

Cherokee Indian Hospital Authority



The Mission of the Cherokee Indian Hospital is to be the provider of choice for the community by providing accessible, patient and family centered quality healthcare with responsible management of the Tribes resources.

TITLE: Compliance - Conflict of Interest Policy

EFFECTIVE DATE: 2/25/21

LAST REVIEWED: 2/25/21, 6/21/22

PURPOSE: The Cherokee Indian Hospital Authority (CIHA) and the EBCI Tribal Option believe that all health care services and supports belong to the people. CIHA and the EBCI Tribal Option are stewards of their inheritance, charged with safeguarding it and providing the services and supports when needed and how they need it. The purpose is to establish a policy that demonstrates the stewardship of those services and certifies that the CIHA Governing Board, EBCI Tribal Option Employees (referred to as Tribal Option), CIHA employees supporting the operation of the Tribal Option, Tribal Option subcontractors and Tribal Option Network Providers comply with all applicable federal and state conflict of interest laws, including section 1902(a)(4)(C) of the SSA, 42 CFR 438.58, NCGS 108.A-65 and 143.B-139.6C.

STAFF GOVERNED BY THIS POLICY: CIHA Governing Board, CIHA Employees (inclusive of Tribal Option employees), and contractors/subcontractors. For the purposes of this policy, CIHA employees will encompass all employees and subcontractors working on behalf of the EBCI Tribal Option.

POLICY:

The EBCI Tribal Option shall adopt and follow the CIHA Conflict of Interest Policy and Procedures as the foundation for the Tribal Option Conflict of Interest Policy. It is essential that employees and subcontractors remain independent, impartial, and free from conflicts of interest and improper influences in order to work to advance the interest and not for any personal benefit.

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Each employee, must decide all matters on the merits alone. Even the appearance of partiality to preferential treatment is a violation of this policy.

The Indian Managed Care EBCI Tribal Option Contract (EBCI Tribal Option Contract) between NC DHHS and CIHA require additional regulatory requirements and are incorporated into this Tribal Option Conflict of Interest Policy. The CIHA Governing Board, which serves as the governing board for the Tribal Option is subject to the CIHA Conflict of Interest Policy.

The Tribal Option's network of primary care physicians (PCP), that are not employed by CIHA, shall adopt a conflict of interest policy that meets the regulatory intent of CIHA policy and provides the necessary protections and safeguards. This policy shall be available upon request.

The Tribal Option shall undertake reasonable actions to ensure that employees or contractors/subcontractors who have been officers or employees of the State of North Carolina and have been responsible for the expenditure of substantial amounts of federal, state, or county money under the Medicaid Managed Care, North Carolina Medicaid or NC Health Choice programs, abide by all applicable federal conflict of interest requirements in accordance with N.C.G.S § 108A65.

CIHA shall not serve as legal guardian of any member of the Tribal Option. In the event that a CIHA Employee serves as a legal guardian of a member of the Tribal Option, the Employee will disclose the relationship and recuse themselves from any action directly or indirectly impacting the care and support of the individual.

CIHA Governing Board and CIHA Employees shall:

- Not offer, promise, or engage in discussions regarding future employment or business opportunity with any current Department employee if such Department employee participated personally and substantially in the procurement of the Tribal Option PCCM entity contract or the oversight of such contract as a Department employee.
- Not promise or give a gift to any Department employee or any family member of a Department employee.
- Fully and completely disclose to the Department any situation that may present a conflict of interest.
- Not undertake any work that represents a potential conflict of interest without prior written approval of the Department.
- Not solicit or obtain from the Department any non-public information relating to the Department's criteria or processes for renewal of the Tribal Option PCCM entity contract.
- As required by N.C.G.S § 143B-139.6C, the Tribal Option shall not use a former Department employee, director, or Subcontractor in the administration of its Tribal Option PCCM entity contract for six (6) months after such person's employment or contract with the Department is terminated, if such person personally participated in the following activities:

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- The execution of the contract for the Tribal Option PCCM entity;
- An audit, decision, investigation, or other action affecting the Tribal Option PCCM entity; or
- Regulatory decisions that applied to the Tribal Option PCCM entity.

CIHA Employees and subcontractors may not use their position and affiliation with CIHA for personal benefit. Employees and subcontractors must consider and avoid not only actual conflicts but also the appearance of conflicts of interest. A conflict of interest is considered to exist in any instance where an individual's actions or activities on behalf of CIHA or Tribal Option also involve the obtaining of an improper gain or advantage to the individual, or creates an adverse effect on CIHA or Tribal Option. A conflict of interest can also occur when it prevents an individual from exercising due care, skill and judgment on behalf of CIHA or Tribal Option in performance of that individual's assigned duties. CIHA employees, or subcontractors are to avoid engaging in any activity or practice that conflicts, or appears to conflict with their job responsibilities at CIHA or Tribal Option.

CIHA employees or subcontractors, will not solicit or accept personal gifts, favors, loans, cash, uncompensated services or other types of gratuities or hospitality from organizations doing business with CIHA, competitors of CIHA, co-workers, patients, and families of patients or referral sources. However, it does not violate this standard to accept culturally appropriate gifts from patients or their families which would be considered rude to reject, so long as the patient or family are not doing business with the hospital. Employees and subcontractors shall adhere to *CIHA Personnel Manual, Gifts and Gratitude, Section 4.27* (or subsequent revisions) for the initial guidance regarding Gifts.

Health care providers and The Tribal Option have a unique trust relationship with their patients and members, and thus employees shall not participate in any activity that would jeopardize member's trust in CIHA or the Tribal Option. No employee should offer or give anything of value to any person (including patients or Tribal Option Members) that influences or appears to influence the objective judgment of that person. No employee or subcontractor should accept any payment that induces him or her to reduce or limit health care services and supports or influences a decision in the care management process.

DEFINITIONS:

Cherokee Indian Hospital Authority (CIHA): An independent component unit of the Eastern Band of Cherokee tribal government to oversee supervise and direct the operations of the Cherokee Indian Hospital and other health programs assigned to the CIHA by the Tribal Council.

Conflict of Interest: Any direct or indirect ownership, control, interest, employment relationship, business relationship, and/or participation in any facility, business entity or activity that directly or indirectly competes or does business with, or reasonably could be adverse to the

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CIHA. The fact that a Member also serves as an officer, employee or representative of the CIHA shall **not** constitute a conflict of interest.

EBCI Tribal Option Primary Care Physician (PCP) Network: Primary care practices with whom the Tribal Option has enrolled into the network through the execution of the PCP contract. CIHA Primary Care and Satellite Clinics are part of the EBCI Tribal Option PCP Network.

CIHA Employee: Individuals who are employed by CIHA for a full time, part-time or contractor hired by CIHA.

Favor: Any opportunity, service, accommodation, use of facility or other benefit made available for less than fair market or normal value. Seminars or training that are offered free to others or general public are not considered a favor.

Gifts: Any gratuity, favor, discount, entertainment, hospitality, loan forbearance, or other item having a monetary value. It includes services as well as training, transportation, local travel, lodgings and meals. Seminars or training that are offered free to others or general public are not considered a favor.

Relative: A “relative” of a Member shall include any spouse, parent, child, legal guardian or ward, brother, sister, grandparent, grandchild, nephew, niece, uncle, aunt and any of the above relatives who are in-laws or step relatives, as well as any other persons living in the same household. For purposes of employee and continuity, immediate family relationships are those as between wife/husband, spouse/partner parent/child, sibling, mother-in-law, father-in-law, grandparent/grandchild, step-parent/step-child/foster/siblings; parent/foster child, and aunt/uncle/niece/nephew as defined in CIHA Personnel Manual as defined in current and subsequent version. the CIHA Manual shall apply unless federal regulation(s) require a more restrictive definition, then the federal definition shall have precedence.

Subcontractor: An entity having an arrangement with the Tribal Option or CIHA, where the Tribal Option uses the products and/or services of that entity to fulfill some of its obligations under the DHHS Tribal Option Contract. Use of a Subcontractor does not create a contractual relationship between the Subcontractor and the Department, only the Contractor. Network PCPs are not considered Subcontractors for the Contract.

The EBCI Tribal Option (Tribal Option): The Unit within CIHA responsible for managing the Indian Managed Care Entity and serves as the point of contact with the Division of Health Benefits, within the NC Department of Health and Human Services.

The NC Department of Health and Human Services (The Department) A Department within the North Carolina Executive Branch and is the designated single state agency with the US Department of Health and Human Services (CMS) for the administration of the Medicaid Program through the Division of Health Benefits.

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PROCEDURE:

At the point of hiring and annually thereafter, members of the Governing Board, each Tribal Options employee, a CIHA employee who is part of the operations of the Tribal Option, and subcontractors shall review and attest to the CIHA and/or the Tribal Option Conflict of Interest Policy as outlined here or in the CIHA Compliance Plan.

The Tribal Option shall:

- Ensure that financial considerations do not influence decisions to provide medically appropriate care by their network providers.
- Validate that all its employees, subcontractors and Governing Board who are licensed providers abide by their professional obligations to their patients and members and shall not take any actions which conflict with such obligations.
- Disclose any known conflicts of interest, or perceived conflicts of interest, at the time they arise, as follows:
 - Disclose any relationship to any business or associate with whom CIHA, EBCI Tribal Option or PCP network providers is currently doing business that creates or may give the appearance of a conflict of interest related to the operation of the EBCI Tribal Option.
 - The EBCI Tribal Option certifies that it shall not knowingly take any action or acquire any interest, either directly or indirectly, that will conflict in any manner or degree with the performance of its services.
 - Disclose prior to employment or engagement by the EBCI Tribal Option any firm principal, staff member or Subcontractor, known by the EBCI Tribal Option to have a conflict of interest or potential conflict of interest.
 - The EBCI Tribal Option Director or the CIHA Executive Director of Quality/Patient Safety CIHA Compliance Officer shall submit any and all notices of conflict to NC DHHS within thirty (30) Calendar Days of Contractor becoming aware of the conflict.

Care Managers must disclose any potential conflict and disclose any “relative” relationship (as defined in the definition section of this policy) with a Tribal Option member assigned to their caseload. The Director of Nursing for Primary Care/Director of Care Management) will make every effort to consider such relationship at the point of case assignment. In the event, the potential conflict is unknown and brought to the attention of the RN Leads (care manager supervisors) the case shall be assigned to a neutral team. The Tribal Option supports and recognizes the personal choice in selection of the member’s care managers and at any point, the member may request a change in care managers. This request may be directed to the RN Leads or directed to the Tribal Option Member Services Manager. The request to change care managers will not be considered a substantial conflict and subject to the reporting requirement for disclosure of conflict unless the request for change in care manager is not honored.

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CIHA employees shall adhere to the CIHA Personnel Policy, Sections 8.04-8.06 and subsequent modifications, regarding conflict of interest, outside work or interest and secondary employment (Moonlighting Policy). The employee's direct supervisor shall inform the EBCI Tribal Option Director of any potential, known or documented conflict of interest. Conflict of interest may be clear for CIHA provider activity but may present potential conflict due to EBCI Tribal Option adherence to federal regulations for Medicaid managed care. The latter shall have precedence over any decisions or disclosure notifications.

If an employee has a question about a conflict or potential conflict or has doubt as to the appropriateness of a gift, he or she should seek guidance from the CIHA/TO Compliance Officer or the CIHA HR Director. These individuals will consult with EBCI Tribal Option Director for any instances that may have a relationship with the requirements outlines in the EBCI Tribal Option Contract. Notifications will occur with NC DHHS as applicable.

Attachment A

CIHA AND TRIBAL OPTION CONFLICT OF INTEREST

DISCLOSURE ATTESTATION

The attached Conflict of Interest Policy and Procedures requires you to disclose all relationships and activities involving you or any of your relatives which could give the appearance of influencing your discussion or actions as an employee of Cherokee Indian Hospital or the EBCI Tribal Option.

No set of principles can cover every type of conflict of interest that may arise. This form is intended to assist you in such examination and disclosure. This list **is not exhaustive**, nor does the inclusion of any relationship listed below necessarily constitute a conflict. The idea is to disclose matters which may raise a conflict so that they may be evaluated.

EXAMPLES OF FINANCIAL RELATIONSHIPS AND ACTIVITIES FROM WHICH CONFLICTS MAY ARISE ON A MATTER INCLUDES:

- Contractor (hospital supplier, lease, hospital-based physician contract, service contract, consultant, directorship, subcontractor etc.)
- Hospital customer (e.g., insurer, third party payor)
- Other health care related entities; competitors
- Member or director of an IPA-Independent Practice Association (legal entity organized and directed by physicians to negotiate contract with insurance companies on their behalf)
- Member of another governing body or board
- Party to legal action involving the CIHA
- Leases or other real property interests
- Ownership of one percent (1%) or more of a publicly traded company which may be in a relationship noted above

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List actual or possible sources of conflicts on the part of you or any of your relatives. Add additional sheets if necessary. Initial "none" if applicable.

None _____

NAME _____

I ACKNOWLEDGE THAT I RECEIVED A COPY OF, AND I AGREE TO ABIDE BY, THE ATTACHED CONFLICT OF INTEREST POLICY AND PROCEDURE. I HAVE FULLY DISCLOSED ABOVE ALL RELATIONSHIPS THAT I AND ANY OF MY RELATIVES HAVE THAT, WHEN CONSIDERED IN CONJUNCTION WITH ANY CIHA POSITION, MIGHT POSSIBLY CONSTITUTE A CONFLICT OF INTEREST. I UNDERSTAND THAT FAILURE TO OBSERVE AND ABIDE BY THESE OBLIGATIONS MAY RESULT IN DISCIPLINARY ACTION WHICH MAY INCLUDE DISMISSAL AND/OR CONTRACTUAL TERMINATION. **THE ORIGINAL OF THIS SIGNED AGREEMENT WILL BE KEPT AT THE CHEROKEE INDIAN HOSPITAL AUTHORITY POLICY REPOSITORY.**

NAME _____

SIGNATURE _____

DATE _____

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Attachment B: EBCI Governing Board Conflict of Interest Policy and Procedure. NOTE THIS POLICY IS BEING SENT AS PART OF THE REVIEW PACKET FOR DHHS AND WILL NOT BE ATTACHED TO THE TRIBAL OPTION POLICY. THE OFFICAL VERSION OF THE POLICY WILL BE LOCATED IN THE CIHA POLICY REPOSITORY

ATTACHMENT B

CHEROKEE INDIAN HOSPITAL AUTHORITY

GOVERNING BOARD CONFLICT OF INTEREST POLICY AND PROCEDURES

Each member of the Governing Board of Cherokee Indian Hospital Authority (CIHA) has a responsibility to the CIHA to be free and to appear to be free from the influence of any interest that conflicts with that of the hospital and to deal with third parties, including, without limitation, suppliers, customers, contractors and all others, solely on a basis that is in the best interest of the hospital, without favor or preference to any third party based on personal or other considerations. To avoid actual and possible conflicts of interest, the Governing Board requires each Member of the Governing Board promptly to disclose to the full Governing Board and CEO of CIHA each interest or influence of which he or she is aware that poses an actual or possible conflict of interest between the Governing Board Member (or any Relative of that Member) and the Cherokee Indian Hospital Authority.

1. DEFINITIONS.

a. **Cherokee Indian Hospital Authority (CIHA).** An independent component unit of the Eastern Band of Cherokee tribal government to oversee supervise and direct the operations of the Cherokee Indian Hospital and other health programs assigned to the CIHA by the Tribal Council.

b. **Conflict of Interest.** Any direct or indirect ownership, control, interest, employment relationship, business relationship, and/or participation in any facility, business entity or activity that directly or indirectly competes or does business with, or reasonably could be adverse to the CIHA constitutes a conflict of interest. The fact that a Member also serves as an officer, employee or representative of the CIHA shall **not** constitute a conflict of interest.

c. **Member.** Any member of a Governing Board of a facility owned, operated or managed, directly or indirectly, by the CIHA.

d. **Relative.** A “relative” of a Member shall include any spouse, parent, child, legal guardian or ward, brother, sister, grandparent, grandchild, nephew, niece, uncle, aunt and any

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of the above relatives who are in-laws or step relatives, as well as any other persons living in the same household.

e. **Substantial Interest.** Ownership shall not include an investment representing less than one percent (1%) of a class of outstanding securities of a publicly held corporation.

2. **DISCLOSURE.** Each Governing Board Member shall be required to disclose any possible or actual conflict of interest between such Member (or any Relative of such Member) and the Cherokee Indian Hospital Authority prior to his or her appointment to the Governing Board and throughout his or her term(s) immediately upon becoming aware of such possible or actual conflict of interest.

3. **POLICY.**

a. No Member or any Relative of such Member shall own any Substantial Interest in or have any personal contract or arrangement with any firm or individual doing or seeking to do business with the CIHA, unless the Governing Board determines after full disclosure that such interest, contract or arrangement will not tend to influence the action of such Member with respect to the CIHA, or the provision of care by the CIHA.

b. No Member or any Relative of such Member shall own any Substantial Interest in or have any personal contract or arrangement with any firm or individual which competes directly or indirectly with the business of the CIHA, unless the Governing Board determines after full disclosure that such interest, contract or arrangement will not tend to influence the action of such Member with respect to the business of the CIHA, or the provision of care by the CIHA.

c. No Member or any Relative of such Member shall seek, accept or offer any payment, service or gift from or to any firm or individual doing or seeking to do business with the CIHA, unless the Governing Board determines after full disclosure that such payment, service or gift will not tend to influence the action of such Member with respect to the business of the CIHA or the provision of care by the CIHA. This paragraph shall not prohibit acceptance or provision of ordinary social amenities.

d. No Member shall do business on behalf of the CIHA with any Relative unless the Governing Board determines after full disclosure that such relationship will not tend to

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influence the action of such Member with respect to the business of the CIHA, or the provision of care by the CIHA.

e. No Member or any Relative of such Member shall divert, for personal benefit, any business opportunity which the Member has good reason to know may be useful to the CIHA in its ongoing businesses, unless the Governing Board determines after full disclosure that such opportunity is not of any interest to the hospital, or the provision of care by the CIHA.

f. No Member or any Relative of such Member shall do business with or enter into any transaction with the CIHA, unless the Governing Board determines after full disclosure that such relationship will not tend to influence the action of such Member with respect to the business of the CIHA, or the provision of care by the CIHA.

4. **RESOLUTION OF EXISTING OR APPARENT CONFLICT OF INTEREST.** Upon being advised of a possible conflict of interest, the Governing Board shall fully discuss same and determine whether the matter disclosed represents a conflict of interest. Should the Governing Board determine that a conflict of interest exists, the Governing Board, shall require the Member (a) to abstain from all discussions and votes on any matter to which the conflict is relevant; (b) immediately to divest himself or herself of the actual or potential conflicting ownership control, interest, employment relationship, business relationship or participation; and/or (c) to resign his or her membership on the Governing Board.

EACH GOVERNING BOARD MEMBER SHALL RECEIVE A COPY OF THIS POLICY UPON ACCEPTANCE OF GOVERNING BOARD MEMBERSHIP, SIGN AN ACKNOWLEDGMENT OF RECEIPT AND AGREE TO ABIDE BY THIS POLICY.

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