals, and other property of every kind whatsoever belonging to UniMed shall be entitled to be removed by UniMed. Any and all equipment, policy manuals or other property owned by the TDU shall be retained by the TDU.

DATE: 12-3-97

ST. JOSEPH'S HOSPITAL D/B/A UNIMED
MEDICAL CENTER

BY: Sister Lona Thorson

Sister Lona Thorson

ITS: Interim CEO/President

DATE: 12-5-97

TRIBAL DIALYSIS UNIT OF THE
THREE AFFILIATED TRIBES

BY: Russell D. Mason, Sr.

Russell D. Mason, Sr.

ITS: Tribal Chairperson

AFFILIATED TRIBES DIALYSIS UNIT. (A true and correct copy of which is attached and incorporated herein).

BE IT FURTHER RESOLVED, The Tribal Business Council of the Three Affiliated Tribes hereby authorizes the Chairman, Russell D. Mason; and, the Programs Manager/Health Coordinator, Edward Lone Fight, to execute the Affiliation Agreement on behalf of the Three Affiliated Tribes, Tribal Dialysis Unit.

CERTIFICATION

I, the undersigned, as Secretary of the Tribal Business Council of the Three Affiliated Tribes of the Fort Berthold Reservation, hereby certify that the Tribal Business Council is composed of 7 members of whom 5 constitute a quorum, 7 were present at a Special Meeting thereof duly called, noticed, convened, and held on the 8th day of December, 1997; that the foregoing Resolution was duly adopted at such Meeting by the affirmative vote of 4 members, 2 members opposed, 1 members abstained, 0 members not voting, and that said Resolution has not been rescinded or amended in any way.

Dated this 8th day of December, 1997.

Daylon Spotted Bear
Secretary, Tribal Business Council

ATTEST:


Chairman, Tribal Business Council