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## **TITLE 83**

### **PUBLIC HEALTH CODE**

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**CHAPTER 1**  
**AUTHORITY AND GENERAL PROVISIONS**

**83.01.010 Tribal Health Officer**

- A. Infectious diseases have been and continue to be a threat to the public's health in the Nooksack tribal community.
- B. While the Tribe respects the rights of individuals, the legitimate public interest in protecting the public health and welfare from the spread of infectious diseases outweighs incidental curtailment of individual rights that may occur in implementing effective testing, treatment, and infection control strategies.
- C. To protect the public's health, it is the intent of the Tribal Council that the Tribal Health Officer provide culturally sensitive and medically appropriate early diagnosis, treatment, education, and follow-up to prevent or to minimize the spread of infectious diseases. Further, it is imperative that the Tribal Health Officer have the necessary authority and discretion to take actions as are necessary to protect the health and welfare of the public, subject to the protection required under the Nooksack Constitution. Nothing in this Ordinance shall be construed as in any way limiting the broad powers of the Tribal Health Officer to act as necessary to protect the public health.

**83.01.020 Definitions**

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise:

- A. "Officer" means the Tribal Health Officer duly appointed by the Nooksack Tribal Council;
- B. "Infectious disease control" refers to the procedures administered in the counties of the State of Washington for the control, prevention, and treatment of infectious diseases.

**CHAPTER 2**  
**REPORTING AND RECORDS**

**83.02.010 Health Care Providers Required to Report Cases**

All practicing health care providers under the jurisdiction of the Nooksack Indian Tribe are hereby required to report to the Tribal Health Officer cases of every person having infectious disease who has been attended by, or who has come under the observation of, the health care provider within twenty-four (24) hours of such care or observation.

**83.02.020 Record of Reports**

The Tribal Health Officer is hereby required to receive and keep a record, for a period of ten years from the date of the report, of the reports required by Section 83.02.010; such records shall not be subject to the Tribal Records Act, but shall in the discretion of the Tribal Health Officer be provided to other local health departments and of the Washington State Department of Health and corresponding federal agencies, and such records shall not otherwise be published nor made public.

**CHAPTER 3  
POWERS AND SCOPE**

**83.03.010 Tribal Health Officer's Powers—Scope**

The Tribal Health Officer shall have responsibility for establishing standards for the control, prevention, and treatment of infectious diseases and for providing, either directly or through agreement, contract, or purchase, appropriate facilities and services for persons who are, or may be suffering from infectious diseases except as otherwise provided by this Title.

Under that responsibility, the Tribal Health Officer shall have the following powers and duties:

- A. To develop and enter into such agreements, contracts, or purchase arrangements with counties and public and private agencies or institutions to provide for hospitalization, nursing home, or other appropriate facilities and services, including laboratory services, for persons who are or may be suffering from infectious diseases;
- B. Adopt such rules as are necessary to assure effective patient care and treatment of infectious disease.
- C. To use every available means to ascertain the existence of, and immediately to investigate, all reported or suspected cases of infectious disease in the infectious stages within the Nooksack Indian Tribe's jurisdiction and to ascertain the sources of such infections. In carrying out such investigations, the Tribal Health Officer is hereby invested with full powers of inspection, examination, treatment, and quarantine or isolation of all persons known to be infected with infectious disease in an infectious stage or persons who have been previously diagnosed as having an infectious disease and who are under medical orders for treatment or periodic follow-up examinations and is hereby directed:
  1. To make such examinations as are deemed necessary of persons reasonably suspected of having an infectious disease in an infectious stage and to isolate and treat or isolate, treat, and quarantine such persons, whenever deemed necessary for the protection of the public health.
  2. To make such examinations as deemed necessary of persons who have been previously diagnosed as having infectious disease and who are under medical orders for periodic follow-up examinations.
  3. In his discretion, to substantially comply with local rules and regulations regarding examinations, treatment, quarantine, or isolation, and all rules, regulations, and orders of the Washington State Board and of the Washington State Department of Health or corresponding federal or international agencies in carrying out such examination, treatment, quarantine, or isolation.

4. Whenever the Tribal Health Officer shall determine on reasonable grounds that an examination or treatment of any person is necessary for the preservation and protection of the public health, he or she shall make an examination order in writing, setting forth the name of the person to be examined, the time and place of the examination, the treatment, and such other terms and conditions as may be necessary to protect the public health. Nothing contained in this subdivision shall be construed to prevent any person whom the Tribal Health Officer determines should have an examination or treatment for infectious disease from having such an examination or treatment made by a physician of his or her own choice who is licensed to practice osteopathic medicine and surgery or medicine and surgery under such terms and conditions as the Tribal Health Officer shall determine on reasonable grounds to be necessary to protect the public health.
5. Whenever the Tribal Health Officer shall determine that quarantine, treatment, or isolation in a particular case is necessary for the preservation and protection of the public health, he or she shall make an order to that effect in writing, setting forth the name of the person, the period of time during which the order shall remain effective, the place of treatment, isolation, or quarantine, and such other terms and conditions as may be necessary to protect the public health.
6. Upon the making of an examination, treatment, isolation, or quarantine order as provided in this section, a copy of such order shall be served personally and in hand upon the person named in such order.
7. Upon the receipt of information that any examination, treatment, quarantine, or isolation order, made and served as herein provided, has been violated, the Tribal Health Officer shall advise the prosecuting attorney in writing, and shall submit to such prosecuting attorney the information in his or her possession relating to the subject matter of such examination, treatment, isolation, or quarantine order, and of such violation or violations thereof.
8. During a state of public emergency declared by the Nooksack Tribal Council, the Tribal Health Officer is authorized by written order to suspend or override any provision of a tribal ordinance, resolution, policy or program rule, or the orders, rules, or regulations of any tribal agency. To do so, the Tribal Health Officer must determine and declare that strict compliance with the statute, order, rule, or regulation would prevent, hinder, or delay the mitigation of the effects of the emergency in any way. Such written orders shall be in effect only so long as the declared public health emergency shall be in effect unless earlier rescinded or modified by the Nooksack Tribal Council or by the Tribal Health Officer.
9. Any and all orders authorized under this section shall be made solely by the Tribal Health Officer.
10. Nothing in this chapter shall be construed to abridge the right of any person to rely exclusively on spiritual means alone through prayer to treat infectious disease in accordance with the tenets and practice of any well-recognized church or religious

denomination, nor shall anything in this chapter be deemed to prohibit a person who is inflicted with infectious disease from being isolated or quarantined in a private place of his own choice, provided, it is approved by the Tribal Health Officer, and all tribal laws governing control, sanitation, isolation, and quarantine are complied with.

## **CHAPTER 4 PROCESS**

### **83.04.010 Due process standards—Reporting requirements**

- A. The Tribal Health Officer may adopt policies establishing the requirements for:
1. Reporting confirmed or suspected cases of infectious disease by health care providers and reporting of laboratory results consistent with infectious disease by medical test sites;
  2. Training of persons to perform infectious disease testing and to administer infectious disease medications.
- B. Notwithstanding any other provision of tribal law, persons trained under this section may perform testing and administer medications if doing so as part of a program established by the Tribal Health Officer to control infectious disease.

### **83.04.020 Treatment, Isolation, or Examination Order**

Inasmuch as the order provided for by this Chapter is for the protection of the public health, any person who, after service upon him or her of an order of the Tribal Health Officer directing his or her treatment, isolation, or examination as provided for in Section 83.03.010 (C) (4) or (5) fails to comply with the same or any provision thereof, is guilty of a misdemeanor, 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 Nooksack Tribal Court confined until such order of the Tribal Health Officer shall have been fully complied with or terminated by the Tribal Health Officer, but not exceeding six months from the date of passing judgment upon such conviction: PROVIDED, That the Nooksack Tribal Court, upon suitable assurances that such order of the Tribal Health Officer will be complied with, may place any person convicted of a violation of such order of the Tribal Health Officer upon probation for a period not to exceed two years, upon condition that the said order of the Tribal Health Officer be fully complied with: AND PROVIDED FURTHER, That upon any subsequent violation of such order of the Tribal Health Officer, such probation shall be terminated and confinement as herein provided ordered by the court.

### **83.04.030 Order of Tribal Health Officer—Refusal to Obey—Application for Nooksack Tribal Court Order**

In addition to the proceedings set forth in Section 83.04.020, where the Tribal Health Officer has reasonable cause to believe that an individual has infectious disease, and the individual refuses to obey the order of the Tribal Health Officer to appear for an initial examination or a follow-up examination or an order for treatment, isolation, or quarantine, the Tribal Health Officer may apply to the Nooksack Tribal Court for an order requiring the individual to comply with the order of the Tribal Health Officer.



**83.04.040 Nooksack Tribal Court Order for Confinement of Individuals Having Active Infectious Disease**

Where it has been determined after an examination as prescribed in this chapter that an individual has active infectious disease, upon application to the Nooksack Tribal Court by the Tribal Health Officer, the Nooksack Tribal Court shall order the Nooksack Police Department to transport the individual to a facility designated by the Tribal Health Officer for isolation, treatment, and care until such time as the Tribal Health Officer determines that the patient's condition is such that it is safe for the patient to be discharged from the facility.

**CHAPTER 5  
MISCELLANEOUS**

**83.05.010 Effective Date.**

This Title shall be effective from the date of its approval by the Tribal Council.

**83.05.020 Amendments.**

The Council may amend this Title by a majority vote of a quorum at duly called meeting.

**83.05.030 Severability and Savings Clause.**

If any provision of this Title, or its application to any party, is held invalid, that provision shall be stricken and severed from the remainder of this Title and the remainder of the Title shall be unaffected.

**83.05.040 Sovereign Immunity.**

This Title does not, and shall not be construed to, waive the sovereign immunity of the Nooksack Indian Tribe or its officers or employees, except as specifically stated herein. Nothing herein shall be deemed a waiver of the Tribe's sovereign immunity to permit in any manner whatsoever, the payment of monetary damages or attorney's fees relating to claims arising from any claim identified herein, or create any private right of action except as stated herein.