

**POKAGON BAND OF POTAWATOMI INDIANS  
HEALTH CARE ADVISORY BOARD ACT**

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**CHAPTER 1**  
**TITLE AND AUTHORITY**

**Section 1.01 Title**

This Act shall be known and may be cited as the "Health Care Advisory Board Act."

**Section 1.02 Authority**

The Tribal Council enacts this Act pursuant to the legislative powers of the Tribal Council as enumerated in Article IX, subsections 2(a), (i), and (k) of the Constitution; and the duties of the Tribal Council stated in Article IX, subsections 1(a), (c), (d) and (h) of the Constitution.

**Section 1.03 Purpose**

The purpose of this Act is to:

- (a) establish the Board to:
  - (1) advise and make recommendations to the Director regarding issues and objectives of the Department;
  - (2) review, advise, and approve operational policies and procedures of the Department; and
  - (3) advise and make recommendations to the Director regarding operational concerns of the Department.
  
- (b) vest the Board with the powers, rights and obligations stated in this Act.

**Section 1.04 Construction**

This Act, to the extent reasonable, shall be read and interpreted in a manner consistent with the Constitution; provided in the event of any inconsistency, the Constitution shall control.

- (a) To the extent this Act conflicts with any provision of Band law, or the Committee Procedures Handbook, the provisions of this Act shall control.
- (b) This Act shall be liberally construed to accomplish its purpose as set forth in Section 1.03 of this Act.

**Section 1.05 Severability**

If any provision of this Act, or the application thereof to any person or circumstance, shall, for any reason, be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this Act, which shall continue in full force and effect.

### **Section 1.06 Immunity**

The Board is an instrumentality of the Band government and shall be vested with all the rights, privileges, and immunities of the Band, including but not limited to the sovereign immunity of the Band from suit absent express consent from the Tribal Council. Board members shall be deemed officers of the Band government and shall be immune from suit when acting in their official capacity to the fullest extent permitted by law with respect to officers of the Band.

### **Section 1.07 Definitions**

As used in this Act:

- (a) "Act" means this Health Care Advisory Board Act.
- (b) "Band" means the Pokagon Band of Potawatomi Indians, a sovereign federally recognized Indian tribe.
- (c) "Board" means the Health Care Advisory Board.
- (d) "Citizen" means a duly enrolled member of the Band.
- (e) "Committee Procedures Handbook" means the Committee Procedures Handbook of the Band.
- (f) "Constitution" means the Constitution of the Band.
- (g) "Department" means the Department of Health Services of the Band and includes all of the divisions, services, or programs therein including, but not limited to:
  - (1) Behavioral Health,
  - (2) Clinic,
  - (3) Dental,
  - (4) Pharmacy,
  - (5) Purchase / Referred Care,
  - (6) Optical,
  - (7) Traditional Healing,
  - (8) Transportation,
  - (9) Wellness, and
  - (10) Community Outreach.

- (h) "Director" means the Director of the Department.
- (i) "Ethics Code" means the Code of Ethics of the Band.
- (j) "Government Manager" means the Government Manager of the Band.
- (k) "HIPPA" means the Health Insurance Portability and Accountability Act as amended.
- (l) "Non-Citizen" means any person who is not a Citizen.
- (m) "Tribal Council" means the governing body of the Band established pursuant to Article X of the Constitution.
- (n) "Tribal Council Procedures Act" means the Tribal Council Procedures Act of the Band.

## **CHAPTER 2**

### **BOARD**

#### **Section 2.01 Establishment**

(a) The Tribal Council hereby establishes the Board, which shall be composed of seven persons, appointed by the Tribal Council.

(b) Consistent with Article X, subsection 5(c)(iv) of the Constitution, the Tribal Council Chairperson, or a Tribal Council member designated by the Tribal Council Chairperson, shall also serve as an ex-officio, non-voting member of the Board, and the Chairperson's presence shall not be counted in determining whether a quorum exists.

#### **Section 2.02 Eligibility**

(a) In order to be eligible to serve on the Board pursuant to Section 2.01(a), a person shall:

- (1) be at least twenty-five years of age;
- (2) not be an employee of the Department;
- (3) not be a member of the Tribal Council; and
- (4) possess knowledge of Band history and culture, or a willingness to acquire such knowledge.

(b) A person, whether a Citizen or Non-Citizen, who otherwise meets the eligibility requirements for service on the Board, may be appointed to the Board; provided, however, that the Tribal Council shall endeavor to ensure that of the seven seats on the Board, a minimum of two seats are filled by Citizens.

### **Section 2.03 Additional Eligibility Requirements**

The Tribal Council desires the Board to be comprised of persons whose experience, knowledge, skills, and education are generally reflective of the services within the Department. Therefore, in addition to the eligibility requirements set forth in Section 2.02(a) above, of the seven seats on the Board:

(a) One seat shall be held by a person who possesses: (1) a Doctor of Medicine or a Doctor of Osteopathic Medicine, and (2) a minimum of five years of management or supervisory experience in health care or health care administration;

(b) One seat shall be held by a person who possesses: (1) a Doctor of Dental Surgery, a Doctor of Medicine in Dentistry, or a Doctor of Dental Medicine, and (2) a minimum of five years of management or supervisory experience in dentistry or dental administration;

(c) One seat shall be held by a person who possesses: (1) a minimum of a Master's Degree in public health, health care administration, or health care management and (2) a minimum of five years of management or supervisory experience in health care, health care administration, or public health;

(d) One seat shall be held by a person who possesses: (1) a minimum of a Master's Degree in behavioral health, and (2) a minimum of five years of management or supervisory experience in behavioral health care or behavioral health administration;

(e) One seat shall be held by a person who possesses: (1) a minimum of a Master's Degree in a health care related field, and (2) a minimum of five years of experience of teaching health care or health care administration, or a minimum of five years of management or supervisory experience in health care education;

(f) One seat shall be held by a person who possesses either of the following: (1) (i) a Master's Degree in accounting, finance, public administration, business administration, or nursing, and (ii) a minimum of five years of management or supervisory experience in public administration, business administration, health care administration, health care, or public health; or (2) (i) a Bachelor's Degree in accounting, finance, public administration, business administration, or nursing, and (ii) a minimum of ten years of management or supervisory experience in public administration, business administration, health care administration, health care, or public health; and

(g) One seat shall be held by a person who possesses: (1) a minimum of a Bachelor's Degree in accounting, finance, public administration, business administration, or nursing and (2) a minimum of five years of management or supervisory experience in public administration, business administration, health care, health care administration, or public health.

#### **Section 2.04 Alternate Members**

There shall be no alternate members of the Board.

#### **Section 2.05 Board Officers**

(a) The Board shall elect a Chairperson, Secretary, and Treasurer from among the Board members; provided that no Board member shall simultaneously hold more than one officer position.

(b) The term of each Board officer position shall coincide with such person's term of appointment to the Board.

(c) The Board officers shall perform the duties as set forth in the Committee Procedures Handbook.

#### **Section 2.06 Term of Appointment**

(a) The term of the Board members identified in subsections 2.01(a) of this Act shall be three years, provided the initial terms of initial appointments shall be staggered pursuant to the requirements of the Tribal Council Procedures Act.

(b) The term of the Board member identified in subsection 2.01(b) shall be coterminous with his or her term of office.

(c) There shall be no limit on the number of terms that may be served on the Board, consecutively or otherwise.

(d) Appointment to the Board shall not confer any right enforceable against the Band or create any contract between the Board member and the Band.

#### **Section 2.07 Resignation**

(a) A Board member serving on the Board pursuant to subsection 2.01(a) of this Act may resign from the Board by submitting a signed and dated letter of resignation to the Board Chairperson or Board Secretary. The resignation shall be effective as of the date tendered unless provided otherwise in the resignation letter. The Board shall forward a copy of the resignation letter to the Tribal Council Chairperson.

(b) The Tribal Council Chairperson or the Chairperson's designee serving on the Board, may resign by submitting a signed and dated letter of resignation to the Tribal Council Chairman or the Tribal Council Secretary, which resignation shall be effective as the date tendered unless provided otherwise in the resignation letter. A copy of the resignation letter shall be provided to the Board Secretary.

## **Section 2.08 Removal**

Notwithstanding any other provision of Band law and the Committee Procedures Handbook, all Board members shall serve at the pleasure of the Tribal Council and may be removed by the Tribal Council with or without cause or notice.

## **Section 2.09 Vacancy**

(a) Upon a vacancy in the Board position identified in subsections 2.01(a) of this Act, the Tribal Council shall fill any such vacancy pursuant to the requirements of this Act and the Tribal Council Procedures Act.

(b) Upon a vacancy in the Board position identified in subsection 2.01(b) of this Act, the Tribal Council Chairperson shall endeavor to fill the vacancy as soon as practicable.

## **Section 2.10 Compensation**

Board members may be compensated for service to the Board at rates established by the Tribal Council.

# **CHAPTER 3 DUTIES AND STANDARDS**

## **Section 3.01 Duties of Board**

Subject to the provisions of this Act, and in addition to all other requirements under Band law and the Committee Procedures Handbook, the Board shall:

(a) Provide advice and recommendations to the Director regarding:

- (1) Strategic issues relating to the provision of services by the Department; and
- (2) Short-term and long-term objectives of the Department.

(b) Review, advise, and approve operational policies and procedures of the Department.

(c) Provide advice and recommendations to the Director regarding operational concerns of the Department.

(d) Develop and submit to the Tribal Council, a work plan and reports, in accordance with the Committee Procedures Handbook.

(e) Perform such other duties as may be assigned to the Board by resolution of the Tribal Council.

### **Section 3.02 Authority of Board**

(a) All rights, powers, or privileges not expressly delegated to the Board pursuant to this Act shall be reserved to and held by the Tribal Council.

(b) The authority of the Board shall be limited to carrying out the duties stated in Section 3.01 of this Act, which shall include:

- (1) accessing, possessing and copying relevant documents and records;
- (2) obtaining assistance from the Director as needed to assist the Board in carrying out its duties; and
- (3) obtaining assistance from Band employees in accordance with the Committee Procedures Handbook.

(c) Notwithstanding any other provision of this Act, the Board shall have no authority to:

- (1) enter into any contract;
- (2) expend or commit any funds with respect to any matter;
- (3) exercise any regulatory or legislative power of the Tribal Council;
- (4) take any action in regard to any employment related matter; or
- (5) supervise any employee.

### **Section 3.03 Initiation of Board Duties**

Only the following shall have the authority to initiate the Board's fulfillment of the duties under Section 3.01 of this Act:

- (a) The Tribal Council,
- (b) The Government Manager, or
- (c) The Director.

### **Section 3.04 Confidentiality**

No Board member shall use or disclose, for any purpose other than the performance of the Board member's official duties relating to the Board, any confidential information obtained in connection with participating on the Board.

### **Section 3.05 Performance of Duties**

In the performance of the Board member duties, all Board members shall comply with applicable law and policy, including but not limited to, this Act, the Ethics Code, HIPAA, and the Committee Procedures Handbook.

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### **LEGISLATIVE HISTORY**

The Health Care Advisory Board Act, enacted May 23, 2016 by Tribal Council Resolution 16-05-23-01; provided, that as provided in the enacting resolution the Health Care Advisory Board Act shall be effective October 1, 2016.