

Public Health Laws in Indian Country

A National Native Network Webinar

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Benefits of a Public Health Code

- To strengthen the legal framework to define and carry out public health activities within a government
- A public health code will enable a more formalized and better coordinated effort and address the ten essential PH services
- Longevity
- Stronger enforcement authority



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Benefits of a Public Health Code

- Delineation of authorities and responsibilities between a Tribal Nation and other governments and non-governmental entities
- Better coordination internally among Tribal Nation departments
- Improved public health system to address public health accreditation standards
- The overall improvement of health



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Is a Public Health Code Needed?

Cherokee Nation Experience

- Several of the public health functions of the Cherokee Nation are carried out under the general Constitutional Authority of the Executive Branch
- Many of those public health functions are carried out under policies and procedures (P&P) and other directives (EDs, etc.)



Is a Public Health Code Needed? Cherokee Nation Experience

- Those P&Ps and directives should be followed without question as falling under Executive Branch authority
- However, in 3 branch governments, the executive branch's scope of authority is often subject to challenge and interpretation



Is a Public Health Code Needed?

- Additionally, P&Ps and other directives can often change quickly and without broad input
- Enforcement is also a challenge (lack of adequate notice)
- Code language will explicitly solidify CN's public health activities and ensure P&Ps comply with code language
- Additionally, a code will allow for additional public health activities that are not currently addressed



How a Code Typically Works

- Codes typically provide the governmental authority to carry out/mandate certain activities
- In order to carry out that authority, a government will develop rules, regulations, policies, procedures, etc.
- For CN purposes, P&P would seem like the most practical vehicle



How a Code Typically Works

- So, in reviewing other codes, its important to find a balance between being specific enough to ensure the intended activities take place while avoiding being too specific so that the government lacks flexibility to adapt.
- Ex. In Memphis TN, women can't drive a car unless a man is present waving a red flag warning other drivers



Example

- On January 1, 2008, the Cherokee Nation implemented the *Cherokee Nation Tobacco Free Environment Policy*, which prohibits the use of all commercial tobacco products, including smokeless tobacco, inside or outside all **governmental properties** (facilities, clinics, including rest rooms, conference rooms, lounge areas, break rooms, storage areas, warehouse spaces, and lunch rooms/cafeterias)
- In addition to Governmental properties, Cherokee Nation Businesses (the economic arm of the Cherokee Nation) has various policies in place limiting tobacco use and exposure in certain areas.
- However, no policy exists addressing the use of tobacco and tobacco exposure in the majority of gaming space and related areas, as well as outside of those facilities.



Example

- The tobacco prohibition policy also does not extend to multi-unit housing sites owned/operated by the Cherokee Nation
- While the Policy is a strong step and is one of the most progressive governmental efforts in Oklahoma, enforcement has been a challenge at times
- Additionally, the Cherokee Nation is under a new Administration and the continuation of the policy could be affected (although there is no indication that it will be affected)



Example

- So, from a health perspective, the Cherokee Nation should pursue comprehensive tobacco-free Code language encompassing:
 - ✓ Government owned and/or operated (occupied/leased/rented) property, including multi-unit housing sites owned by Cherokee Nation
 - ✓ Property owned and/or operated by Cherokee Nation Businesses
 - ✓ Premises occupied by Cherokee Nation Government and Cherokee Nation Businesses staff
 - ✓ The limited use of tobacco in accordance with documented culturally appropriate purposes



How can a Code be structured?

- It can be based on the ten essential services of public health:
 1. Conducting and disseminating assessments focused on population health status and public health issues facing the community
 2. Investigating health problems and environmental public health hazards to protect the community
 3. Informing and educating about public health issues and functions
 4. Engaging with the community to identify and address health problems



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How can a Code be structured?

5. Developing public health policies and plans
6. Enforcing public health laws and regulations
7. Promoting strategies to improve access to healthcare services
8. Maintaining a competent public health workforce
9. Evaluating and continuously improving processes, programs, and interventions
10. Contributing to and applying the evidence base of public health



How a Code Can Impact Tobacco Control & Prevention

- Tobacco-Free
 - ✓ Language can prohibit tobacco use (exceptions for traditional use)
 - ✓ Scope varies (indoors, outdoors, gaming sites, housing, etc.)
- Data
 - ✓ Language can require data reporting on tobacco use, health impact, etc.



How a Code Can Impact Tobacco Control & Prevention

- Regulate Exposure – if the political environment won't allow a total ban, can place limits
- Regulate Commerce – manufacturing, wholesale, retail, taxation
 - ✓ Need to be mindful of applicable federal laws, tobacco wholesale agreements, state compacts, etc.



Developing Comments

- On a regular basis, governmental agencies (federal, Tribal, state, and local) announce comment periods on various rules, regulations, etc.
- As an example, the Federal Drug Administration (FDA) regularly invites comments on a variety of issues that may be of interest to the National Native Network
- While some may have limited impact on Indian Country, some may have far reaching implications



Developing Comments

- The National Native Network and its members play a valuable role in reviewing notices and developing responses
- Because the National Native Network consists of tobacco control & prevention experts, the Network could develop template comments to provide to Tribal Nations so that Tribal Nations can submit comments



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Tips for staying on top of FDA issues

- Sign up for e-mail and text alerts on FDA updates
 - ✓ <http://www.fda.gov/TobaccoProducts/default.htm>
- When receiving alerts, do a quick scan to see if it will impact Tribal Nations and communities. The alert should have a number (such as a docket number or catalog number) to access the full announcement.
- If it will have an impact and you feel comments should be submitted, you can access detailed information regarding the full text of the notice and process for submitting comments (due date, format, etc.). The following webpage has some useful tips for submitting comments:
 - ✓ <http://www.fda.gov/RegulatoryInformation/Dockets/FR/ucm290145.htm#comment>



Tips for staying on top of FDA issues

- When preparing comments, it is easier to develop the comments in a word processing document and then paste the comments on-line at <http://www.regulations.gov>
- The easiest way to access the comment page is to go to <http://www.regulations.gov> and type or paste the docket number
- Once the document is located, simply click on the “submit a comment” link, which will take you to an on-line submission page where you can either type/paste comments or upload a document
- Before submitting, make sure comments are submitted according to proper protocol within your Tribal Nation and/or employer



Questions/Comments?

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