

An Act

LEGISLATIVE ACT 3-04

ACT ESTABLISHING THE CHEROKEE NATION COMPREHENSIVE CARE AGENCY

BE IT ENACTED BY THE CHEROKEE NATION:

SECTION 1. TITLE AND CODIFICATION

This act shall be known as the CHEROKEE NATION COMPREHENSIVE CARE AGENCY ORGANIC ACT and codified as _____ (Title) _____ (Section) _____ of the Cherokee Nation Code Annotated.

SECTION 2. PURPOSE

To establish a government agency to provide health and human services.

SECTION 3. LEGISLATIVE HISTORY

Cherokee Nation Constitution Article V, Section 7, states that "The Council shall have the power to establish laws which it shall deem necessary and proper for the good of the Nation, which shall not be contrary to the provisions of this Constitution." The Rules Committee passed this Act on January 29th, 2004.

SECTION 4. ESTABLISHMENT

The Cherokee Nation Comprehensive Care Agency (hereinafter "Agency") is hereby established within the "Executive Branch" of the government of the Nation.

SECTION 5. BOARD OF DIRECTORS

A. **Number.** The Board of Directors for the Agency shall consist of:

- 1) At least three but no more than five regular members;
- 2) Five standing ex-officio members, which are the executive heads of Health Services, Human Services, and Home Health, or their designee(s), and the Chairs of the Council Health Committee and Tribal Services Committee. Ex-officio members shall not have a vote on the Board.

B. **Terms.** Regular members shall serve for terms of three years and may hold their seat until they are retained or their replacement is seated. In order to stagger the expiration of office, of the first group of regular members appointed hereunder, one shall be appointed for a term of one year, one for a term of two years, and any additional for terms of three years.

C. **Conflicts of Interest.** Except as authorized under the Constitution of the Cherokee Nation, no regular member of the Agency shall, directly or indirectly, solicit, receive or in any manner be concerned in soliciting or receiving any assessment, subscription or contribution from any political organization, candidacy or other political purpose. No regular member of the Commission shall be a member of any tribal or local committee of a political party, or an officer or a member of a committee of a partisan political club, or a candidate for nomination or election to any paid tribal office, or take part in the management or affairs of any tribal political party or in any political campaign, except to exercise his or her right as a citizen privately to express his or her opinion and to cast his or her vote.

D. **Qualifications.** To be eligible to serve as a regular member, a person must:

- 1) be at least 25 years of age;
- 2) have a bachelor's degree from a college or university in a Health, Finance, Legal, Administration or related field, or have four years or more of related experience, which may include four years or more as a professional provider of health care or social services to elderly or disabled adults;
- 3) be of high moral character or integrity;
- 4) never have been convicted of a criminal offense other than misdemeanor traffic offenses; and
- 5) be physically able to carry out the duties of office.

E. **Selection.** The Principal Chief of the Cherokee Nation shall select the regular members of the Board, subject to confirmation by majority vote of the Council of the Cherokee Nation.

- F. **Vacancy.** In the event of a vacancy in the membership of the Board, the Principal Chief shall fill such vacancy for the un-expired term, subject to confirmation by a majority vote of the Council
- G. **Removal.** Regular board members shall serve their terms of office free from political influence from any department of the government of the Nation and may be removed only for cause, after a hearing by the Judicial Appeals Tribunal under such rules and procedures the Council prescribes. A petition for removal for cause may be brought by a majority vote of the Tribal Council, or the Principal Chief.
- H. **Authority.** Subject to Tribal and Federal law, the Board of Directors shall have legal authority and responsibility for the following:
- 1) Governance and operation of the organization not inconsistent with the Constitution and Laws of the Cherokee Nation.
 - 2) Development of policies consistent with the mission.
 - 3) Management and provision of all services, including the management of contractors.
 - 4) Establishment of personnel policies that, at a minimum, address adequate notice of termination by employees or contractors with direct patient care responsibilities.
 - 5) Fiscal operations.
 - 6) Development of policies on participant health and safety, including comprehensive, systemic operational plan to ensure the health and safety of participants.
 - 7) Quality assessment and performance improvement program.
 - 8) Establishment of a consumer advisory committee to provide advice to the Board on matters of concern to participants. Participants and representatives of participants must constitute a majority of the membership of this committee.
 - 9) Buy, sell, lease, or rent, real or personal property, as landlord or tenant, for authorized Agency activity, provided that facilities through which programs, services, functions or activities designated in paragraph 11 are carried out shall be considered facilities of the Cherokee Nation and may be leased by the Cherokee Nation to the Indian Health Service pursuant to 25 U.S.C. §§ 450j(f) and 458aaa-15(a).
 - 10) Entering into service provider contracts, including contracts, agreements or grants with private or public entities to provide comprehensive care services authorized by this Act, provided, however, that the Cherokee Nation reserves all rights with regard to intergovernmental compacts or government-to-government agreements, including but not limited to those authorized under P.L. 93-638 as amended, and such rights are not delegated to the Agency under this Act.
 - 11) Carrying out designated programs, services, functions and activities that are the responsibility of the Cherokee Nation under agreements entered into by the Cherokee Nation under P.L. 93-638, as amended.
 - 12) Acquire or consolidate with other entities to enhance services provided.
 - 13) Take any other action not prohibited by law that the Board finds to be in the best interest of the people served by the Agency.

SECTION 7. FINANCES

- A. Funds appropriated or transferred to the Agency by the Cherokee Nation, including those funds acquired by the Cherokee Nation pursuant to an Agreement entered into under P.L. 93-638, shall be used by the Agency for the purposes designated by the Cherokee Nation. Other funds of the Agency earned or received, including third party revenue generated on activities that the Agency is designated to carry out under Section 5.H.11, shall be retained by the Agency and used to carry out the programs and services of the Agency for the benefit of its clients, patients, or participants.
- B. The Agency shall establish and maintain its own management systems.
- C. Regular board members may be reasonably compensated pursuant to Board action, subject to available funds and any applicable law.
- D. Upon dissolution of the Agency all assets shall become property of the Cherokee Nation unless otherwise required by law.

SECTION 8. REPORTING

The Board or the Chief Executive Officer of the Agency shall report at least annually to the Principal Chief and Tribal Council as to its programs, finances, employees, facilities, plans, and any other information the Board deems important to convey.

SECTION 9. PROVISIONS AS CUMULATIVE

The provisions of this act shall be cumulative to existing law.

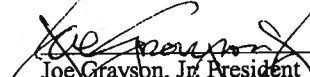
SECTION 10. SEVERABILITY

The provisions of this act are severable and if any part of provision hereof shall be held void the decision of the court so holding shall not affect or impair any of the remaining parts or provisions of this act.

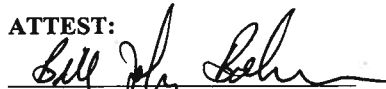
SECTION 11. EFFECTIVE DATE: EMERGENCY DECLARED

It being immediately necessary for the welfare of the Cherokee Nation, the Council hereby declares that an emergency exists, by reason whereof this act shall take effect and be in full force after its passage and approval.

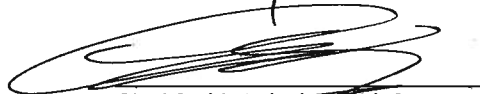
Enacted by the Council of the Cherokee Nation on the 17TH day of FEBRUARY, 2004.


Joe Grayson, Jr. President
Council of the Cherokee Nation

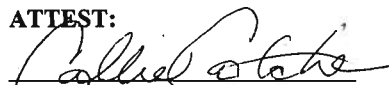
ATTEST:


Bill John Baker, Secretary
Council of the Cherokee Nation

Approved and signed by the Principal Chief this 23 day of February, 2004.


Chad Smith, Principal Chief
Cherokee Nation

ATTEST:


Callie Catcher, Secretary/Treasurer
Cherokee Nation

YEAS AND NAYS AS RECORDED:

Audra Smoke-Connor	<u>YEA</u>	Melvina Shotpouch	<u>YEA</u>
Bill John Baker	<u>YEA</u>	Meredith A. Frailey	<u>YEA</u>
Joe Crittenden	<u>YEA</u>	John F. Keener	<u>YEA</u>
Jackie Bob Martin	<u>YEA</u>	Cara Cowan	<u>YEA</u>
Phyllis Yargee	<u>YEA</u>	Buel Anglen	<u>YEA</u>
David W. Thornton, Sr.	<u>YEA</u>	William G. Johnson	<u>YEA</u>
Don Garvin	<u>YEA</u>	Charles "Chuck" Hoskin	<u>YEA</u>
Linda Hughes-O'Leary	<u>YEA</u>		

Administrative Clearance

Program/Project Manager

Signature/Initial Date

Department Director:

Signature/Initial Date

Executive Director:

Signature/Initial Date

Controller: (If Needed)

Signature/Initial Date

Government Resources Dept:

Signature/Initial Date

Administration Approval:

Signature/Initial Date

Legislative Clearance

Legislative Aide:

Signature/Initial Date

Standing Committee:

Next Meeting Date

Chairperson:

Signature/Initial Date

Returned to Presenter:

Date

**Cherokee Nation
Act /Resolution Proposal Form**



Act



Resolution

TITLE: Cherokee Nation Comprehensive Care Agency Organic Act

DEPARTMENT CONTACT: John E. Parris

RESOLUTION PRESENTER: Norma Merriman, Human Services

SPONSOR: _____

NARRATIVE:

This Act establishes a new government agency to access resources currently unavailable to existing health programs and to take advantage of future opportunities to better serve the health needs of both Tribal members and others in the community.

An opportunity arose for Cherokee Nation to operate a special Medicaid and Medicare program called "Program of All-inclusive Care for the Elderly," or "PACE." A committee has been formed and a feasibility study completed. The consensus is that a new entity be formed such as established by this Act. The entity needs to be an agency of the Tribal government but also have a degree of autonomy. It also need not be limited to operating PACE but can realize important benefits by incorporating other services under the same agency. With the proposed Ex-officio members of the Board, it is anticipated that there will be a high degree of cooperation and collaboration with the programs and services provided directly by the Nation.