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THE DISTRICT COURT

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SAC AND FOX NATION

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SAC AND FOX NATION RESOLUTION SF-08-154
CHARLOTTE CARTWRIGHT, COURT CLERK

FILED

BY: _____ SAC AND FOX NATION
REGULAR BUSINESS COMMITTEE MEETING
SAC AND FOX RESERVATION
STROUD, OKLAHOMA

DATE 4-16-08

SECRETARY
SAC & FOX NATION
Gwen McCormick Wilburn

MARCH 19, 2008

A RESOLUTION AUTHORIZING AND APPROVING THE BLACK HAWK HEALTH CENTER HEALTH ACT OF 2008.

WHEREAS, the Business Committee of the Sac and Fox Nation met in a Regular meeting held the 19th day of March 2008, there being a quorum present, and

WHEREAS, the Business Committee is authorized to transact business and act on behalf of the Nation pursuant to the Constitution and Laws of the Sac and Fox Nation, and

WHEREAS, it is in the best interest of the Sac and Fox Nation to approve the Black Hawk Health Center Health Act of 2008.

NOW, THEREFORE BE IT RESOLVED THAT the Business Committee of the Sac and Fox Nation hereby approves the attached Black Hawk Health Center Health Act of 2008.

NOW, THEREFORE BE IT RESOLVED THAT this Act supersedes all previous Health Acts: The Health Act of 1992 and The Health Act of 1994.

FURTHER, THEREFORE BE IT RESOLVED THAT the Principal Chief is authorized to execute the document.

CERTIFICATION

WE, George Thurman, Principal Chief, and Gwen McCormick Wilburn, Secretary of the Sac and Fox Nation, do hereby certify that Resolution SF-08-154 to be a true and exact resolution as approved by the Business Committee in a Regular meeting held at the Sac and Fox Reservation, Stroud, Oklahoma on the 19th day of March 2008, by a vote of: George Thurman-Yes, Cheryl McClellan Tofpi-Yes, Gwen McCormick Wilburn-Yes, Stella Nullake Nanaeto-Yes, Michael W. Hackbarth-Yes.

George Thurman
George Thurman, Principal Chief
Sac and Fox Nation

Gwen McCormick Wilburn
Gwen McCormick Wilburn, Secretary
Sac and Fox Nation



**SAC AND FOX NATION
HEALTH ACT
REVISED 2008**

FILED

DATE 4-16-08

SECRETARY
SAC & FOX NATION

John M. Carmick Williams

HEALTH ACT of 2008

GENERAL PROVISIONS

SECTION 101. DECLARATION OF NEED AND LEGISLATIVE FINDINGS

It is hereby declared and found:

- A. A critical need exists for the development of health care and health facilities due to chronic and substantial physical and social illness and disease within the jurisdiction of the Sac and Fox Nation which affects the tribal membership and other Native American people within the Nation's jurisdiction.
- B. A tribal originated strategy maintaining a sound development of tribal health systems within the jurisdiction of the Sac and Fox Nation, and the acquisition of land for these purposes, is essential to the prosperity, peace, health and welfare of those within the tribal jurisdiction.
- C. A critical need exists for the Sac and Fox Nation to focus its considerable energies and strengths on the development of stable health care within the jurisdiction of the Sac and Fox Nation that includes and emphasizes both the development of the Nation as health care provider, initiator, planner, and manager of tribal health systems and upon the Nation as government creating the legal infrastructure necessary to support, enhance, and encourage the creation of a healthy environment within the jurisdiction of the Sac and Fox Nation.
- D. It is vital for the Sac and Fox Nation to establish a single entity to coordinate health care activities within the tribal structure. The Business Committee may delegate specific duties working towards enhancing tribal health and developing the legal infrastructure necessary to support the contracting by the Nation of the Federal health programs within the jurisdiction of the Sac and Fox Nation while still recognizing the Federal Governments treaty and statutory responsibilities.
- E. The creation and operation of the Advisory Board serves an essential governmental function of the Sac and Fox Nation by allowing the Nation to address serious economic, social, and environmental problems associated with illness, disease and social problems within the jurisdiction of the Sac and Fox Nation, the general lack of tribal funds available to address these problems, the general lack of public information sufficient to allow tribal members to lead a healthier, safer life and the attendant impact upon the general public health, safety, and welfare.
- F. The creation and operation of the Advisory Board addresses a situation which has not, and cannot, be wholly relieved through the operation of private, state or federal entities alone. The Nation's function includes providing relief from critical illness, disease and social degeneration.
- G. That the necessity in the public interest for the provisions hereinafter enacted is hereby declared as a matter of legislative determination and authorizes the operation of the Sac and Fox Nation Health Advisory Board.

SECTION 102. PURPOSES

The Advisory Board shall be organized and operated for these purposes:

- A. Addressing the disproportionate sickness, illness and disease of tribal members and other Native American persons residing within the tribal jurisdiction;
- B. Addressing the general lack of education within the tribal jurisdiction concerning methods to improve health and the treatment of illness or disease;
- C. Recruiting of quality medical and health professionals, especially those of tribal and particularly Sac and Fox ancestry;
- D. identifying, planning, and advising the Health Services Director on tribal health programs on behalf of the Sac and Fox Nation;
- E. advising as necessary and appropriate, tribal hospitals, health clinics, dental care, public health nursing, preventive care including immunizations, and health examinations for special populations such as children and the elderly;
- F. recommending to the Sac and Fox Business Committee as to the implementation, development or regulation of health care within the jurisdiction of the Nation;
- G. providing the best possible comprehensive health care to meet the inpatient, ambulatory, home, or emergency care needs of Tribal members and other eligible Native American people residing in the jurisdictional service area of the Sac and Fox Nation;
- H. monitor and review the quality of care provided by Sac and Fox Nation health clinics and programs; and
- I. advising, as appropriate, on major contracts or agreements affecting the medical and health care provided under the auspices of the Advisory Board.

SECTION 103. DEFINITIONS

The following terms whenever used or referred to in this ordinance, shall have the following meanings, unless a different meaning clearly appears from the context:

- A. "Business Committee" means the Sac and Fox Nation Business Committee;
- B. "Advisory Board" means the Sac and Fox Nation Health Advisory Board, including its executive officers;
- C. "Director" means the Director of the Sac and Fox Nations health programs;
- D. "Comprehensive Health" means preventive, diagnostic, therapeutic, emergency health care, including dental care and optometric care provided by professional providers;
- E. "Health Care" means the comprehensive delivery system which provides health services, including but not limited to hospitals, clinics, nursing homes, long term care facilities, disease treatment centers, health maintenance organizations and ambulatory treatment centers established to provide inpatient, outpatient, emergency care and community outreach programs operated in compliance with all licensure requirements;
- F. "Contract" means any agreement expressed or implied by law for the exchange of consideration or an agreement between the Sac and Fox Nation and the federal government undertaken pursuant to statute or regulation;
- G. "Tribal Court" means the Sac and Fox Nation's District Court;
- H. "Tribal Jurisdiction" means all land located within the exterior boundaries of the Sac and Fox Indian Reservation as allotted by the Act of February 13, 1891, Ch. 165,26 Stat. 749;
- I. "Misconduct in Office" means misconduct in office as defined by Section 4(e) of the Sac and Fox Nation Grievance Committee Procedure Act of 1982, and any violation HIPPA policy;
- J. "Claim" means a claim for personal injury, death, property damage, or for recovery of property arising in tort law.

- K. "Within the Jurisdiction of the Sac and Fox Nation" or words to that effect mean (a) as to territory, all Indian Country subject to the governmental authority of the Sac and Fox Nation; (b) as to persons means (i) all Sac and Fox Nation Tribal members, and (ii) all other eligible Native American persons residing or domiciled within the Indian Country subject to the governmental authority of the Sac and Fox Nation.

SECTION 104. EFFECT ON EXISTING RIGHTS

Unless otherwise specifically stated, nothing in this Act shall be interpreted to:

- A. modify, diminish or otherwise impair the sovereign immunity from suit enjoyed by the Nation;
- B. require, permit or approve the termination of any existing trust responsibility of the United States in regards to the Sac and Fox Nation or its people.
- C. reduce the level of health services as provided to the Sac and Fox Nation by the United States.
- D. Limit citizens of this Nation from the free choice of any practitioner of the healing arts who is licensed to practice his profession in the Nation's jurisdiction, nor from the free choice of a duly acknowledged or accredited, religious practitioner of any recognized church, denomination, ceremony or religion, nor shall this Act be construed to permit one legalized profession of the healing arts to discriminate in any manner against any other profession of the healing arts recognized to practice in the Sac and Fox Nation jurisdiction.

SECTION 201. BOARD CREATED

- A. The Advisory Board shall be composed five voting members.
- B. The Health Advisory Board shall locate its official headquarters or office of the Advisory Board on Sac and Fox Nation Land within the Tribal jurisdiction.

SECTION 202. APPOINTMENT OF BOARD MEMBERS

The Board Members shall be appointed and may be reappointed by the Business Committee expressed by resolution. A resolution of the Business Committee signed by the Principal Chief, attested by the tribal Secretary as to the appointment or reappointment of any Board Members shall be conclusive evidence of the due and proper appointment of the Board Member.

SECTION 203. QUALIFICATIONS OF BOARD MEMBERS

- A. A Board Member may be a member or non-member of the Nation provided that the majority of the board shall be comprised of members of the Sac and Fox Nation. At least three (3) positions shall be filled by professionals (i.e. Lawyer, Accountant, business person, paralegal, etc.) one of whom shall be a licensed physician or surgeon.
- B. No person shall be barred from serving on the Board solely because he is an employee of a health care provider created or regulated by the Nation, has a contractual relationship with the Nation, or operates a private business within the Tribal Jurisdiction so long as such person has made an open and complete disclosure of such relationship. However, no such Board Member shall be entitled or permitted to participate in or be present at any portion of a meeting (except in his capacity as a member of the public or as an employee), or to be counted or treated as a member of the Board, concerning any matter involving his individual rights, obligations, or status.
- C. Board Members shall be at least twenty-one (21) years of age and legally capable of entering into a binding contract.
- D. a person who has been finally convicted in any court of competent jurisdiction of a felony or other crime involving embezzlement, fraud, or moral turpitude, nor any health professional that has been found liable for an act of malpractice shall serve on the Advisory Board. Any Board Member in violation of this section shall be automatically removed from the Board and, notwithstanding Section 206, shall have no appeal rights except as to the truth of the violation.

- E. Board Member shall take an oath administered by a member of the Sac and Fox Nation Business Committee, to support and defend the Constitution and laws of the Sac and Fox Nation.

SECTION 204. TERM OF OFFICE

The term of office shall be three years and staggered, and the first appointment of Board members shall be for terms of one at one year, two for two years, and two for three years for the respective members. Thereafter, all appointments shall be for three years beginning from the date following the regular expiration of the particular seat on the Board, except that in the case of a vacancy occurring prior to the expiration of a regular term, an appointment to that seat shall be only for the length of the unexpired term. Each member of the Board shall hold office until his or her successor has been appointed and has qualified.

SECTION 205. OFFICERS

- A. The Health Advisory Board shall elect from among its members a Chair, a Vice-Chair, and a Secretary. No member shall hold two offices on the Board.
- B. Officers shall serve at the pleasure of the Board. Removal of a Board Member from an office shall not be deemed to be a removal from the Advisory Board. However, removal of an officer from the Advisory Board pursuant to Section 206 of this ordinance shall constitute a removal from his or her office whether or not specifically so stated in the removal proceedings.

SECTION 206. REMOVAL OF BOARD MEMBERS

- A. Any Board Member absent from three (3) consecutive regular meetings after receiving notice thereof, whether written or otherwise, without being excused by the Board shall be considered to have automatically resigned his/her office as a Board Member. This resignation shall not have the right of appeal except only as to the issue of attendance and receipt of notice of meetings.
- B. A member of the Board may be removed by the Business Committee for serious inefficiency or neglect of duty or for misconduct in office, but only after a hearing before the Business Committee, and only after the member has been given a written notice of the specific charges against the member at least ten days prior to the hearing. At any such hearing, the member shall have the opportunity to be heard in person or in his choice by counsel and to present witnesses in his or her behalf.
- C. In the event of removal of any Board member, a record of the proceedings, together with the charges and finding thereon, shall be filed with the Office of the Secretary, and a certified copy thereof filed with the Clerk of the tribal court. Notwithstanding the defense of sovereign immunity, any person removed as a member of the Advisory Board may appeal such removal by filing, in the tribal court only, a civil action for injunctive and declaratory relief naming the Business Committee as defendant.
- D. The tribal court shall not conduct evidentiary hearings but rather review the record of the removal and any briefs filed for or against the proceedings, and if prejudicial error was committed, or if no just cause is shown therein for the removal, the tribal court may vacate the removal and declare that such person is still a member of the Board and the Business Committee shall be bound by such decision. The parties shall have the right to appeal such court findings as in other cases, and the tribal court shall not vacate the order of the Business Committee if it determines that any error found in the proceedings was harmless. In no case shall a claimant or their attorney or witnesses be awarded monetary damages, punitive or otherwise, against the Nation, its officers or employees whether in their official or individual capacity.

SECTION 207. COMPENSATION TO BE PAID

- A. Advisory Board Members shall receive a stipend for their services at a rate to be established by the Business Committee, for the attendance of regular meetings only, and reimbursement for

expenses, in conformity with general tribal procedures, including traveling expenses, when incurred in the discharge of their duties. For the purpose of this section, traveling expenses do not include local mileage to attend any Advisory Board meetings, but rather only approved travel expenses incurred for traveling to national conferences, meetings, or workshops.

- B. The Advisory Board will be required to provide documentation and receipts as required. Expenses may be advanced with the approval of the Business Committee. No member of the Advisory Board shall have their stipend reduced during their term of office, except that if funds be unavailable for appropriation, the compensation of all board members may be reduced proportionally to the availability of funds.

SECTION 208. QUORUM

Three (3) voting members of the Board shall constitute a quorum.

SECTION 209. DUTIES OF OFFICERS

- A. Chair of the Advisory Board shall preside at all meetings and shall generally be responsible for the efficient and orderly functioning of the Board.
- B. Vice-Chair of the Advisory Board shall assume the duties of the Chair in his or her absence, or upon the Chair's neglect, failure, or refusal to undertake the duties required or delegated to it by law.
- C. Secretary of the Board shall keep complete and accurate records of all meetings and actions taken by the Board. One copy of the record of the meetings and actions taken by the Board shall be filed in the Nations Secretary's office within two weeks of approval. The Secretary of the Board shall give notice to all Board Members of all regular and special meetings. He/she shall be the custodian of all records and documents of the Board including if applicable, the seal. He/she shall perform such other duties as assigned by the Board.

SECTION 210. MEETINGS

- A. Regular meetings of the Health Advisory Board shall be held at least once each calendar quarter on such day as may be established by rule of the Board with five (5) days written notice. The annual meeting of the Board shall be in October, at which time officers of the Board shall be elected, and said election shall take place at the commencement of the meeting.
- B. Special meetings may be held upon twenty-four (24) hours actual notice, or upon such notice as the Board may by rule determine, and business transacted, provided that not less than a majority of the full Board concurred in the proposed action. Special meetings of the Board may be called by the Chairman, or upon written request of any three (3) members of the Board. The notice shall convey the date, time, location, and the business to be considered. No business other than that specified in the notice of special meeting shall be conducted.
- C. Notice of Board Meetings, Annual, Regular and Special, shall be given to the Nations Secretary upon the setting of the meeting.
- D. Actions and decisions made by the majority of the Health Advisory Board Members at such a meeting shall be the act of the Board. If less than a majority is present the meeting will be adjourned. No further announcement thereof need be given other than an announcement the meeting so adjourned.
- E. At all meetings of the Board, the vote of each member must be publicly cast and recorded. The Board shall not be allowed to close its meetings to the general public except for Executive Sessions.
- F. Executive Sessions are permitted only for the purposes of Contract Health appeals; confidential communications between the body and its attorneys concerning pending investigations or litigation when the board and attorney determine that public disclosure will seriously impair the ability to process or proceed with investigation or litigation. Provided however, that any action or vote taken thereon must be taken in public meeting as required above and that Executive Sessions may not be

closed to Business Committee Members, any Ex-Officio Board Member, or such tribal staff as may be designated by the Business Committee.

- G. Any Board Member may waive notice of the time and/or place of any meeting by written waiver or by attendance at such meeting, regardless of whether call or notice of such meeting was made or given.

SECTION 211. EX-OFFICIO DIRECTOR

The Health Director shall serve as a non-voting ex-officio member of the Health Advisory Board.

SECTION 212. HIPAA COMPLIANCE

Board Members must receive a minimum of four (4) hours training in Health Insurance Portability and Accountability Act (HIPAA) to ensure compliance of privacy practices and confidentiality of patients/clients within the Sac and Fox Health Department. This training must occur prior to attending the first meeting following their initial appointment to this Board. Training will be provided by the HIPAA Coordinator employed within Black Hawk Health Center. A certificate will be issued following completion and the board member will be entered on a HIPAA registry.

SECTION 301. POWER TO SUE OR BE SUED

- A. Advisory Board shall have the power to use in any Court in its own name, and with the consent of the Business Committee expressed by resolution, to sue on behalf of the Sac and Fox Nation by styling the case as "the Sac and Fox Nation ex. rel Sac and Fox Health Advisory Board. The Health Advisory Board may not, however, sue the Nation, its officers or employees, individually or officially, for their conduct arising out of the Nation's business.
- B. Advisory Board may be sued in the Tribal Court in its own name upon any obligation arising out of its activities, and the immunity from suit which it has as a public entity of the Sac and Fox Nation due to the doctrine of sovereign immunity is hereby expressly waived for such purposes to the extent herein stated.
- C. The Nation, its other agencies, nor any of their property shall be liable for any of the debts, liabilities, or obligations of the Advisory Board, nor may any Court make or enforce any order concerning execution upon or the right to possession of any tribal owned property assigned to the use of the Advisory Board.
- D. The waiver of immunity of the Advisory Board shall not extend to the members of the Advisory Board of in their individual capacity.
- E. Except as otherwise expressly stated, nothing herein shall be deemed to waive the Sac and Fox Nation, its Business Committee, and other entities officially and individually, sovereign immunity.

SECTION 302. GENERAL POWERS AND DUTIES

The Advisory Board shall have the following powers and duties consistent with this Act:

- (1) adopt and use a seal.
- (2) review agreements, contracts, and undertakings with any governmental agency, federal, tribal, state, or local or with any person, partnership, corporation associated with the Nation's health care programs.
- (3) use the name "Sac and Fox Health Advisory Board" in any of its activities within or without the tribal jurisdiction. The name "Sac and Fox Health Advisory Board" is hereby reserved to the use of the Advisory Board and no other domestic or foreign corporation or entity may use such name within the tribal jurisdiction.

SECTION 401. REPORTS

The Advisory Board shall submit the Health Services Director's quarterly and annual reports, signed by the Health Director and the Chair of the Health Advisory Board to the Business Committee showing:

- (1) summary of the period activities
- (2) condition of the properties under the Boards' management or control
- (3) summary of any troubled operations and plans for correction
- (4) significant problems and accomplishments
- (5) short and long range goals
- (6) other information as the Health Director, the Advisory Board or the Business Committee shall deem pertinent

SECTION 402. ACQUISITION OF INTEREST PROHIBITED

- A. During their tenure and three (3) years thereafter, no board member or executive officer of the Advisory Board or any other public official who exercises any responsibilities or functions with regard to a project of the Advisory Board, shall voluntarily acquire any interest, direct or indirect, in any matter or in any property included or planned to be included in any project, or in any contract or proposed contract relating to the project; unless, prior to such acquisition, he/she discloses his interest in writing to the Advisory Board and such disclosure is entered upon the minutes of the Advisory Board.
- B. The Board Member, executive officer, or the public official shall not participate in any action by the Advisory Board relating to the property or contract in which he/she has an interest. If a Board Member, executive officer, or the public official involuntarily acquires any such interest, or voluntarily or involuntarily acquired any such interest prior to appointment or employment, in any such event, the person shall immediately disclose his interest in writing to the Advisory Board, and such disclosure shall be entered upon the minutes of the Advisory Board, and that person shall not participate in any action by the Advisory Board relating to the property or contract in which he has any such interest.
- C. Any violation of the foregoing provisions of this Section shall constitute misconduct in office and a violation of the public trust and shall subject the party to removal from the Board or other office held, and make such party liable to the Advisory Board for any and all profits of any kind or character which he may have obtained by virtue of the violation of his trust. This section shall not be applicable to the acquisition of any interest in obligations of the Advisory Board issued in connection with any project, or to the execution of agreements by banking institutions for the deposit or handling of funds in connection with a project or to act as trustee under any trust indenture, or to utility service rates which are fixed or controlled by a governmental agency.

SECTION 403. COMPLIANCE WITH FEDERAL LAW

Each project developed or operated under a contract providing for Federal financial assistance shall be developed and operated in compliance with all legal requirements of such contract, and applicable Federal legislation, and with all regulation and requirements prescribed from time to time by the federal government in connection with such assistance.

SECTION 404. PROPERTY OF AUTHORITY AS PUBLIC PROPERTY

The property used by the Sac and Fox Nation's Health Programs is declared to be public property used for essential public and governmental purposes of the Sac and Fox Nation.

SECTION 405. NO EXECUTION ON AUTHORITY PROPERTY

All property within the Tribal jurisdiction including funds acquired or held by the Advisory Board pursuant to this title shall be exempt from levy and sale by virtue of an execution, and

no execution or other judicial process shall issue against the same, nor shall any judgment against the Advisory Board be deemed to be a charge or lien upon such property.

SECTION 406. JUDICIAL NOTICE

The Tribal Court shall take judicial notice of this Title.

SECTION 407. SEPARABILITY OF PROVISIONS

Notwithstanding any other evidence of the intent of the Sac and Fox Business Committee, it is hereby declared to be the intent of the Sac and Fox Business Committee that if any provisions of this ordinance or the application thereof to any persons or circumstances shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this ordinance or its application to other persons and circumstances, but shall be confined in its operation to the provisions of this Act or the application thereof to the persons and circumstances directly involved in the controversy in which such judgment shall have been rendered.

SECTION 408. RULES, REGULATIONS AND PROCEDURES

The Sac and Fox Business Committee shall prescribe such rules, regulations and procedures to carry out the provisions of this title.