

TITLE 30

COMMUNICABLE DISEASE

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TITLE 30

COMMUNICABLE DISEASE

Chapter 30.01 General Provisions

30.01.01 Intent

It is the policy and intent of the Port Gamble S'Klallam Tribe to protect and promote the health of its tribal members and all community members to the greatest extent possible. The Tribe intends to use its public health capabilities as vigorously as possible while also respecting individual rights to dignity, health information privacy, due process, and other legally-protected interests.

[HIST: Source - Port Gamble S'Klallam Law and Order Code. Resolution No. 20 A 139, passed 12/14/20, created this title.]

30.01.02 Purpose

The Port Gamble S'Klallam Tribe provides a broad range of governmental services to promote the health, safety, welfare, and economic security of Port Gamble S'Klallam community members and visitors who enter on to Port Gamble S'Klallam lands.

The purpose of this title is to:

- a) Strengthen the Tribe's sovereignty by exercising its inherent power to prevent and control communicable disease;
- b) Protect the Tribe from any unwanted and illegal encroachment of state and local jurisdiction and/or authority on tribal land;
- c) Respond to potential public health emergencies through formal declarations and the triggering of special public health powers during an emergency;
- d) Establish procedures for protecting due process and individual rights; and
- e) Provide fair and appropriate penalties for violations of the provisions of this title.

[HIST: Source - Resolution No. 20 A 139, passed 12/14/20.]

30.01.03 Definitions

Words in this title shall have the meaning given to them in this section unless the context clearly indicates another meaning. If the meaning of

a word is not clear, the Tribal Court shall construe the meaning of the word in harmony with the purpose of this title.

- a) "Case" means a person, alive or dead, who a health care worker has diagnosed with a particular disease or condition based on clinical or laboratory criteria, or both.
- b) "Child day care facility" means an agency that regularly provides care for a group of children for less than twenty-four hours a day and is subject to tribal or federal regulation.
- c) "Communicable disease" means an illness caused by an infectious agent which can be transmitted from one person, animal, or object to another person by direct or indirect means including transmission via an intermediate host or vector, food, water, or air.
- d) "Contact" means a person exposed to an infect person, animal, or contaminated environment that may lead to infection.
- e) "Detention" or "detainment" means physical restriction of activities of an individual by confinement for the purpose of controlling or preventing a serious and imminent threat to public health. Physical plant, facilities, equipment, and/or personnel may be required to physically restrict activities of the individual to accomplish such purposes.
- f) "Disease of suspected bioterrorism origin" means a disease caused by viruses, bacteria, fungi, or toxins from living organisms that are used by man to intentionally produce death or disease in humans, animals, or plants. Many of these diseases may have nonspecific presenting symptoms.
- g) "Disease control measures" means the management of persons, animals, goods, and facilities that are infected with, suspected to be infected with, exposed to, or suspected to be exposed to an infectious agent in a manner to prevent transmission of the infectious agent to humans.
- h) "Health care provider" means any person having direct or supervisory responsibility for the delivery of health care who is licensed or certified in Washington State or another state.
- i) "Health care facility" means any building that is used, operated, or designed to provide health services, medical treatment, behavioral health services, dental services, nursing, rehabilitative, or preventive care to any individual.

- j) "Infect" or "Infected" means containing or having contact with infectious agents that pose an immediate threat to present or future public health.
- k) "Infectious agent" means an organism such as a virus, rickettsia, bacteria, fungus, protozoan, or helminth that is capable of producing infection or infectious disease.
- l) "Infection control measures" means the management of persons, animals, goods, and facilities that are infected, or suspected to be infected, in a manner to avoid human exposure and to prevent spreading.
- m) "Isolation" means the separation, for the period of communicability or infection, of infected or exposed persons or animals from others in such places and under such conditions as to prevent or limit the direct or indirect transmission of the infectious agent from those infected to those who are susceptible or who may spread the agent to others.
- n) "Local health department" means a city, town, county, or district agency in Washington State providing public health services to persons within their area.
- o) "Outbreak" means the occurrence of cases of a disease or condition in any area over a given period of time in excess of the expected number of cases.
- p) "Public health emergency" means an occurrence or imminent threat of an illness or health condition that:
 - i) Is believed to be caused by any of the following:
 - A) Bioterrorism;
 - B) The appearance of a novel or previously controlled or eradicated infectious agent or biological toxin; or
 - C) Natural disaster, accidental release, or other mass attack or accident; and
 - ii) Poses a high probability of any of the following harm:
 - A) A large number of deaths in the affected population;
 - B) A large number of serious or long-term disabilities in the affected population;

- C) Widespread exposure to an infectious or toxic agent that poses a significant risk of substantial future harm to a large number of people in the affected population; or
 - D) Otherwise exceeding the capability or capacity of the public health and/or healthcare systems.
- q) "Quarantine" means the limitation of freedom of movement of well persons or domestic animals who have been exposed to, or are suspected to have been exposed to, an infectious agent, for a period of time not longer than the longest usual incubation period of the infectious agent, in such manner as to prevent effective contact with those who are not exposed.
 - r) "State health officer" means the person designated by the secretary of the Washington Department of Health to serve as statewide health officer, or, in the absence of such designation, the person having primary responsibility for public health matters within the State of Washington.
 - s) "Suspected case" or "suspected to be infected" means an individual who the Tribal Health Officer reasonably believes, in their professional judgment, is infected with a particular infectious agent based on signs and symptoms, laboratory evidence, or contact with an infected individual, animal, or exposed environment.
 - t) "Tribal Court" and "Tribal Community Court" means the court established under the Port Gamble S'Klallam Tribe's Constitution.
 - u) "Tribal Health Officer" means the individual having been appointed under this title as the health officer for the Port Gamble S'Klallam Tribe.
 - v) "Tribal law" means the Constitution of Port Gamble S'Klallam Tribe, the Port Gamble S'Klallam Tribe's Law and Order Code, any legislative enactments adopted by the Port Gamble S'Klallam Tribal Council, and the decisions of the Tribal Community Court.
 - w) "Tribe" means the Port Gamble S'Klallam Tribe, including but not limited to any branch, office, department, agency, commission, utility, authority, instrumentality, enterprise, or corporation whether chartered under tribal law or federal law, but excluding for purposes of this title corporations chartered under the law of any state.

[HIST: Source - Resolution No. 20 A 139, passed 12/14/20.]

30.01.04 Severability

If the Tribal Court declares any part or parts of this title to be invalid, then all valid parts that are severable from the invalid part(s) remain in effect. If the Tribal Court declares invalid an application of this title to any person or circumstance, such invalidity shall not affect application of this title to any other person or circumstance. The provisions of this title are declared to be severable.

[HIST: Source - Resolution No. 20 A 139, passed 12/14/20.]

Chapter 30.02 Public Health Powers

30.02.01 Responsibilities and Duties of Tribal Health Officer

The Port Gamble S'Klallam Tribal Council shall appoint a Tribal Health Officer ["THO"] by resolution who will be authorized to use all tribally approved powers, policies, and procedures to prevent the spread of disease and to protect the health and safety of all community members.

The Tribal Health Officer shall inform health care providers of their requirements under this title.

The Tribal Health Officer shall, when necessary, conduct and/or delegate and direct investigations and institute disease control measures, including medical examination, testing, counseling, treatment, vaccination, cleaning of persons or animals, isolation, quarantine, vector control, condemnation of food supplies, and inspection and closure of facilities, consistent with the appropriate authoritative guidelines, or other measures they deem necessary based on their professional judgment, current standards of practice, and the best available medical and scientific information.

The Tribal Health Officer, with Tribal Council approval, may seek agreements as necessary with local governments, federal authorities, tribal organizations, private entities, state agencies, or institutions of higher education to coordinate or provide public health activities provided in this plan. The Tribal Health Officer shall establish, in consultation with Tribal Council, health care providers, health facilities, emergency management personnel, tribal law enforcement, and any other entity they deem necessary, plans, policies, and procedures for instituting emergency measures necessary to prevent the spread of communicable disease.

[HIST: Source - Resolution No. 20 A 139, passed 12/14/20.]

30.02.02 Responsibilities and Duties—Health Care Providers and Health Care Facilities

Every health care provider, as defined in this title, shall:

- a) Provide adequate, understandable instruction to each patient or client under their care who has a communicable disease on the necessary control measures and how to prevent the spread of the disease;
- b) Cooperate with the Tribal Health Officer and/or their designees during the investigation of a case or a suspected case or of an outbreak or suspected outbreak of illness;
- c) Comply with requirements in this title, including but not limited to, communicable disease screening and control and shall use protocols established by appropriate guidelines;
- d) Follow written tribal policy and procedures restricting work of employees, staff, students, and volunteers diagnosed to have a communicable disease from having direct contact with patients, clients, residents, and recipients of care during the period of communicability;
- e) Stay thoroughly informed about the health emergency;
- f) Follow County, State, and Federal guidelines if appropriate to tribal circumstances;
- g) Provide prompt consultation to the THO if requested;
- h) Work under the authority of the THO and within the boundaries of licensure and medical ethics.

[HIST: Source - Resolution No. 20 A 139, passed 12/14/20.]

Chapter 30.03 Notifiable Conditions

30.03.01 Purpose of Notifiable Conditions Reporting

The purpose of notifiable conditions reporting is to provide the information necessary for the Port Gamble S’Klallam Tribe, Washington State, and local jurisdictions to protect the community’s health by tracking communicable diseases and other conditions.

[HIST: Source - Resolution No. 20 A 139, passed 12/14/20.]

30.03.02 Notifiable Conditions List

The Tribal Health Officer shall establish a list of reportable diseases or other conditions of public health importance. The list may include diseases or conditions of humans or animals caused by exposure to toxic substances, microorganisms, or any other pathogens. The Tribal Health Officer may rely upon the Washington State Department of Health official list of notifiable conditions in meeting this requirement.

[HIST: Source - Resolution No. 20 A 139, passed 12/14/20.]

30.03.03 Information Sharing

The Tribal Health Officer is authorized to report to the local health department, Washington State Department of Health, and/or the Indian Health Service any information concerning a reportable disease or condition, an unusual cluster, or a suspicious event that they reasonably believe has the potential to be caused by or an indicator of bioterrorism. These may include the following:

- a) A single diagnosed or strongly suspected case of disease caused by an uncommon agent or a potential agent of bioterrorism occurring in a patient with no known risk factors;
- b) A cluster of patients presenting with similar syndromes that includes unusual disease characteristics or unusually high morbidity or mortality without obvious etiology; or
- c) An unexplained increase in a common syndrome that is above seasonally expected levels.

The sharing of information on reportable conditions, unusual clusters, or suspicious events with state and local public health authorities shall be restricted to the information necessary for the treatment, control, investigation, and prevention of a public health emergency.

[HIST: Source - Resolution No. 20 A 139, passed 12/14/20.]

30.03.04 Responsibilities of the Health Care Provider or Health Care Facility

Health care providers and health care facilities shall:

- a) Notify the Tribal Health Officer regarding:
 - i) Cases or suspected cases of notifiable conditions listed by the Tribal Health Officer or the Washington State Department of Health;

- ii) Outbreaks or suspected outbreaks of disease that occur or are treated in the health care facility including, but not limited to, suspected or confirmed outbreaks of varicella, influenza, viral meningitis, health care-associated infection suspected due to infected products or devices, or environmentally related disease; and
 - iii) Known barriers which might impede or prevent compliance with orders for infection control or quarantine.
- b) Notify an appropriate health authority designated by the THO if the health care provider / facility is unable to contact the Tribal Health Officer.
 - c) Immediately, upon becoming aware of a clinically possible case of a condition designated as “immediately notifiable” by the Washington State Department of Health, notify the Tribal Health Officer in person or by phone. This applies twenty-four hours a day, seven days a week. If the health care provider or facility is unable to contact the Tribal Health Officer, they shall contact the appropriate health authority designated by the THO for instances when the THO is not reachable. The THO shall only designate appropriate health authorities that maintain an after-hours emergency phone contact for this purpose. A party sending a report during normal business hours must confirm immediate receipt by a live person.
 - d) Cooperate with the Tribal Health Officer during investigation of:
 - i) Circumstances of a case or suspected case of a notifiable condition or other communicable disease; and
 - ii) An outbreak or suspected outbreak of disease.
 - e) Provide adequate and understandable instruction in disease control measures to each patient who has been diagnosed with a case of a communicable disease, and to other persons who may have been exposed to the communicable disease.

[HIST: Source - Resolution No. 20 A 139, passed 12/14/20.]

30.03.05 Responsibilities of Child Day Care Facilities to Report

The person in charge of a child day care facility shall:

- a) Notify the Tribal Health Officer of cases, suspected cases, outbreaks, and suspected outbreaks of notifiable conditions that may be associated with the child day care facility.

- b) Consult with the Tribal Health Officer about the control and prevention of infectious disease or communicable disease.
- c) Cooperate with the Tribal Health Officer in the investigation of cases, suspected cases, outbreaks, and suspected outbreaks of disease that may be associated with the child day care facility.
- d) Release identifying information only to other individuals responsible for protecting the health and well-being of the public through control of disease.
- e) Establish and implement policies and procedures to maintain confidentiality related to medical information in their possession.

[HIST: Source - Resolution No. 20 A 139, passed 12/14/20.]

30.03.06 Authority of the Tribal Health Officer

The Tribal Health Officer may review and determine appropriate action for:

- a) Each reported case or suspected case of a notifiable condition;
- b) Any disease or condition considered a threat to public health; and
- c) Each reported outbreak or suspected outbreak of disease, requesting assistance from local, state, and federal agencies in carrying out investigations when necessary.

The THO may establish a system for maintaining confidentiality of written records and written and telephoned notifiable conditions case reports. The THO may adopt alternative arrangements for meeting the reporting requirements under this chapter through coordination with local, state, and federal partners.

The THO has the authority to:

- a) Carry out additional steps determined to be necessary to verify a diagnosis reported by a health care provider;
- b) Require any person suspected of having a notifiable condition to submit to examinations required to determine the presence of the condition;
- c) Require any person to submit to examinations required to determine the presence of bloodborne pathogens or pathogens transmitted by other bodily fluids, if another person has been exposed to their blood or other bodily fluids;

- d) Require testing or medical examination of any individual who has or may have been exposed to a communicable disease that poses a significant risk of the public's health;
- e) Investigate any case or suspected case of a reportable disease or condition or other illness, communicable or otherwise, if deemed necessary;
- f) Require the notification of additional conditions of public health importance occurring within the tribe's jurisdiction;
- g) Conduct investigations and institute control measures; and
- h) Coordinate with and report to local, state, or federal agencies or tribal organizations providing epidemiological services regarding any notifiable conditions.

[HIST: Source - Resolution No. 20 A 139, passed 12/14/20.]

30.03.07 Confidentiality of Case Reports and Medical Information

The Tribal Health Officer shall establish and maintain confidentiality procedures related to employee handling of all reports of cases and suspected cases, prohibiting disclosure of report information identifying an individual case or suspected cases except:

- a) To employees of the tribal health clinic, another local health department or state health department, or other official agencies needing to know for the purpose of administering the requirements under this chapter; and
- b) To health care providers, specific designees of health care facilities, laboratory directors, and others for the purpose of collecting additional information about a case or suspected case as required for disease prevention and control.

The THO shall require and maintain signed confidentiality agreements with all tribal health clinic employees with access to identifying information related to a case or suspected case of a person diagnosed with a notifiable condition. The agreements will be renewed at least annually and will include reference to administrative actions that may be taken by the Tribal Health Officer, up to and including, termination from employment.

The THO may release statistical summaries and epidemiological studies based on individual case reports if no individual is identified or identifiable.

Chapter 30.04 Isolation and Quarantine

30.04.01 Conditions and Principles for Voluntary and Involuntary Isolation or Quarantine

The Tribal Health Officer shall adhere to the following conditions and principles when isolating or quarantining a person or group of persons under this chapter:

- a) Isolation or quarantine must be by the least restrictive means necessary to prevent the spread of a communicable or possibly communicable disease to others and orders may include, but are not limited to, confinement to private homes or other public or private premises;
- b) Isolated individuals must be confined separately from quarantined individuals;
- c) The Tribal Health Officer shall implement a system that regularly monitors the health status of isolated or quarantined individuals to determine if they require continued isolation or quarantine;
- d) If a quarantined individual subsequently becomes infected or is reasonably believed to have become infected with a communicable or possibly communicable disease that the Tribal Health Officer believes poses a significant threat to the health and safety of other quarantined individuals, the THO shall promptly place them in isolation;
- e) Isolated or quarantined individuals must be released as soon as practicable when the Tribal Health Officer determines that they pose no substantial risk of transmitting a communicable or possibly communicable disease that would constitute a serious or imminent threat to the health and safety of others;
- f) The needs of a person isolated or quarantined must be addressed to the greatest extent possible in a systematic and competent fashion, including, but not limited to, providing adequate food, clothing, shelter, means of communication with those in isolation or quarantine and outside these settings, medication, and competent medical care;
- g) Premises used for isolation or quarantine must be maintained in a safe and hygienic manner, to minimize the likelihood of further transmission of infection or other harm to persons isolated and quarantined;

- h) To the extent possible, cultural and religious beliefs should be considered in addressing the needs of individuals, and establishing and maintaining isolation or quarantine premises;
- i) Isolation or quarantine shall not abridge the right of any person to rely exclusively on spiritual means alone through prayer to treat a communicable or possibly communicable disease in accordance with religious tenets and practices. Nothing in this chapter shall be deemed to prohibit a person who is relying on spiritual means and who is infected with a communicable disease from being isolated or quarantined in a private place of their own choice, provided that the Tribal Health Officer approves the place and all laws, rules, and regulations governing control, sanitation, isolation, and quarantine are complied with. At his or her sole discretion, the Tribal Health Officer may isolate infected individuals declining treatment for the duration of their communicable infection in order to protect the health and safety of the individual or others.

[HIST: Source - Resolution No. 20 A 139, passed 12/14/20.]

30.04.02 Voluntary Isolation or Quarantine

Voluntary Isolation or Quarantine should always be used as a first option UNLESS the Tribal Health Officer has determined in his or her professional judgment that:

- a) Seeking voluntary compliance would create a risk of serious harm;
- b) There is reason to believe that the person or group of persons is, or is suspected to be, infected with, exposed to, or infected with a communicable disease that could spread to or infect others if remedial action is not taken; and
- c) There is reason to believe that the person or group of persons would pose a serious and imminent risk to the health and safety of others if not detained for purposes of isolation or quarantine.

The Tribal Health Officer when conducting voluntary isolation or quarantine will make reasonable efforts to comply with Section 30.04.01, Conditions and Principles of Involuntary or Voluntary Isolation or Quarantine.

[HIST: Source - Resolution No. 20 A 139, passed 12/14/20.]

30.04.03 Isolation or Quarantine with a Tribal Court Order

If the Tribal Health Officer determines that involuntary isolation or quarantine are necessary, they may petition the Tribal Court ex parte for an order authorizing involuntary detention of a person or group of

persons for purposes of isolation or quarantine under this section. The petition shall specify:

- a) The identity of all persons or groups to be subject to isolation or quarantine;
- b) The premises where isolation or quarantine will take place;
- c) The date and time at which isolation or quarantine will commence;
- d) The suspected communicable disease or infectious agent if known;
- e) The anticipated duration of isolation or quarantine based on the suspected communicable disease or infectious agent if known;
- f) The measures taken by the Tribal Health Officer to seek voluntary compliance or the basis on which the THO determined that seeking voluntary compliance would create a risk of serious harm; and
- g) The medical basis on which isolation or quarantine is justified.

The petition shall be accompanied by the declaration of the Tribal Health Officer attesting to the facts asserted in the petition, together with any further information that may be relevant and material to the Tribal Court's consideration.

Notice to the person(s) or groups identified in the petition shall be accomplished in accordance with the Tribe's rules of civil procedure. The Tribal Court shall hold a hearing on a petition filed under this section within seventy-two (72) hours of filing, excluding weekends and tribal holidays.

The Tribal Court shall issue the order if there is a reasonable basis to find that isolation or quarantine is necessary to prevent a serious and imminent risk to the health and safety of others.

A Tribal Court order authorizing isolation or quarantine as a result of an ex parte hearing shall:

- a) Specify a maximum duration for isolation or quarantine not to exceed fourteen days;
- b) Identify the isolated or quarantined persons or groups by name or shared or similar characteristics or circumstances;
- c) Specify factual findings warranting isolation or quarantine under this section;
- d) Include any conditions necessary to ensure that isolation or quarantine is carried out within the stated purposes and restrictions of this section;
- e) Specify the premises where isolation or quarantine will take place; and

- f) Be served on all affected persons or groups in accordance with the Tribe's rules of civil procedure.

[HIST: Source - Resolution No. 20 A 139, passed 12/14/20.]

30.04.04 Continued Involuntary Isolation or Quarantine

The Tribal Health Officer may petition the Tribal Court for an order authorizing the continued isolation or quarantine of a person or group detained under a Tribal Court order under Section 30.04.04 for a period up to thirty days.

The petition shall specify:

- a) The identity of all persons or groups subject to isolation or quarantine;
- b) The premises where isolation or quarantine is taking place;
- c) The communicable disease or infectious agent if known;
- d) The anticipated duration of isolation or quarantine based on the suspected communicable disease or infectious agent if known; and
- e) The medical basis on which continued isolation or quarantine is justified.

The Tribal Health Officer shall include a statement with the petition attesting to the facts asserted in the petition and asserting that the THO has followed all of the conditions and principles in compliance with Section 30.04.01. The THO may also include in the statement any further information that may be relevant and material to the Tribal Court's consideration.

Notice to the persons or groups identified in the petition shall be accomplished in accordance with the Tribe's rules of civil procedure.

The Tribal Court shall hold a hearing on a petition filed under this section within seventy-two (72) hours of filing, excluding weekends and tribal holidays. The Tribal Court shall grant the petition if it finds that there is clear, cogent, and convincing evidence that isolation or quarantine is necessary to prevent a serious and imminent risk to the health and safety of others.

A Tribal Court order authorizing continued isolation or quarantine as a result of a hearing shall:

- a) Specify a maximum duration for isolation or quarantine not to exceed thirty days;
- b) Identify the isolated or quarantined persons or groups by name or shared or similar characteristics or circumstances;
- c) Specify factual findings warranting isolation or quarantine under this section;
- d) Include any conditions necessary to ensure that isolation or quarantine is carried out within the stated purposes and restrictions of this section;
- e) Specify the premises where isolation or quarantine will take place; and
- f) Be served on all affected persons or groups in accordance with the rules of civil procedure.

[HIST: Source - Resolution No. 20 A 139, passed 12/14/20.]

30.04.05 Emergency Declarations Supersede

Tribal emergency declarations governing procedures for detention, examination, counseling, testing, treatment, vaccination, isolation, or quarantine for specified health emergencies or specified communicable diseases shall supersede any section in Chapter 30.04.

[HIST: Source - Resolution No. 20 A 139, passed 12/14/20.]

30.04.06 Isolation or Quarantine Premises

Entry into isolation or quarantine premises shall be restricted under the following conditions:

- a) The Tribal Health Officer may authorize physicians, health care workers, or others to have access to individuals in isolation or quarantine as necessary to meet the needs of isolated or quarantined individuals;
- b) No person, other than a person authorized by the Tribal Health Officer, shall enter isolation or quarantine premises;
- c) Any person entering isolation or quarantine premises shall be provided with infection control training and may be required to wear personal protective equipment or receive vaccination as appropriate;

- d) Any person entering isolation or quarantine premises with or without authorization of the Tribal Health Officer may be isolated or quarantined.

Persons subject to isolation or quarantine and persons entering isolation or quarantine premises shall obey the rules and orders established by the Port Gamble S'Klallam Tribal Council and the Tribal Health Officer. Failure to do so shall constitute a violation of tribal law under this chapter and subject the person to a civil fine and/or a public notice posting of an isolation or quarantine violation.

[HIST: Source - Resolution No. 20 A 139, passed 12/14/20.]

30.04.07 Relief from Isolation or Quarantine

Any person or group of persons isolated or quarantined under this chapter may seek relief from the Tribal Court. Any person or group of persons detained by order of the Tribal Health Officer under this code may petition the Tribal Court for an order to show cause for why the individual or group should not be released.

The Tribal Court shall rule on a petition to show cause within seventy-two (72) hours of its filing. If the Tribal Court grants the petition, the Tribal Court shall schedule a hearing on the order to show cause as soon as practicable.

An Isolation or Quarantine Order is not stayed or enjoined by the issuance of an order to show cause.

Any hearings for relief under this section involving a petitioner or petitioners who have, or who have been exposed to, a communicable disease will be conducted in a manner that utilizes appropriate infection control precautions and minimizes the risk of disease transmission.

[HIST: Source - Resolution No. 20 A 139, passed 12/14/20.]

30.04.08 Right to Counsel

A person or group of persons isolated or quarantined under this chapter has a right to be represented by counsel. If such person or group requests counsel and cannot afford counsel, the Tribal Court shall appoint counsel consistent with the provisions of tribal code. The Tribal Health Officer must provide adequate means of communication between such persons or groups and their counsel.

[HIST: Source - Resolution No. 20 A 139, passed 12/14/20.]

30.04.09 Consolidation

In any proceedings brought under this chapter, to promote the fair and efficient operation of justice and having given due regard to the rights of affected persons, the severity of the threat to the public's health, and the availability of necessary witnesses and evidence, the Tribal Court may order the consolidation of individual claims into group claims where:

- a) The number of individuals involved or to be affected is so large as to render individual participation impractical;
- b) There are questions of law or fact common to the individual claims or rights to be determined;
- c) The group claims or rights to be determined are typical of the affected persons' claims or rights; and
- d) The entire group will be adequately represented in the consolidation.

[HIST: Source - Resolution No. 20 A 139, passed 12/14/20.]

30.04.10 Enforcement of Tribal Health Officer or Tribal Council Orders

An order issued by the Tribal Health Officer in accordance with this chapter shall constitute the duly authorized application of tribal law. Any person who fails or refuses to obey any lawful order issued by the Tribal Health Officer shall be subject to a civil fine and/or a public notice posting of an isolation or quarantine violation.

[HIST: Source - Resolution No. 20 A 139, passed 12/14/20.]

30.04.11 Civil Remedies

Any person who violates any provision of this title has committed a civil infraction. Upon finding that the person committed the infraction, the Tribal Court shall impose a civil fine of not less than \$100 and not to exceed \$1,000.

[HIST: Source - Resolution No. 20 A 139, passed 12/14/20.]

30.04.12 Public Notice of Isolation or Quarantine Violation

Any person who violates an isolation or quarantine order under this title shall be subject to the Tribe posting his/her name and photograph at key locations within the Tribe's jurisdiction, posting notice in the Tribe's memo, and posting on the Tribe's social media sites. The posting shall include the following statement: "This person is known

to have been exposed to a communicable disease and is currently prohibited from leaving his/her designated place of isolation or quarantine.”

[HIST: Source - Resolution No. 20 A 139, passed 12/14/20.]

Chapter 30.05 Communicable Disease Emergencies

30.05.01 Declaring a State of Public Health Emergency

- a) **Declaration.** The Port Gamble S’Klallam Tribal Council may declare a tribal public health emergency when one occurs. Prior to such a declaration, the Tribal Council may consult with tribal, federal, state, and local public health agencies and any additional public health or other experts as needed.
- b) **Content of Declaration.** Tribal Council shall declare a public health emergency by resolution that specifies:
- 1) The nature of the public health emergency;
 - 2) The geographic area(s) or other grouping subject to the declaration;
 - 3) The conditions that have brought about the public health emergency;
 - 4) The duration of the state of the public health emergency; and
 - 5) The identity of the Tribal Health Officer appointed by Tribal Council who will be responding to the emergency.
- c) **Effect of Declaration.** The declaration of public health emergency shall activate the response and recovery aspects of the tribal disaster emergency plans. Such declaration authorizes the use or distribution of any supplies, equipment, materials, facilities, and stockpiles that may be available under this title.
- d) **Emergency Powers.** During a public health emergency, the Tribal Council may:
- 1) Suspend the provisions of any tribal policies, procedures, regulations, and laws that guide or govern procedures for tribal agencies and for conducting tribal business where strict compliance with the same would prevent, hinder, or delay necessary action (including emergency purchases) to respond to the public health emergency or would increase the health threat to the population.
 - 2) Utilize all available resources of the tribal government and its political subdivisions, as reasonably necessary to respond to the public health emergency.

- 3) Transfer the direction, personnel, or functions of tribal departments and agencies to perform or facilitate response and recovery programs regarding the public health emergency.
 - 4) Provide aid to and seek aid from federal, state, and local partners.
 - 5) Seek aid from the federal government in accordance with federal programs or requirements.
- e) Enforcement. During a state of public health emergency, the Tribal Health Officer may request assistance in enforcing orders under this title from the Tribal Council and from tribal law enforcement.
- f) Termination of Declaration. The Tribal Council shall terminate the declaration of public health emergency by resolution upon finding that the circumstances or conditions that caused the emergency no longer exist. All resolutions terminating the declaration of a public health emergency shall indicate the nature of the emergency, the area(s) that was threatened, and the conditions that make the termination possible.

[HIST: Source - Resolution No. 20 A 139, passed 12/14/20.]

30.05.02 Management of Property

Emergency Measures Concerning Facilities and Materials. During a public health emergency, the Port Gamble S'Klallam Tribal Council is authorized to:

- a) Clean, close, or evacuate any building of which it has reasonable cause to believe may endanger the public's health.
- b) Procure, lease, transport, store, maintain, renovate, or distribute materials and facilities as may be reasonable and necessary to respond to the public health emergency. Tribal Council may order the immediate possession of such materials as communication devices, carriers, real estate, fuels, food, and clothing.
- c) Clean or destroy any material that may reasonably endanger the public's health.
- d) Inspect, control, restrict, and regulate by rationing and using quotas, prohibitions on shipments, allocation, or other means, the use, sale, dispensing, distribution, or transportation of food, fuel, clothing and other commodities, as may be reasonable and necessary to respond to the public health emergency.

[HIST: Source - Resolution No. 20 A 139, passed 12/14/20.]

30.05.03 Control of Roads, Public Areas, and Non-members

During a public health emergency, the Port Gamble S'Klallam Tribal Council is authorized to:

- a) Prescribe routes, modes of transportation, and destinations in connection with evacuation of individuals or the provision of emergency services.
- b) Control or limit ingress and egress to and from any stricken or threatened public area, the movement of individuals within the area, and the occupancy of premises therein, if such action is reasonable and necessary to respond to the public health emergency.
- c) Exclude under Title 22 of this code any person who has a communicable disease.

[HIST: Source - Resolution No. 20 A 139, passed 12/14/20.]

30.05.04 Safe Disposal of Infectious Waste or Infected Material

During a public health emergency, the Port Gamble S'Klallam Tribal Council is authorized to:

- a) Adopt and enforce measures to provide for the safe disposal of infectious waste or infected material as may be reasonable and necessary to respond to the public health emergency. Such measures may include the collection, storage, handling, destruction, treatment, transportation, and disposal of infectious waste or infected material.
- b) Require any business or facility authorized to collect, store, handle, destroy, treat, transport, or dispose of infectious waste or infected material to accept such material from the Tribe as a condition of licensure, authorization, or the ability to continue doing business with the Tribe.
- c) Require all bags, boxes, or other containers for infectious waste or infected material to be clearly identified as containing infectious waste or infected material, and if known, the type of infectious waste or material.

[HIST: Source - Resolution No. 20 A 139, passed 12/14/20.]

30.05.05 Control of Health Care Supplies

- a) Procurement. During a public health emergency, the Port Gamble S'Klallam Tribe may purchase and distribute anti-toxins, serums, vaccines, immunizing agents, antibiotics, antidotes, and other pharmaceutical agents, medical supplies, or personal protective equipment to prepare for or control a public health emergency.
- b) Rationing. Where a public health emergency results in a tribal-wide shortage or threatened shortage of any product under subsection (a), whether or not such product has been purchased by the Tribe, the Tribe may control, restrict, and regulate by rationing and using quotas, prohibitions on shipments, allocation, or other means, the use, sale, dispensing, distribution, or transportation of the relevant product. In making rationing or other supply and distribution decisions, the Tribe may give preference to health care providers or disaster response personnel.
- c) Distribution. During a public health emergency, the Tribe may store or distribute any anti-toxins, serums, vaccines, immunizing agents, antibiotics, antidotes, and other pharmaceutical agents, personal protective equipment, or medical supplies located within the Tribe as may be reasonable and necessary to respond to the public health emergency, with the right to take immediate possession thereof.
- d) Civil Proceedings. To the extent practicable consistent with the protection of public health, prior to the destruction of any property under this title, the Tribe shall institute appropriate civil proceedings concerning the property to be destroyed in accordance with the existing laws and rules of the Tribal Court or any such rules that may be developed by the Tribal Court for use during a public health emergency. Any property acquired by the Tribe through such proceedings shall, after entry of the decree, be disposed of by destruction as the Tribal Court may direct.

[HIST: Source - Resolution No. 20 A 139, passed 12/14/20.]

30.05.06 Appointment of Health Personnel from Other Jurisdictions

Any health care provider or other personnel from another jurisdiction providing assistance to the Tribe under this title shall not be held liable for any civil damages as a result of medical care or treatment related to the response to the public health emergency unless such damages result from providing, or failing to provide, medical care or treatment in the event of gross negligence or willful misconduct.

[HIST: Source - Resolution No. 20 A 139, passed 12/14/20.]

30.05.07 Private Liability

During a public health emergency, any person owning or controlling real estate or other premises who voluntarily and without compensation permits the Tribe to designate or use any part of such real estate or premises for the purpose of sheltering individuals, shall not be civilly liable for negligently causing the death of, or injury to, any individual on or about such real estate or premises under permission, or for negligently causing loss of, or damage to, the property of such person.

During a public health emergency, any person and employees and agents of such person in the performance of a contract or an agreement with, and under the direction of, the Tribe or its political subdivisions, or who renders assistance or advice at the request of the Tribe or its political subdivisions under the provisions of this chapter shall not be civilly liable for causing the death of, or injury to, any individual or damage to any property except in the event of gross negligence or willful misconduct.

[HIST: Source - Resolution No. 20 A 139, passed 12/14/20.]

Chapter 30.06 Communicable Disease—Schools and Childcare Centers

30.06.01 Purpose

The Port Gamble S'Klallam Tribe seeks to protect and promote the health of its children and others who are susceptible to communicable diseases in tribal schools and childcare centers. When an outbreak or potential outbreak of a communicable disease is identified in a tribal school or childcare center, the rules in this chapter identify what the Tribal Health Officer may do to control or prevent a potential outbreak of the communicable disease. These rules are in addition to other requirements imposed by Chapter 30.03 Notifiable Conditions.

[HIST: Source - Resolution No. 20 A 139, passed 12/14/20.]

30.06.02 Control of Communicable Disease

When a tribal school or childcare center becomes aware of the presence of a communicable disease at the facility, as defined in this title, the officials at the tribal school or childcare center shall notify the Tribal Health Officer for guidance.

When there is an outbreak of a communicable disease, as defined in this title, and there is the potential for a case or cases within a tribal school or childcare center, the Tribal Health Officer shall take all appropriate actions deemed to be necessary to control or eliminate the spread of the disease including, but not limited to:

- a) Closing part or all of the affected school(s) or childcare center(s);

- b) Closing any other schools or childcare centers;
- c) Canceling activities or functions at schools or childcare centers;
- d) Excluding from schools or childcare centers any children, staff, or volunteers who are infectious, or who may have been exposed to the disease.

[HIST: Source - Resolution No. 20 A 139, passed 12/14/20.]

30.06.03 Duties of Tribal Health Officer

Prior to taking action to control a communicable disease in a school or childcare center, the Tribal Health Officer shall:

- a) Consult with Tribal Council;
- b) Consult with and discuss the ramifications of action with the director or the chief administrator of the school or childcare center or their designees on the proposed action; and
- c) Provide the director or the chief administrator of the school or childcare center or their designees a written decision, in the form and substance of an order, directing them to take action. The order must set the following terms and conditions:
 - i) When the school or childcare center may reopen (if ordered to close);
 - ii) What activities and functions may resume and when; and
 - iii) When excluded children, staff, and volunteers may be readmitted.

The THO shall investigate, in consultation with tribal school or childcare officials, the source of the disease and determine what actions are necessary to ultimately control the disease.

[HIST: Source - Resolution No. 20 A 139, passed 12/14/20.]