

TITLE XIII
CHOCTAW HEALTH CODE

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CHAPTER 1. EMERGENCY HEALTH POWERS CODE

§13-1-1 Citation and Authority

This Chapter may be cited as the Emergency Health Powers Code and is enacted pursuant to Article VIII, Section 1, Subsections (k), (m), (p), and (q) of the Revised Constitution and Bylaws of the Tribe. This Chapter is necessary to protect the health, safety and wellbeing of all persons who reside on the Choctaw Indian Reservation.

§ 13-1-2 Purpose

The purposes of this Chapter are:

- (1) To grant the authority to provide care, treatment, and vaccination to persons who are ill or who have been exposed to Infectious and/or Communicable Diseases, and to separate affected individuals from the population at large to interrupt disease transmission;
- (2) To ensure that the needs of infected or exposed persons are properly addressed to the fullest extent possible, given the primary goal of controlling serious health threats; and
- (3) To provide the Tribe with the ability to prevent, detect, manage, and contain emergency health threats.

§13-1-3 Jurisdiction

- (1) The Tribal Court shall exercise civil jurisdiction to carry out the purposes of this Chapter. The Tribal Court may issue an ex parte order for involuntary Isolation or Quarantine in accordance with this Chapter to interrupt disease transmission on the Choctaw Indian Reservation when:
 - (a) the respondent resides on the Choctaw Indian Reservation;
 - (b) the respondent is eligible to receive healthcare services at the Choctaw Health Center; or
 - (c) the Court otherwise has personal, subject matter, and territorial jurisdiction over the respondent pursuant to Title I, Chapter 2 of the Choctaw Tribal Code and subject to any federal laws restricting civil jurisdiction.
- (2) The Chief Medical Officer shall exercise the enumerated authority set forth in this Chapter to carry out the purposes of this Chapter on the Choctaw Indian Reservation.

§13-1-4 Definitions

Where a term is not defined in this Chapter, it shall be given its ordinary meaning. Terms used in this Chapter, and in any applicable regulations, shall have the following meaning, except where otherwise defined within this Chapter or where the context clearly indicates otherwise:

- (1) “Chief Medical Officer” means the Chief Medical Officer of the Choctaw Health Center.
- (2) “Choctaw Indian Reservation” means Mississippi Choctaw Reservation Trust Lands as defined by Section 1(a)(1) of Act of June 29, 2000, Pub. L. 106-228, 114 Stat. 462.
- (3) “Community Members” means all persons residing, working, or visiting on the Choctaw Indian Reservation.
- (4) “Communicable Disease” means an illness caused by an infectious agent or its toxins that occurs through the direct or indirect transmission of the infectious agent or its products from an infected individual via an animal, vector, or the inanimate environment to a susceptible animal or human host.
- (5) “Health Care Provider” means any person or entity who provides health care services to members of the Tribe and others, including, but not limited to, behavioral health providers, hospitals, medical clinics and offices, special care facilities, long term care facilities, dialysis centers, public health services personnel, physicians, pharmacists, dentists, physician assistants, nurse practitioners, paramedics, emergency medical services personnel, veterinarians, and wildlife biologists.
- (6) “Infectious Disease” means illnesses caused by germs (such as bacteria, viruses, or fungi) that enter the body, multiply, and can cause infection. Infectious diseases may be categorized as:
 - (a) contagious, or communicable, which is spread from one person to another;
 - (b) spread by germs carried in air, water, food, or soil, or spread by vectors (such as biting insects) or by animals;
 - (c) emerging which means infections that have increased recently or are threatening to increase in the near future, such as a completely new infection; an infection reappearing in an area; or old infections that have become resistant to antibiotics;
 - (d) zoonotic, which are infectious disease of animals that are spread to humans by ticks, mosquitoes, or fleas or contact with animals (such as diseases spread by ticks (such as Lyme disease), mosquitoes (such as West Nile virus), by mammals (such as rabies)).

- (7) “Isolation” means the physical separation and confinement of individuals, groups of individuals, or animals who are infected or reasonably believed to be infected with an Infectious and/or Communicable Disease from non-Isolated individuals, to prevent or limit the transmission of the disease to non-Isolated individuals or animals.
- (8) “Isolation or Quarantine Authority” means the authority to issue an order to limit the freedom of movement or action of individuals, groups of individuals, or animals which have been exposed to or are reasonably suspected of having been exposed to an Infectious and/or Communicable Disease for a period of time as may be necessary to prevent the spread of that disease. Isolation or Quarantine Authority also means the authority to issue an order to limit access by any individual or animal to an area or facility that may be contaminated with an infectious agent. The term also means the authority to issue an order to limit the freedom of movement or action of persons who have not received immunizations against an Infectious and/or Communicable Disease when the Chief Medical Officer determines that immunizations for individuals who have not been immunized are required to control an outbreak of that disease.
- (9) “Protected Health Information” is any information, whether oral, written, electronic, visual, or any other form, that relates to an individual’s past, present or future physical or mental health status, condition, treatment, service, products purchased or provision of care, and that reveals the identity of the individual whose health care is the subject of the information, or where there is a reasonable basis to believe such information could be utilized to reveal the identity of that individual.
- (10) “Public Health Emergency” is an occurrence or imminent threat of an illness or health condition that:
- (a) is believed to be caused by an Infectious and/or Communicable Disease; and
 - (b) poses a high probability of any of the following:
 - (i) widespread illness or a large number of deaths or serious or long-term disability among humans; or
 - (ii) a high probability of widespread exposure to a biological or chemical agent that creates a significant risk of substantial future harm to a large number of people.
- (11) “Quarantine” is the physical separation and confinement of an individual, groups of individuals, or animals who are or may have been exposed to an Infectious and/or Communicable Disease and who do not show signs or symptoms of an Infectious and/or Communicable Disease, from non-Quarantined individuals or animals, to prevent or limit transmission of the disease to non-Quarantined individuals or animals.

- (12) “Temporary Reporting Order” means an order requiring Health Care Providers to report cases or suspected cases of Infectious and/or Communicable Diseases as defined in this Chapter.
- (13) “Tribe” means the Mississippi Band of Choctaw Indians, a federally-recognized Indian tribe.

§13-1-5 Declaration of State of Public Health Emergency

A State of Public Health Emergency may be declared by the Tribal Chief after consultation with the Chief Medical Officer and any other public health agency or expert as needed. During a State of Public Health Emergency, the Tribal Chief may exercise all powers and authority set forth in Sections VI(3) through VI(8) of Ordinance 50-A. A Public Health State of Emergency shall expire thirty (30) days from the date of issuance, but may be extended in thirty (30) day increments as needed.

§13-1-6 Chief Medical Officer’s Authority

- (1) The Chief Medical Officer is empowered to:
 - (a) receive reports of any events that may indicate the existence of a case or outbreak of an illness, condition, or health hazard that may have been caused by biological or chemical agents;
 - (b) investigate or collaborate with tribal, state, federal, or local health officials to investigate known, discovered or suspected Infectious and/or Communicable Diseases;
 - (c) issue a Temporary Reporting Order requiring Health Care Providers to report symptoms, diseases, conditions, trends in use of health care services, or other health-related information when necessary to conduct a public health investigation or surveillance of an illness, condition, or health hazard that may have been caused by biological or chemical agents. The Temporary Reporting Order shall specify which Health Care Providers must report, what information is to be reported, and the period of time for which reporting is required;
 - (d) examine, review, and obtain a copy of records containing Protected Health Information, or a summary of pertinent portions of those records, that pertain to a report authorized by or required in this Chapter;
 - (e) exercise Isolation or Quarantine Authority on the Choctaw Indian Reservation under the following conditions:
 - (i) only when and so long as the public health is endangered;
 - (ii) all other reasonable means for correcting the problem have been exhausted; and

- (iii) no less restrictive alternative exists;
 - (f) inform Community Members how to protect themselves during a Public Health Emergency and what actions are being taken to control the emergency. The Chief Medical Officer shall provide information by all available and reasonable means calculated to bring the information promptly to the attention of Community Members; and
 - (g) notify the Tribe's law enforcement officers so that they may enforce orders given to effectuate the purposes of this Chapter, particularly when individuals fail to abide by such orders.
- (2) The Chief Medical Officer may delegate his or her authority under this Section to one or more Health Care Providers within the Choctaw Health Center. Such delegation must be in writing.

§13-1-7 Access to Health Information

- (1) Notwithstanding any other provision of law, a Health Care Provider, a person in charge of a health care facility, or a government agency may report to the Chief Medical Officer any events that may indicate the existence of a case or outbreak of an illness due to a Communicable and/or Infectious Disease, condition, or health hazard that may have been caused by biological or chemical agents. Events that may be reported include unusual types or numbers of symptoms or illnesses presented to the Choctaw Health Center, unusual trends in health care visits, or unusual trends in prescriptions or purchases of over-the-counter pharmaceuticals.
- (2) Notwithstanding any other provision of law, a Health Care Provider, a person in charge of a health care facility, or a unit of government shall report to the Chief Medical Officer when a Temporary Reporting Order is in effect.
- (3) A person who makes a report pursuant to this Chapter or permits examination, review, or copying of medical records is immune from any civil or criminal liability that otherwise might be incurred or imposed as a result of complying with those Subsections.

§13-1-8 Confidential Information

- (1) All Protected Health Information, whether publicly or privately maintained, that identifies a person who has or may have a disease or condition required to be reported as an Infectious and/or Communicable Disease shall be strictly confidential. This information shall not be released or made public except under the following circumstances:
 - (a) Release is made of all or part of the medical record with the written consent of the person or persons identified or their guardian.

- (b) Release is made to a Health Care Provider providing medical care to the patient;
 - (c) Release is necessary to protect the public health;
 - (d) Release is made pursuant to subpoena or court order. Upon request of the person identified in the record, the record shall be reviewed in camera. In the hearing, the judge may, during the taking of testimony concerning such information, exclude from the courtroom all persons except the officers of the court, the parties and those engaged in the trial of the case;
 - (e) Release is made by the Choctaw Health Center, Health Care Provider, or health care facility, to another tribal, federal, state or local public health agency for the purpose of preventing or controlling the spread of an Infectious and/or Communicable Disease;
 - (f) Release is made by the Choctaw Health Center, Health Care Provider, or health care facility, to a judicial or a law enforcement officer of the Tribe for the purpose of enforcing this Chapter. A judicial or law enforcement official of the Tribe who receives the information shall not disclose it further, except:
 - (i) when necessary to enforce this Chapter; or
 - (ii) when the Choctaw Health Center, Health Care Provider, or health care facility, seeks the assistance of the judicial or law enforcement officers of the Tribe in preventing or controlling the spread of an Infectious and/or Communicable Disease and expressly authorizes the disclosure as necessary for that purpose; or
 - (g) Any other allowable disclosure made pursuant to Health Insurance Portability and Accountability Act of August 21, 1996, Pub. L. 104-191, 110 Stat. 1936.
- (2) Protected Health Information received by the Chief Medical Officer pursuant to this Chapter shall be confidential and shall not be released, except when the release is:
- (a) made to another tribal, federal, state, or local public health agency for the purpose of preventing or controlling a public health threat;
 - (b) made to a judicial or law enforcement officer of the Tribe for the purpose of enforcing the provisions of this Chapter or for the purpose of investigating a incident, biological, or chemical agents;
 - (c) made to law enforcement services dispatch to identify residential addresses connected to Infectious and/or Communicable Diseases for the sole purpose of response by fire, ambulance, police, other emergency

responders, or public works personnel who are dispatched to that address; or

- (d) made pursuant to any other provision of law.
- (3) A judicial or law enforcement officer or dispatch employee of the Tribe who receives Protected Health Information shall not disclose it further, except:
- (a) when necessary to conduct an investigation of a terrorist incident using biological, or chemical agents; or
 - (b) when the Chief Medical Officer seeks the assistance of a judicial or law enforcement officer of the Tribe in preventing or controlling the public health threat and expressly authorizes the disclosure as necessary for that purpose.

§13-1-9 Voluntary Isolation or Quarantine

- (1) During the Public Health Emergency, the Chief Medical Officer may order an individual or group of individuals in writing to voluntarily Isolate or Quarantine. The Chief Medical Officer or his designee may issue a Voluntary Isolation Order or a Voluntary Quarantine Order, as needed. Said Orders shall be personally served on any person subject to the Orders. The Chief Medical Officer may also establish and maintain places of Isolation or Quarantine, set rules and make orders subject to Section 13-1-11 of this Chapter.
- (2) The Chief Medical Officer may authorize Health Care Providers or others access to individuals in Isolation or Quarantine as necessary to meet the needs of Isolated or Quarantined individuals. No person, other than a person authorized by the Chief Medical Officer, shall enter Isolation or Quarantine premises. Any person entering an Isolation or Quarantine premises with or without authorization may also be ordered to voluntarily Isolate or Quarantine by the Chief Medical Officer.
- (3) Persons subject to voluntary Isolation or Quarantine for the protection of the public health shall obey the Chief Medical Officer's rules and orders and shall not go beyond the Isolation or Quarantine premises.

§13-1-10 Conditions and Principles

The Chief Medical Officer shall adhere to the following conditions and principles ordering individuals or groups of individuals to Isolate or Quarantine:

- (1) Isolation or Quarantine must be by the least restrictive means necessary to prevent the spread of an Infectious and/or Communicable Disease to others and may include, but is not limited to, confinement to private homes or other private and public premises.
- (2) Isolated individuals must be confined separately from Quarantined individuals.

- (3) The health status of Isolated or Quarantined individuals must be monitored regularly to determine if they require continued Isolation or Quarantine.
- (4) If a Quarantined individual subsequently becomes infected or is reasonably believed to have become infected with an Infectious and/or Communicable Disease he or she must promptly be removed to Isolation.
- (5) Isolated or Quarantined individuals must be released when they pose no substantial risk of transmitting an Infectious and/or Communicable Disease to others.
- (6) The needs of persons Isolated or Quarantined shall be addressed in a systematic and competent fashion, including but not limited to, providing adequate food, clothing, shelter, means of communication with those in isolation or quarantine and outside these settings, medication, and competent medical care.
- (7) Premises used for Isolation or Quarantine shall be maintained in a safe and hygienic manner and be designed to minimize the likelihood of further transmission of infection or other harm to persons Isolated or Quarantined.

§13-1-11 Involuntary Isolation or Quarantine

- (1) The Chief Medical Officer may petition the Tribal Court for an order requiring an individual to comply with the Chief Medical Officer's order to Isolate or Quarantine in accordance with this Chapter.
 - (a) Prior to seeking an ex parte order for involuntary Isolation or Quarantine, the Chief Medical Officer shall have:
 - (i) made reasonable efforts, which shall be documented, to obtain voluntary compliance with requests for medical examination, testing, treatment, counseling, vaccination, decontamination, Isolation, or Quarantine; or
 - (ii) determined in his or her professional judgment that seeking voluntary compliance would create a risk of serious harm.
- (2) The Tribal Court may issue ex parte orders requiring an individual to comply with the Chief Medical Officer's order to Isolate or Quarantine. The Tribal Court may also issue ex parte orders requiring law enforcement officers of the Tribe to transport the respondent to a designated facility for Isolation, Quarantine, treatment and care until such time as the Chief Medical Officer determines that the individual's condition is such that it is safe for the individual to be discharged from the facility or issue other relief as necessary to protect the public health.
- (3) A hearing on the ex parte order for involuntary Isolation or Quarantine shall be conducted in the Tribal Court within seventy-two (72) hours of issuance. Within the discretion of the Tribal Court, the Tribal Court may require the 72-hour

hearing and any subsequent hearings to be conducted by video conference in accordance with applicable court rules or procedures.

- (a) The Chief Medical Officer shall have the burden of proving the allegations set forth in the petition by a preponderance of the evidence. The respondent shall have the right to an attorney at any hearing held on the petition, cross-examine witnesses, and present evidence.
- (b) At the conclusion of the 72-hour hearing, the Tribal Court shall consider the evidence, the action taken by the Chief Medical Officer to secure voluntary compliance by the respondent, and the purpose and intent of this Chapter, and may take one of the following actions:
 - (i) If the Tribal Court finds there is reason to believe that the respondent has been exposed to an Infectious and/or Communicable Disease, the Court may enter an order requiring that the person be subjected to further examination, testing, and treatment as specified in the Tribal Court's order. If the Tribal Court finds that further involuntary Isolation or Quarantine of the respondent is necessary in order to assure that the examination, testing, and treatment occurs, or to protect the public health the Tribal Court may order that the respondent be involuntarily Isolated or Quarantined for an additional period not to exceed forty-five (45) days.

The results of testing conducted under this Chapter shall be provided to the Tribal Court and the respondent or his or her legal counsel as soon as they are available to the Chief Medical Officer. The Tribal Court may then conduct an additional hearing to determine whether the respondent is a confirmed case of an Infectious and/or Communicable Disease and, if so, whether further measures are necessary to protect the public health pursuant to (ii) or (iii) of this Subsection.

- (ii) If the Tribal Court finds that the respondent is a confirmed case of an Infectious and/or Communicable Disease, that further measures less restrictive than involuntary Isolation or Quarantine are necessary to assure that appropriate treatment is implemented and that imposition of less restrictive measures will be sufficient to protect the public health, the Court may enter an order setting forth such measures and ordering the respondent to comply with the measures.
- (iii) If the Tribal Court finds that the respondent is a confirmed case of an Infectious and/or Communicable Disease, that further involuntary Isolation or Quarantine of the respondent is necessary to protect the public health, and that imposition of less restrictive measures will not be sufficient to protect the public health, the Court may order that the respondent be involuntarily

Isolated, Quarantined, and treated for an additional period not to exceed forty-five (45) days.

- (iv) If the Tribal Court finds that there is insufficient evidence to support the petition for involuntary Isolation or Quarantine, then the Court shall immediately release the respondent from involuntary Isolation or Quarantine.
- (c) An individual subject to involuntary Isolation or Quarantine under this Section may be released prior to expiration of the involuntary Isolation or Quarantine if the Chief Medical Officer or the Tribal Court finds that less restrictive measures are sufficient to protect the public health. The Tribal Court may impose such conditions on the release of the person as the Tribal Court finds necessary to protect the public health. A person Isolated or Quarantined under this Chapter may also petition the Tribal Court for release based upon new evidence or a change in circumstances.
- (d) The Tribal Court may extend a period of involuntary Isolation or Quarantine for additional periods not to exceed one hundred-eighty (180) days each following a hearing, if the Tribal Court finds that the requirements of this Subsection have been met and if the Tribal Court finds that further Isolation or Quarantine is necessary to assure that appropriate treatment is implemented, and that imposition of less restrictive measures are not sufficient to protect the public health. As an alternative to extending the period of Isolation or Quarantine, if the Tribal Court finds after hearing that further measures less restrictive than Isolation or Quarantine are necessary to assure that appropriate treatment is continued, and that imposition of less restrictive measures will be sufficient to protect the public health, the court may enter an order setting forth the measures and ordering the respondent to comply.
- (e) In the event that a person has been released from involuntary Isolation or Quarantine prior to completion of the prescribed course of treatment and fails to comply with the prescribed course of treatment, the Tribal Court may order the person involuntarily Isolated or Quarantined for an additional period or periods, not to exceed one hundred-eighty (180) days each, as the Tribal Court finds necessary to protect the public health. Tribal Court orders entered under this Subsection shall be entered only after a hearing at which the respondent is accorded the same rights as at the 72-hour hearing on the petition for involuntary Isolation or Quarantine.
- (f) When a Tribal Court order for Isolation or Quarantine is issued, the transporting law enforcement officer and the receiving facility shall be informed of the infectious status of the person for disease control and the protection of the health of the staff, other offenders and the public. Such information shall be made available prior to the transport.
 - (i) Whenever disclosure is made pursuant to this Subsection, it shall be accompanied by a statement in writing which includes the

following or substantially similar language: "This information has been disclosed to you from records whose confidentiality is protected by tribal and federal law. Tribal and federal law prohibits you from making any further disclosure of it except as authorized by tribal and federal law."

- (ii) Law enforcement officers of the Tribe shall maintain confidentiality related to the detained person's medical information as defined in this Chapter and federal law.
- (4) A copy of the ex parte order for involuntary Isolation or Quarantine shall be served on the individual as soon as possible after issuance. If the person informs the Chief Medical Officer that he or she is represented by legal counsel, service on such counsel shall be made by delivering a copy of the order to the attorney's office.

§13-1-12 Refusal to Obey Order for Involuntary Isolation or Quarantine

Any person who, after service upon him or her, violates or fails to comply with the terms of an order for involuntary Isolation or Quarantine issued by the Tribal Court pursuant to Section 13-1-11 of this Chapter, is guilty of a Class A criminal offense as set forth in Title III of the Choctaw Tribal Code and, upon conviction thereof, in addition to any and all other penalties which may be imposed by law upon such conviction, may be ordered by the Tribal Court detained until such order shall have been fully complied with or terminated by the Chief Medical Officer, but not exceeding six months from the date of passing judgment upon such conviction.

§13-1-13 Immunity from Civil or Criminal Liability

Choctaw Health Center officials, hospital or clinic employees, or other relevant tribal government employees, programs, departments, or entities shall be immune from civil or criminal liability in the performance of the duties outlined in this Chapter, as well as those duties required under tribal, state, or federal laws or regulations.

§13-1-14 Remedies Outside of this Chapter

- (1) Nothing in this Chapter precludes a judicial or law enforcement officer of the Tribe from filing criminal charges arising from the same act alleged under this Chapter.
- (2) A petition for involuntary Isolation or Quarantine under this Chapter may be made regardless of whether or not there is a similar pending action by another jurisdiction.

§13-1-15 Severability

If any paragraph, section, or provision of this Chapter shall be declared invalid by a court of competent jurisdiction for any reason, that paragraph, section, or provision shall be severed from the remainder of this Chapter and the validity of the remainder of this Chapter shall not be affected by such decision.

§13-1-16 Effective Date

This Chapter shall take effect after its adoption by the Tribe in a duly enacted ordinance.