Proposed Draft for Review and Comment

HO-CHUNK NATION CODE (HCC)
TITLE 3 – HEALTH AND SAFETY
SECTION 18 - ISOLATION AND QUARANTINE OF COMMUNICABLE DISEASES

ENACTED BY LEGISLATURE: _____

CITE AS: 3 HCC § ___

1. **Authority**

   a. Article V, Section 2(a) of the Constitution of the Ho-Chunk Nation ("Constitution") grants the Legislature the power to make laws, including codes, ordinances, resolutions, and statutes.
   b. Article V, Section 2(b) of the Constitution grants the Legislature the power to delegate legislative powers to the Executive branch to be administered by such Departments, in accordance with the law; any Department established by the Legislature shall be administered by the Executive; the Legislature reserves the power to review any action taken by virtue of such delegated power;
   c. Article V, Section 2(h) of the Constitution grants the Legislature the power to enact all laws prohibiting and regulating conduct, and imposing penalties upon all persons within the jurisdiction of the Nation.
   d. Article V, Section 2(1) of the Constitution grants the Legislature the power to negotiate· and enter into treaties, compacts, contracts, and agreements with other governments, organizations, or individuals.
   e. Article V, Section 2(s) of the Constitution grants the Legislature the power to promote public health, education, charity, and such other services as may contribute to the social advancement of the members of the Ho-Chunk Nation. ·
   f. Article V, Section 2(t) of the Constitution grants the Legislature the power to enact laws governing law enforcement on lands within the jurisdiction of the Nation.

2. **Purpose.** This Ordinance sets forth the powers of the Department of Health and designated law enforcement to isolate and quarantine individuals who are carrying, or who have been exposed to, communicable diseases.

3. **Declaration of Policy.** It is the declared policy of the Nation to regulate and control all persons who are carrying, or who have been exposed to, an infectious

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disease to enable the Nation to protect the general population and to halt the spread of dangerous and highly infectious communicable diseases.

4. **Scope**. This Ordinance shall apply to all individuals living, residing, working as an employee of the Nation, or staying on any property owned by the Ho-Chunk Nation that is held in trust by the U.S. Government, regardless of if such property is leased out to an individual tribal member or a business.

5. **Definitions**:
    a. "Center" shall mean elder care center, youth center, or childcare center within the Ho-Chunk Nation jurisdiction.

    b. "Communicable disease" shall mean any disease that the Department of Health determines to be communicable and reportable by the Wisconsin Department of Health Services (DHS) and/or Centers for Disease Control and Prevention (CDC).

    c. "Department" shall mean the Department of Health.

    d. "Health Director" shall mean the Executive Director of the Ho-Chunk Nation Department of Health, or authorized agent.

    e. "Health Care Provider" shall mean any employee of the Ho-Chunk Nation Health Department who provides medical care or treatment.

    f. "Health Officer" shall mean a Health Department employee, who is a registered nurse, physician's assistant, or physician, who administers and enforces public health rules, and who appoints all necessary subordinate personnel, assure that they meet appropriate qualifications and have supervisory power over all subordinate personnel.

    g. "Isolation" shall mean the separation of a person or group of people known to be infected with a communicable disease, and potentially infectious, from those who are not infected, in order to prevent the spread of the communicable disease.

    h. "Quarantine" shall mean the separation of a person or group of people reasonably believed to have been exposed to a communicable disease, but not yet symptomatic, from others who have not been exposed, to prevent the possible spread of the communicable disease.

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i. "Quarantine Monitor" shall mean a Health Department employee, who alerts the health officer, Health Director, and/or law enforcement upon violation of the laws for the prevention and control of communicable diseases, or the orders and rules of the Department.

6. **Duties of the Department of Health.**
   a. The Department, upon the appearance of any communicable disease in the Nation's jurisdiction, shall immediately investigate all the circumstances and make a full report to the Executive Director of the Department of Health. The Department shall promptly take measures necessary to prevent, suppress, and control communicable diseases, and shall provide a status update to the President and Legislature regarding the progress of the communicable disease(s) and the measures taken.

   b. The Department shall recommend actions to that will help to prevent and suppress any communicable disease, in order to control outbreaks or epidemics.

7. Reporting Cases to the Health Department.

   a. Any health care provider who knows, or has reason to believe, that a person treated by him/her has a communicable disease, or having a communicable disease, has died, shall report the appearance of the communicable disease, or the death to the Department.

   b. Reports under sub. a, above, shall include such information as dictated by the Health Department policy.

8. **Isolation and Quarantine**
   a. The Department may require isolation of a patient or of an individual, and may need to quarantine all contacts, if they can be traced. Modified forms of such procedures may be necessary as determined by the Department.
   b. If the Department is aware of the existence of a communicable disease, the Department, or authorized designee, shall investigate and may take the following steps:

      i. Where possible, the Department will, depending on the nature of the communicable disease, first seek voluntary isolation and quarantine from the patient or individual.

      ii. However, where needed to protect the public, the Department shall institute involuntary isolation and quarantine through the Health

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Officer, when it appears the individual is not complying, based on the law enforcement agency's recommendation and discretion.

iii. A physician, nurse practitioner, and/or physician assistant of the Department shall be consulted as quickly as possible when there is reasonable doubt, or disagreement in diagnosis, and when advice is needed. The Department shall investigate evasion of the laws and rules concerning communicable disease and shall act to protect the public.

c. When the Department deems it necessary that a person be quarantined, the Department shall assist the person to find a safe location to quarantine.

d. When the Department deems it necessary that a person be quarantined, the Department may assist the person, if they consent, to apply for any state, tribal, or federal eligible, medical benefits and aid, as well as assess other needs, and make any necessary, requested referrals.

9. **Communicable Diseases; schools; duties of teachers, parents, officers.**
   a. If a teacher, school nurse, or principal and/or lead teacher, of any school or center, knows or suspects that a communicable disease is present in the school or center, he or she shall, at once, notify the Department.

   b. If the Department confirms the presence of a communicable disease, it is responsible for notifying the any necessary teacher, school nurse, or principal, in compliance with Health Insurance Portability and Accountability (HIPAA) patient protections and any exceptions.

10. **Penalties**. Any person who, directly or indirectly, violates any provision of this law shall be subject to a citation and/or forfeiture consistent with a penalty schedule adopted by the Department of Justice, not to exceed $100.

11. **Severability.** The provisions of this law are hereby declared to be severable, and if any provision is declared void, invalid, or unenforceable in whole or in part, then that declaration shall not affect the remaining provisions of this part.

12. **Sovereign Immunity.** Nothing in this Article shall be construed as waiving the sovereign powers or immunities of Ho-Chunk Nation or its agents, entities, instrumentalities, employees, or officials.

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Legislative History:

7/28/20 Proposed Quick Passage Resolution, adopting the Isolation and Quarantine of Communicable Diseases Ordinance (3 HCC §17) is defeated.

11/17/20 Legislature adopts motion to place the updated and revised Draft Isolation and Quarantine of Communicable Diseases Ordinance (3 HCC §18) out for 45-day public review and comment.

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