

## **TITLE 2 - RULES OF PROCEDURE**

### **CHAPTER 2-13 WELLNESS COURT**

#### **2-13-1 Authority and Purpose**

The purpose of this Ordinance is to establish procedures and implement the following purposes and policies for CTCLUSI Wellness Court. This ordinance is adopted to protect the health, safety, and wellness of tribal members by utilizing Tribal Court to divert offenders with substance abuse issues away from the mainstream Court systems and procedures and toward a more holistic approach to substance abuse treatment, and

- (a) To offer treatment to both juvenile and adult offenders who have committed an offense that is directly, or indirectly, related to a substance abuse or addiction issue;
- (b) To identify and recommend potential participants to the CTCLUSI Wellness Court Team for legal and clinical screening as soon as possible;
- (c) To strictly monitor and supervise each participant through regular and frequent drug and alcohol testing, court appearances and program requirements;
- (d) To impose immediate sanctions and offer immediate rewards or incentives when a participant's behavior warrants such actions; and,
- (e) To make the participant a valued intricate part of the CTCLUSI Wellness Court Team and to encourage and support each participant in the goal of individual wellness and sobriety.

#### **2-13-2 Definitions**

- (a) *CTCLUSI Wellness Court.* The CTCLUSI Wellness Court is a court of special jurisdiction within the provisions of CTCLUSI Tribal Code Section 1-1-21, with jurisdiction to hear all cases referred to it pursuant to CTCLUSI tribal code.
- (b) *CTCLUSI Wellness Court Team.* The CTCLUSI Wellness Court Team shall consist of the Wellness Court Judge, Wellness Court Case Manager, Family Services representative, the Tribal Presenting Officer, and Tribal Defense

- (c) advocate. The CTCLUSI Wellness Court Team may include other members on the Team as determined by the CTCLUSI Wellness Court Judge.

### 2-13-3 Jurisdiction

- (a) The CTCLUSI Wellness Court shall have jurisdiction over any case in which it would have had original or exclusive jurisdiction related to the underlying offense, and any case that may be transferred to the tribal court by a court of competent jurisdiction. Upon successful completion of the CTCLUSI Wellness Court program, or at such a time when a participant becomes ineligible to continue in the program as set out in the CTCLUSI Wellness Court Policies and Procedures, the CTCLUSI Wellness Court will notify the transferring court of the status for any final disposition. All sanctions imposed by the CTCLUSI Wellness Court must be completed before any final case disposition.
- (b) Referrals to the CTCLUSI Wellness Court may be made once an offender has been charged with at least one offense within the tribe's jurisdiction and/or within the jurisdiction of a transferring court in which alcohol or drugs are involved. Referrals may also be made to the CTCLUSI Wellness Court for collaboration in post-sentencing matters of a foreign jurisdiction concerning an active matter in said jurisdiction.
- (c) Once a referral is received by the CTCLUSI Wellness Court, the participant shall be assigned to the CTCLUSI Wellness Court Case Manager who shall begin the eligibility process as set out in the Policy and Procedures Manual. Individuals who are determined to be eligible by the CTCLUSI Wellness Court Team may enter the CTCLUSI Wellness Court.

### 2-13-4 Rules of Evidence

The Rules of Evidence adopted by the CTCLUSI shall not be strictly applied in CTCLUSI Wellness Court proceedings. The CTCLUSI Wellness Court shall not be a court of record. All information obtained from or disclosed by a participant under the jurisdiction of CTCLUSI Wellness Court is both privileged and confidential information. However, confidential information may be disclosed after the participant signs an appropriate consent form(s), even if such information is protected by Federal confidentiality regulations. The regulations also permit disclosure without a participant's consent in several situations, including medical emergencies, program evaluations and communications among program staff. Participants who refuse to sign consent forms permitting essential communications may be excluded from treatment or be terminated from CTCLUSI Wellness Court. Additionally, a judge may order disclosure as allowed by federal, tribal and state law.

2-13-5 CTCLUSI Wellness Court Procedures

- (a) Initial Policies and Procedures for the CTCLUSI Wellness Court shall be established by the CTCLUSI Wellness Court Team and submitted to the CTCLUSI Tribal Council for review and approval.
- (b) Thereafter, the CTCLUSI Wellness Court Team may amend and modify the policies and procedures as necessary to improve the HTW Court and its processes. Any such amendments or modifications shall be by a majority vote at a CTCLUSI Wellness Court Team meeting with each member eligible to carry one vote. Notice of the meeting to amend and/or modify the Policies and Procedures must be given to each member of the CTCLUSI Wellness Court Team at least seven days prior to the meeting.
- (c) In order for the Policies and Procedures to be amended or modified, the CTCLUSI Wellness Court Judge and at least three other members of the CTCLUSI Wellness Court Team must be present at the meeting.

2-13-6 CTCLUSI Wellness Court Sessions

- (a) All CTCLUSI Wellness Court sessions shall be closed to the public except for invited guests who have duly executed confidentiality agreements, and subject to the restrictions set forth by HPAA, and/or other federal, state, or CTCLUSI law, and the discretion of the CTCLUSI Wellness Court Judge.
- (b) The CTCLUSI Wellness Court judge shall make all findings of facts relevant to each participant's case pursuant to the Policies and Procedures adopted by the CTCLUSI Wellness Court Team.
- (c) CTCLUSI Wellness Court sessions shall proceed pursuant to the policies and procedures adopted by the CTCLUSI Wellness Court Team.

2-13-7 CTCLUSI Wellness Court Sanctions

If a participant is not compliant with the requirements of the CTCLUSI Wellness Court, sanctions against the non-compliant individual may be issued by the CTCLUSI Wellness Court Judge. Sanctions include but are not limited to community service work, a change in substance abuse program or facility, and an increase in requirements issued by the CTCLUSI Wellness Court Judge. If a participant remains non-compliant with the requirements of the CTCLUSI Wellness Court, he/she may be terminated from the program and any stay of an underlying matter in any court of competent jurisdiction may be revoked.

## APPENDIX A

### LEGISLATIVE HISTORY AND EDITORIAL CHANGES

WELLNESS COURT

**LEGISLATIVE HISTORY AND EDITORIAL CHANGES**

The Tribal Council of the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians approved and adopted Chapter 2-13 “Rules of Procedure Wellness Court”, Resolution No. 18-097, Ordinance No. 100, at a Special Tribal Council meeting on February 15, 2019. Vote was   7   (for),   0   (against) and   0   (abstaining).

The Tribal Council of the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians approved for first reading the “Wellness Court” Ordinance, Resolution No. 18-097, Ordinance No. 100, at a regular Tribal Council meeting on December 8, 2018.