

## ORDINANCE NO. 21

### PREVENTION AND CONTROL OF DISEASES AND DISABILITIES

**STATEMENT OF PURPOSE:** The purpose of the Saginaw Chippewa Prevention and Control of Diseases and Disabilities Ordinance is to protect and promote the health of members of the Saginaw Chippewa Indian Tribe of Michigan by providing for the prevention and control of diseases and disabilities that may be communicable.

**BE IT ENACTED** by the Saginaw Chippewa Tribal Council as follows:

**SECTION 1. Short Title.** This Ordinance shall be known and may be cited as the Saginaw Chippewa Prevention and Control of Diseases and Disabilities Act.

**SECTION 2. Authority.** This Ordinance is enacted pursuant to Article VI Section 1(j) and (n) of the Amended Constitution of November 4, 1986.

**SECTION 3. Definitions.** For the purposes of this Ordinance, the following terms, phrases and words shall have the meaning hereinafter given, unless the context clearly indicates that a different meaning is intended:

- a. "Care" means treatment, control, transportation confinement, and isolation in a facility or other location.
- b. "Communicable disease" means an illness caused by a specific infectious agent or its toxic products which results from transmission of that agent or its products from a reservoir to a susceptible host, directly as from an infected individual or animal, or indirectly through the agency of an intermediate plant or animal host, vector, or the inanimate environment.
- c. "Dangerous communicable disease" means a communicable disease which so designated by Saginaw Chippewa Comprehensive Health Services.
- d. "HIV" means human immunodeficiency virus.
- e. "HIV" infection" or "HIV infected" means the status of an individual who has tested positive for HIV, as evidenced by either a double positive enzyme-linked immunosorbent assay test, combined with a positive western blot assay test, or a positive result under an HIV test that is considered reliable by the Indian Health Service or other federal centers for disease control and is approved by Saginaw Chippewa Comprehensive Health Services.
- f. "Immunization" means the process of increasing an individual's immunity to a disease by use of a vaccine, antibody preparation or other substance.
- g. "Infection" means the invasion of the body by contagious disease.

- h. "Saginaw Chippewa Comprehensive Health Services" means the health board established by the Saginaw Chippewa Indian Tribe of Michigan to provide comprehensive health services to its Tribal members and their dependents.
- i. "Serious communicable disease or infection" means a communicable disease or infection that is designated as serious by Saginaw Chippewa Comprehensive Health Services. Serious communicable disease or infection includes, but is not limited to:
  - 1. HIV Infection;
  - 2. Acquired immunodeficiency syndrome;
  - 3. Acquired immunodeficiency syndrome related complex;
  - 4. Venereal disease; and
  - 5. Tuberculosis.

**SECTION 4.** Promulgation of Policy, Procedures and Rules. In carrying out its authority under this Ordinance, Saginaw Chippewa Comprehensive Health Services may promulgate policy, procedures and rules to:

- a. To designate and classify communicable, serious communicable, chronic, other noncommunicable diseases, infections and disabilities.
- b. Establish requirements for reporting and other surveillance methods necessary for measuring the occurrences of disease, infections, and disabilities and potential epidemics. Rules promulgated by Saginaw Chippewa Comprehensive Health Services may require a licensed health professional or health facility to submit to Indian Health Services, the Michigan Department of Public Health, or a local health department, a report of the occurrence of a communicable disease, serious communicable disease or infection, or disability within 24 hours after determination of the same.
- c. Investigate cases and epidemics and unusual occurrences of diseases, infections, and situations with a potential for causing disease within the jurisdiction of the Saginaw Chippewa Indian Tribe of Michigan.
- d. Establish procedures for control of diseases and infections, including, but not limited to, immunization and environmental controls.
- e. Establish procedures for the prevention, detection, and treatment of disabilities and rehabilitation of individuals suffering from disabilities of disease including nutritional problems.

- f. Establish procedures for control of rabies (pursuant to Title VII of the Tribal Code), and the disposition of nonhuman agents carrying disease, including rapid animals.
- g. Establish procedures for the reporting of lead poisoning or undue lead body burden.
- h. Designate and furnish care for communicable disease or serious communicable diseases or infections including, but not limited to, tuberculosis and venereal disease.
- i. Implement this section and develop rules for the discovery, care, and reporting of an individual having or suspected of having a communicable disease or serious communicable disease or infection, and to establish approved tests.

**SECTION 5. Objection by Infected Person.** Except as otherwise provided this Ordinance or the rules promulgated under Section 4, shall not be construed to require the medical treatment, testing, or examination of an individual who objects on the grounds that the medical treatment, testing, or examination violates the personal religious beliefs of the individual or of the parent, guardian, or person in loco parentis of a minor. This section does not exempt an individual from compliance with applicable laws, rules, or regulations regarding sanitation and the reporting of diseases as provided by this code.

**SECTION 6. Reporting of HIV Infection.**

- a. Except as otherwise provided in this Section and except for a licensed clinical laboratory, a person or governmental entity that obtains from a test subject a test result that indicates that the test subject is HIV infected shall, within 7 days after obtaining the test result, report to the department on a form provided by the department all of the following information:
  - 1. The name and address of the person or governmental entity that submits the report;
  - 2. The age, race, sex, and county of residence of the test subject;
  - 3. The date on which the test was performed;
  - 4. The test result;
  - 5. If known, whether or not the test subject has tested positive for the presence of HIV or an antibody to HIV on a previous occasion.
  - 6. The probable method of transmission;
  - 7. The purpose of the test; and
  - 8. Any other medical or epidemiological information considered necessary by the department for the surveillance, control, and prevention of HIV infection.

Information added by the department under this subdivision shall be promulgated as rules.

- b. Except as otherwise provided in this section and except for a licensed clinical laboratory, a person or governmental entity that obtains from a test subject a test result that indicates that the test subject is HIV infected shall, within 7 days after obtaining the test result, report to the appropriate local health department, all of the information required under subsection (1), but including the name, address and telephone number of the test subject.
- c. An individual who undergoes a test for HIV or an antibody to HIV in a physician's private practice office or the office of a physician employed by or under contract by the Saginaw Chippewa Comprehensive Health Services may request that the report made by the physician under this Section not include the name, address, and telephone number of the test subject. Except as otherwise provided in Section 7, in such a request if made under this subsection, the physician shall comply with the request.
- d. A roster of names obtained under this Section, through individual case files that are encoded to protect the identities of the individual test subjects.

**SECTION 7. Referral and Notification.**

- a. After a test for HIV or an antibody to HIV is administered to an individual, a report shall be submitted referring that individual to Saginaw Chippewa Comprehensive Health Services for assistance with partner notification if both of the following conditions are met:
  - 1. The test results indicate that the individual is HIV infected.
  - 2. It is determined that the individual needs assistance with partner notification.
- b. After referral of an individual to Saginaw Chippewa Comprehensive Health Services under subsection (a), information shall be provided to determine if it is necessary for the local health department to carry out partner notification. Information required under this subsection may include, but is not limited to the name, address and telephone number of the individual test subject.
- c. Saginaw Chippewa Comprehensive Health Services shall inform the individual that he or she has a legal obligation to inform each of his or her sexual partners of the individual's HIV infection before engaging in sexual relations with that sexual partner, and that the individual may be subject to criminal sanctions for failure to so inform a sexual partner.
- d. A partner notification program operated by Saginaw Chippewa Comprehensive Services shall include notification of individuals

- who are sexual or hypodermic needle-sharing partners of the individual tested under subsection (a). Partner notification shall be confidential and conducted in the form of a direct, one-to-one conversation between the employee of the Saginaw Chippewa Comprehensive Health Services and the partner of the test subject.
- e. If the Saginaw Chippewa Comprehensive Health Services receives a report under subsection (b) that indicates that Tribal member or an individual located within the Reservation is HIV infected, Saginaw Chippewa Comprehensive Health Services shall make it a priority to do all of the following:
1. Attempt to interview the individual and offer to contact the individual's sexual partners and, if applicable, hypodermic needle-sharing or drug-sharing partners. If the subject of the report is determined to have been infected with HIV in utero, the local health department shall attempt to interview the individual's parent or legal guardian, or both. The interview conducted under this subdivision shall be voluntary on the part of the individual being interviewed. The interview or attempted interview required under this subdivision (s) shall be performed by a local health department within 14 days after receipt of a report under subsection (b).
  2. Within 35 days after the interview conducted pursuant to subdivision (a), confidentially, privately, and in a discreet manner contact each individual identified as a sexual or hypodermic needle-sharing or drug-sharing partner regarding the individual's possible exposure to HIV. The local health department shall not reveal to an individual identified as a partner the identity of the individual who has tested positive for HIV or an antibody to HIV except if authorized to do so by the individual who named the contact, and if needed to protect others from exposure to HIV or from transmitting HIV. The local health department shall provide each individual interviewed under subsection (e)(1) and each individual contacted under this subdivision with all of the following information:
    - i. Available medical tests for HIV, and antibody to HIV, and any other indicator of HIV infection.
    - ii. Steps to take in order to avoid transmission of HIV.
    - iii. Other information considered appropriate by the department.
- f. The reports, records, and data of a local health department pertaining to information acquired under this section shall be retained by Saginaw Chippewa Comprehensive Health Services for

not more than 90 days after the date of receipt or for a period established by rule of the department.

- g. Information acquired Saginaw Chippewa Comprehensive Health Services under this Section or Section 6 shall be exempt from disclosure under the freedom of information act.
- h. A biennial report pertaining to public health on the effect of this Section shall be prepared setting out Saginaw Chippewa Comprehensive Health Services efforts to monitor and control HIV infection. The report shall include, but not be limited to, statistics on the total number of index cases reported, the total number of index cases reported with information identifying the test subject or a partner of the test subject, and the total number of partners actually contacted under this section, and an assessment of the effectiveness of the program, and recommendations to improve the effectiveness of the program if any.

**SECTION 8.** Minimum Standards for Health Officers. Minimum procedures and standards for health officers and other persons charged with administration and enforcement of the codes and ordinances of the Saginaw Chippewa Indian Tribe of Michigan shall be established relating to the discovery and care of an individual having or suspected of having a communicable disease or a serious communicable disease and infections, and shall not conflict with the procedures for the control and elimination of communicable diseases and serious communicable diseases and infections set forth in this Ordinance.

**SECTION 9.** Furnishing Care to Individuals.

- a. If an individual who has a serious communicable disease or infection including, but not limited to, tuberculosis or venereal disease, HIV infection, acquired immunodeficiency syndrome, and acquired immunodeficiency syndrome related complex, regardless of the individual's domicile, is in the jurisdiction of Saginaw Chippewa Comprehensive Services and requires care, such care shall immediately be furnished in accordance with requirements established by and pursuant to Section 4(h).
- b. Saginaw Chippewa Comprehensive Health Services shall promptly shall report the action taken under this Section to the its Department of Social Services or of the department of social services of the individual's probable place of domicile.

**SECTION 10.** Mandatory Counseling for Informed Consent and Marriage License Requirement.

- a. An individual applying for a marriage license shall be counseled by a physician or a health officer or a designee of Saginaw Chippewa Comprehensive Health Services regarding the transmission and prevention of venereal disease and HIV infection. The counselor

shall offer to the applicant tests for both venereal disease and HIV infection. The Nimkee Clinic shall make available for distribution to each applicant educational materials on topics related to venereal disease, HIV transmission, and prenatal care. The information shall include a list of locations where HIV counseling and testing services funded by the (the sic Saginaw Chippewa Indian Tribe and the State of Michigan are available.

- b. Michigan State Law forbids any county clerk from issuing a marriage license to an applicant who has failed to present and file with the county clerk one of the following:
  1. A certificate indicating that the applicant has received counseling regarding the transmission and prevention of both venereal disease and HIV infection and has been offered testing for both venereal disease and HIV infection, pursuant to subsection (a). [Amended pursuant to Tribal Resolution 90-068, on May 7, 1990].
- c. If either applicant for a marriage license undergoes a test for HIV or an antibody to HIV, and if the test results indicate that an applicant is HIV infected, the individual administering the test immediately shall inform both applicants of the test results, and shall counsel the applicants regarding the modes of HIV transmission, the potential for HIV transmission to a fetus, and protective measures.
- d. An applicant or prospective applicant for marriage may file a written objection with the clerk of the county in which the license for marriage is to be issued stating that the counseling of subsection (b)(1) is violates the personal religious beliefs of the applicant. [Added pursuant to Tribal Resolution 90-068, on May 7, 1990].
- e. The county clerk for the county in which the marriage license is to be issued may charge a fee for the administrative costs associated with filing the objection. [Added pursuant to Tribal Resolution 90-068, on May 7, 1990].

## **SECTION 11.**

### Prenatal Care Requirement.

- a. A physician or an individual otherwise authorized to provide medical treatment to a pregnant woman shall take or cause to be taken, at the time of the woman's initial examination, test specimens of the woman and shall submit the specimens to a clinical laboratory approved by Saginaw Chippewa Comprehensive Health Services for the purpose of performing standard venereal disease tests approved by the department, a test for HIV or antibody to HIV, and test for hepatitis B. This subsection shall not apply if, in the professional opinion of the physician or other

person, the tests are medically inadvisable or the woman does not consent to be tested.

- b. The physician or other person shall make and retain a record showing the date the tests required under subsection (a) were ordered and the results of the tests. If the tests were not ordered by the physician or other person, the record shall contain an explanation of why the tests were not ordered.
- c. The test results and the records required under subsection (b) are not public records, but shall be available Saginaw Comprehensive Health Services and to a physician who provides medical treatment to the woman.

## **SECTION 12.**

### Postnatal Care Requirement.

- a. A licensed health professional in charge of the care of a newborn infant, or if none, the licensed health professional in charge at the birth of an infant, shall treat the eyes of the infant with one or more of the prophylaxes approved by the department within 1 hour after the birth of the infant or as soon after the birth of the infant as the health professional is present. If any redness, swelling, inflammation, or gathering of pus appears in the eyes of the infant or upon the lids or about the eyes of the infant within 2 weeks after the date of birth, a nurse, nurse-midwife, or other person having care of the infant shall report the condition to the physician in charge of the care of the infant, or if there is not a physician in charge of the care of the infant, to Saginaw Chippewa Comprehensive Health Services, within 6 hours after the discovery of the redness, swelling, inflammation, or gathering of pus.
- b. Subject to Section 15 or this Ordinance, the consent to the provision of medical or surgical care, treatment, or services by a hospital, clinic, or physician that is executed by a minor who is or professes to be infected with a venereal disease or HIV is valid and binding as if the minor had achieved the age of majority. The consent is not subject to later disaffirmance by reason of minority. The consent of any other person, including a spouse, parent, or guardian, or person in loco parentis, is not necessary to authorize the services described in this subsection to be provided to a minor.
- c. For medical reasons a treating physician, an on the advice and direction of the treating physician, a physician, a member of the medical staff of a hospital or clinic, or other health professional, may, but is not obligated to inform the spouse, parent, guardian, or person in loco parentis as the treatment given or needed. The information may be given to or withheld from these persons without consent of the minor and notwithstanding the express refusal of the minor to the providing of the information.



- d. A spouse, parent, guardian, or person in loco parentis of a minor is not financially responsible for surgical care, treatment, or services provided under this Section.

### **SECTION 13.**

#### Criminal Violations and Victims Rights.

- a. An individual arrested and charged with violating Section 1.2039 of Title I of the Tribal Code prohibiting prostitution or engaging or offering to engage the services of a prostitute may be examined at the discretion of Saginaw Chippewa Comprehensive Health Services to determine whether the individual has venereal disease.
- b. If an individual is arrested and charged with intravenously using a controlled substance in violation of Tribal or State Laws, the judge or magistrate responsible for setting the individual's conditions of release pending trial shall distribute to the individual the information of HIV transmission required to be distributed under Section 10(a) and shall recommend that the individual obtain additional information and counseling, testing and counseling center regarding HIV infection, acquired immunodeficiency syndrome, and acquired immunodeficiency syndrome related complex. Counseling under this subsection shall be voluntary on the part of the individual.
- c. Upon conviction of a defendant for a violation Tribal or State Laws, or a crime involving the intravenous use of a controlled substance, the court having jurisdiction of the criminal prosecution shall order the defendant to be tested for the presence of HIV or an antibody to HIV. Unless the court determines that testing the defendant would be inappropriate and documents the reasons for that determination in the court record. The test shall be confidentially administered. The court also shall order the defendant to receive counseling regarding HIV infection, acquired immunodeficiency syndrome, and acquired immunodeficiency syndrome related complex including, at a minimum, information regarding treatment, transmission, and protective measures.
- d. If the victim or person with whom the defendant engaged in sexual penetration during the course of the crime consents, the court shall provide the person or agency administering the test under subsection (c) with the name, address, and telephone number of the victim or person with whom the defendant engaged in sexual penetration during the course of the crime. After the defendant is tested as to the presence of HIV or an antibody to HIV, the person or agency administering the test shall immediately provide the test results to the victim or person with whom the defendant engaged in sexual penetration during the course of the crime, and shall refer the victim or other person for appropriate counseling.

- e. The test results and any other medical information obtained from the defendant by the person or agency administering the test under subsection (c) shall be transmitted to the court and, after the defendant is sentenced, made part of the court record, but are confidential and shall be disclosed only to the defendant, Saginaw Chippewa Comprehensive Health Services, the victim, or other person required to be informed of the results under subsection (d), upon written authorization of the defendant, or except as otherwise provided by law. If the defendant is placed in the custody of the department of corrections, the court shall transmit a copy of the defendant's test results and other medical information to the department of corrections. A person or agency that discloses information in compliance with this subsection shall not be civilly or criminally liable for making the disclosure.
- f. If an individual receives counseling or is tested under this Section, and is found to be HIV infected, the individual shall be referred by the agency providing the counseling or testing for appropriate medical care. Saginaw Chippewa Comprehensive Health Services, or any other agency providing counseling or testing under this Section shall not be financially responsible for medical care received by an individual as a result of a referral made under this subsection.
- g. As used in this section, "sexual penetration" means sexual intercourse, cunnilingus, fellatio, anal intercourse, or any other intrusion, however slight, of any part of a person's body or of any object into the genital or anal openings of another person's body, but emission of semen is not required.

#### **SECTION 14.**

##### Confidentiality.

- a. All reports, records, and data pertaining to testing, care, treatment, reporting, and research associated with a communicable disease or a serious communicable disease or infection are confidential, and shall be released only pursuant to this Section, or if a report is required under the Title II of the Saginaw Chippewa Tribal Code.
- b. Except as otherwise provided by law, the test communicable disease or a serious communicable disease or infection and the fact that such a test was ordered is information that is subject to the physician-patient privilege established by Tribal, Federal Law section 600.2157 of the Michigan Compiled Laws (MSA 27A.2157) is hereby incorporated by reference.
- c. The disclosure of information pertaining to a communicable disease or a serious communicable disease or infection in response

to a court order and subpoena shall be limited to only the following cases and subject to all of the following restrictions:

1. The court that is petitioned for an order to disclose such information shall determine both of the following:
    - i. That other ways of obtaining the information are not available or would not be effective.
    - ii. That the public interest and need for the disclosure outweigh the potential for injury to the patient.
  2. If a court issues an order for the disclosure of such information, the order shall do all of the following:
    - i. Limit disclosure to those parts of the patient's record that are determined by the court to be essential to fulfill the objective of the order.
    - ii. Limit disclosure to those persons whose need for the information is the basis for the order.
    - iii. Include such other measures as considered necessary by the court to limit disclosure for the protection of the patient.
- d. Information pertaining to a communicable disease or a serious communicable disease or infection that is released to a legislative body shall not contain information that identifies a specific individual who was tested or is being treated for a communicable disease or a serious communicable disease or infection.
- e. Subject to subsection (f), subsection (a) does not apply to the following:
1. Information pertaining to an individual who has a communicable disease or a serious communicable disease or infection, if the information is disclosed to Saginaw Chippewa Comprehensive Health Services, or other health care provider for 1 or more of the following purposes:
    - i. To protect the health of an individual.
    - ii. To prevent further transmission of the communicable disease or serious communicable disease or infection.
    - iii. To diagnose and care for a patient.
  2. Information pertaining to an individual who has a communicable disease or a serious communicable disease or infection, if the information is disclosed by a physician or public health officer to an individual who is known by the physician or health officer to be a contact of the individual who has a communicable disease or a serious communicable disease or infection, if the physician or health officer determines that the disclosure of the information is necessary to prevent a reasonably

foreseeable risk of further transmission of the communicable disease or serious communicable disease or infection. This subdivision does not impose an affirmative duty upon a physician or health officer to disclose information pertaining to an individual who has a communicable disease or a serious communicable disease or infection to an individual who is known by the physician or health officer to be a contact of the individual who has a communicable disease or a serious communicable disease or infection.

3. Information pertaining to an individual who has a communicable disease or a serious communicable disease or infection, if the information is disclosed by an authorized representative of Saginaw Chippewa Comprehensive Health Services to an employee of a school district, or if it is determined that the disclosure is necessary to prevent a reasonably foreseeable risk of transmission of the communicable disease or serious communicable disease or infection to pupils in the school district. An employee of a school district to whom information is disclosed under this subdivision is subject to subsection (a).
  4. Information pertaining to an individual who has a communicable disease or a serious communicable disease or infection, if the disclosure is expressly authorized in writing by the individual, but only if the written authorization is specific to the communicable disease or serious communicable disease or infection.
- f. A person who releases the results of an HIV test in compliance with subsection (e) is immune from civil or criminal liability or administrative penalties including, but not limited to, licensure sanctions, for the release of that information.
  - g. Information disclosed under subsection (e) shall not contain information that identifies the individual to whom the information pertains, unless the identifying information is determined by the person making the disclosure to be reasonably necessary to prevent a foreseeable risk of transmission of the communicable disease or serious communicable disease or infection. This subsection does not apply to information disclosed under subsection (e)(4).
  - h. A person who violates this section by disclosing information pertaining to an individual who has a communicable disease that is not a serious communicable disease or infection is guilty of a violation of Tribal Law, and may be punishable by imprisonment for not more than 90 days, or a fine of not more than \$500.00, or both such fine and imprisonment, together with court costs.

- i. A person who is not or does not represent a Tribal entity or employed by or under contract to a Tribal entity and who violates this section by disclosing information pertaining to an individual who has a serious communicable disease or infection is liable in a civil action for actual damages or \$1,000.00, whichever is greater, and costs and reasonable attorney fees. This subsection also applies to the employer of a person who violates this Section, unless the employer had in effect at the time of the violation reasonable precautions designed to prevent the unlawful disclosure by employees of information pertaining to an individual who has a serious communicable disease or infection that is confidential under subsection (a).
- j. A person who is employed by or under contract delegated by Saginaw Chippewa Comprehensive Health Services to perform an HIV test shall provide counseling appropriate to the test subject both before and after the test is administered.

**SECTION 15.**

HIV Testing and Counseling.

- a. Except as otherwise provide in this Section appropriate counseling will be provided to a HIV test subject both before and after a test is administered.
- b. Except as otherwise provided in this Section, a physician or an individual who has delegated authority to perform a selected act, task, or function under this Ordinance, shall not order an HIV test for the purpose of diagnosing HIV infection without first receiving the written, informed consent of the test subject. Subject this subsection, written, informed consent shall consist of a signed writing executed by the subject of a test or the legally authorized representative of the test subject which includes, at a minimum, all of the following:
  - 1. An explanation of the test including, but not limited to, the purpose of the test, the potential uses and limitations of the test, and the meaning of test results.
  - 2. An explanation of the rights of the test subject including, but not limited to, all of the following:
    - i. The right to withdraw consent to the test at any time before the administration of the test.
    - ii. The right under this part to confidentiality of the test results.
    - iii. The right under this part to consent to an participate in the test on an anonymous basis.

3. A description of the person to whom the test results may be disclosed.
- c. Within 120 days after the effective date of this part, a physician or an individual who has delegated authority to perform such tests or functions under this Ordinance, who orders an HIV test shall distribute to the test subject information regarding the HIV test on a form provided by the department. (t)The form shall be developed by Saginaw Chippewa Comprehensive Health Services and shall include all of the following:
    1. The purpose and nature of the test.
    2. The consequences of both taking and not taking the test.
    3. The meaning of the test results.
    4. Other information considered necessary or relevant by the department.
  5. A standard consent form for the signed writing required under subsection (2). The standard consent form shall include all of the information required under subsection (b)(1), (2) and (3).
- d. The form required under subsection (b) shall be made available to physicians and those delegated to perform such tests by the Saginaw Chippewa Comprehensive Health Services at the Nimkee Clinic.
  - e. If a test subject is given a copy of the form required under subsection (c), shall be included in the test subject's medical record.
  - f. A test subject who executes a signed writing pursuant to subsection (b) shall be barred from subsequently bringing a civil action based on failure to obtain informed consent against the physician who ordered the HIV test.
  - g. The information form required by subsection (c) shall be provided by Saginaw Chippewa Comprehensive Health Services. Said form shall be ready for distribution within 30 days after the effective date of this Ordinance. The form shall be written in English and in clear, nontechnical terms.
  - h. An individual who undergoes an HIV test at an approved testing site located within the jurisdiction of the Saginaw Chippewa Indian Tribe of Michigan may request that the HIV test shall be administered anonymously or under the condition that the test subject not be identified, and consent to the test shall be given using a coded system that does not link the individual's identity with the request for the HIV test or the HIV test results. The test results of an HIV test performed under this subsection indicate that the test subject is HIV infected, the individual delegated with the

responsibility of performing such a test shall proceed with partner notification in the same manner in which Saginaw Chippewa Comprehensive Health Services would be required to proceed as described in Section 7(d) and (e)(1) and (2).

- i. Subsection (b) does not apply to an HIV test performed for the purpose of research, if the test is performed in such a manner that the identity of the test subject is not revealed to the researcher and the test results are not made known to the test subject.
- j. A standard protocol may be prepared for an HIV test performed upon a patient in preparation for an incisive or invasive surgical procedure.
- k. This Section does not apply to an HIV test performed upon a patient if both of the following conditions are met:
  - 1. The patient is informed in writing upon admission a health facility that an HIV test may be performed upon the patient without the written consent required under this Section under circumstances described in subdivision (2).
  - 2. The HIV test is performed after a health professional or other health facility employee sustains a percutaneous, mucous membrane, or open wound exposure to the blood or other body fluids of the patient.
- l. Subsections (b) and (c) do not apply if the test subject is unable to receive or understand, or both, the information required under subsection (c) or to execute the written consent form required under subsection (b), and the legally authorized representative of the test subject is not readily available to receive the information or execute the written consent form for the test subject.
- m. If the results of an HIV test performed as described in subsection (j) or (k) indicate that the patient is HIV infected, the patient shall be informed of the positive test results and be provided with the appropriate counseling regarding HIV infection, acquired immunodeficiency syndrome, and acquired immunodeficiency syndrome related complex.

**SECTION 16.** Effective Date. This Ordinance shall be effective upon adoption by the Tribal Council and certification thereof.

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#### Legislative History

Ordinance No. 21 was enacted on November 8, 1989.

November 8, 1989