

**MATHIAS COLOMB
BAND OF INDIANS**

Pukatawagan, Manitoba

By-law for the Establishment
of The MATHIAS COLOMB HEALTH BOARD
and OTHER RELATED MATTERS

CERTIFIED to be a true copy of a By-law of
The Mathias Colomb Band of Indians passed by
Chief and Council of the Mathias Colomb Band
of Indians this 19 day of July , 1989



CHIEF PASCALL BIGHETTY

MATHIAS COLOMB FIRST NATION
HEALTH AUTHORITY BY-LAW

Preamble

WHEREAS the Mathias Colomb First Nation peoples have a right to health services at an adequate and proper level to meet their health requirements;

AND WHEREAS the Mathias Colomb First Nation entered into solemn Treaty arrangements with Her Majesty's Government of The Dominion of Canada by adherence to Treaty Number 6;

AND WHEREAS the Mathias Colomb First Nation did not, through said Treaty give up their authority to be a self-governing people;

AND WHEREAS the Chief and Council of Mathias Colomb First Nation desires by this by-law to take over responsibility for the delivery of health and related services and programs;

AND WHEREAS Section 81 (1) (a), (d), (f), (g), (h), (j), (l), (q) and (r) of the Indian Act R.S.C. 1970 Ch. 1 - 6 as amended empowers the Mathias Colomb First Nation to make by-laws inter alia;

(a) To provide for the health of residents on the reserve and to prevent the spreading of contagious and infectious diseases;

(d) The prevention of disorderly conduct and nuisances;

(f) The construction and maintenance of water courses, roads, bridges, ditches, fences and other local works;

(g) The dividing of the reserve or a portion thereof into zones and prohibition of the construction of buildings or the carrying on of any class of business, trade or calling in any such zone;

(h) The regulation of the construction repair and use of buildings, whether owned by the Band or by individual members of the Band;

- (j) The destruction and control of noxious weeds;
- (l) The construction and regulation of the use of public wells, cisterns, reservoirs and other water supplies;
- (q) With respect to any matter arising out of or ancillary to the exercise of powers under this section;
- (r) The imposition on summary conviction of a fine not exceeding one thousand dollars or imprisonment for a term not exceeding thirty days, or both, for violation of a by-law made under this section.

AND WHEREAS Section 36 of the Constitution Act 1982 provides that without alternate legislative authority of Parliament or of the Provincial Legislatures, or the rights of any of them with respect to the exercise of their legislative authority, Canada and Manitoba are committed to:

- (a) Promoting equal opportunities for the well being of Canadians;
- (b) Furthering economic development to reduce disparity in opportunities; and
- (c) Providing essential public services of reasonable quality to all Canadians.

AND WHEREAS the Mathias Colomb First Nation defines health in the same terms as endorsed by the World Health Organization as a state of complete physical, mental and social well being and not merely the absence of disease or infirmity.

AND WHEREAS the health conditions of the Mathias Colomb First Nation Indian Reserve cannot be significantly improved without Indian involvement in and control of local health care services.

AND WHEREAS the Mathias Colomb First Nation peoples desire their Chief and Council to create, maintain and operate a local health authority on their Reserves;

AND WHEREAS pursuant to Section 73 of the Indian Act, the Government of Canada has enacted certain regulations respecting health and waste disposal.

AND WHEREAS the Chief and Council has by Band Council Resolution requested the Minister to exempt Mathias Colomb Indian Band from said regulations and enable this by-law to supercede said regulations.

AND WHEREAS nothing in this bylaw shall alter, diminish, abrogate, derogate or breach the Treaty and or Aboriginal rights of the Mathias Colomb Band of Indians or its members.

AND WHEREAS further, nothing in this by-law shall alter, diminish, abrogate, derogate or breach the Treaty status of the Mathias Colomb Band of Indians or its members under Treaty Number 6 with Her Majesty's Government of Canada, nor shall it be interpreted or construed to do so.

BE IT ENACTED AND THEREFORE IT IS HEREBY ENACTED as a By-law of the Council of the Mathias Colomb First Nation herein called the "Band Council" as follows:

Council Authorized to Obtain Agreements for Local and Regional Health and Related Services

1. The Band Council is hereby authorized to enter into such agreements and declarations as in its sole discretion is deems appropriate, to create, maintain and operate a Mathias Colomb First Nation Health Board (hereinafter referred to as the "Board") to serve the community health needs of the Mathias Colomb First Nation.

Establishment of Mathias Colomb First Nation Health Board

2. The Band Council hereby enacts and it is hereby enacted and established that there shall be a Mathias Colomb First Nation Health Board hereinafter referred to as the "Board".

3. The community health service needs of residents on-Reserve shall be administered, delivered and maintained by the Board. The Board shall be guided initially by the Mathias Colomb First Nation Health Policy Manual. (hereby incorporated by reference to this by-law and attached hereto as Appendix "A") The Board shall in the future make recommendations to the Band Council for the revision of the policies set out in the said manual as changing conditions require.

4. The Band Council shall appoint the Mathias Colomb Health Board and said Board shall be responsible and accountable to the Band Council.

a) A Director's term of office, subject to future Band by-laws, shall be for a four year term or until his successor is appointed by Chief and Council.

b) Vacation of Office. The office of a Director shall be vacated automatically:

i) if by notice in writing to the Board he resigns his office;

ii) if he dies;

iii) If he misses three consecutive Board meetings without a reasonable excuse;

iv) if he is found to be of unsound mind;

v) if his is dismissed for "just cause" by the Band Council.

c) The Band Council has authority to dismiss Board members for "just cause". Change in the composition of the Chief and Council shall not be "just cause" within the meaning of this clause. Such matters as serious misconduct, breach of confidentiality; failure to responsibly perform the duties of a Board member; missing meetings too frequently; or conviction for serious criminal offence may fall within the definition of "just cause".

d) The Directors shall establish operating procedures of the Board and dealing inter alia, with such matters as meetings, duties of Directors, the establishment of Board Committees to monitor, evaluate and assess the various programs that are delivered by the Board.

e) The Directors shall meet not less than 10 times per year. The Directors are empowered to include in their operating procedures a provision for meetings by telephone conference where circumstances warrant.

Board of Directors

5. (a) The Board shall consist of six members, five of whom shall be voting members and at least four of whom must be members of the Mathias Colomb Indian Band.
- (b) In appointing the Directors, Chief and Council shall be guided by the need to provide representation on the Board from the following elements of the Mathias Colomb First Nation Community:
- * Representation from the Mathias Colomb First Nations elders
 - * Representation from youth (ages 18 to 30)
 - * Representation by persons knowledgeable on health issues of the community.
- (c) There shall be representation by a Band Councillor for the Mathias Colomb First Nation with responsibility for the health Portfolio. Said Councillor shall sit as the sixth member and shall have no vote at Board Meetings.
- (d) The Board is hereby authorized to select a chairman from amongst their midst and to appoint such other officers as they may see fit.
- (e) Sitting Board members are eligible for reappointment at the expiry of their term.
- (f) Persons employed by the Board shall not be eligible for Board membership.

Health Care Administrator to attend all Board meetings

6. The Health Care Administrator selected by the Board shall have, as part of his job description, an obligation to attend all meetings of the Mathias Colomb First Nations Health Board.

Confidentiality of Clients/Patient records

- 7.
- 1) Subject to this by-law, clients/patients records made under this by-law and the Mathias Colomb Health Policy are confidential and no person shall disclose or communicate information from the record in any form to any person except;
 - (a) to the Mathias Colomb Health Care Administrator, or to a person employed, retained or consulted by said Health Care Administrator in the course of administering or enforcing any provision of this by-law or the Mathias Colomb Health Care Policy;
 - (b) To the client/patient in questions provided that release of the information to the client/patient has been approved by the Mathias Colomb Health Care Administrator;
 - 2) A client/patient of the Mathias Colomb health Authority is entitled to be given access to;
 - (i) his or her own records; and
 - (ii) the record of a child who is in the adult's legal care subject to the exceptions contained in paragraph 7 (3) herein;
 - 3) The Mathias Colomb Health Care Administrator may refuse to give a person access to all or any part of a record referred to in 7 (2) where;
 - a) There are reasonable grounds to believe that disclosure of all or part of the record might result in physical or serious psychological harm to that person;
 - b) That part of the record discloses the identity of a person who is not employed by the Mathias Colomb Health Authority and who has supplied information in confidence to the Mathias Colomb Health Authority for any purpose relating to the administration or enforcement of this by-law or the Mathias Colomb Health Policy;

and the Mathias Colomb Health Care Administrator shall notify the person in writing of the reasons for refusing access to all or any part of his or her record or the record of a child in his or her care.

4) It shall be stipulated in every contract of employment that the Board enters into that employees are undertaking to protect and honour the special relationship and confidentiality that exists between the Health Board and its clients/patients. It shall be further stipulated that breach of such confidentiality may be grounds for dismissal.

5) It shall be the duty of every Director of the Board to comply with the confidentiality provisions of this by-law and should a board member breach said confidentiality provisions it shall be grounds for the dismissal of that Board member from his position by the Band Council.

The Board May Negotiate Agreements

8. (a) The Band Council hereby authorizes the Board to negotiate agreements with other Swampy Cree Tribal Bands, the Federal Government, the Provincial Government, public health services agencies, or other private health services agencies, or other such agencies pursuant to the Mathias Colomb Health Policy Manual for the delivery of regional or community health services to residents including, inter alia, the provision of or construction of health services facilities, or provision of health services staff and personnel including inter alia physicians, community health representatives, dentists, dental assistants, dental therapists, nurses, midwives, traditional Indian healers, medical officers of health, environmental health officer and other necessary personnel;
- (b) All such agreements shall be brought to the Band Council for approval and ratification.

Responsibilities of the Board

Responsibilities of the Board

9. The Board shall be responsible for the overall administration, maintenance and delivery of health services in the community and without restricting the generality of the foregoing may;

(a) Develop operating procedures for the Board;

(b) Recommend administrative, personnel, financial and other policies;

(c) Receive and approve budget;

(d) Subject to the approval and ratification of the Band Council, borrow and spend money and acquire, dispose of and manage all forms of personal property;

(d) Manage such real property as the Band Council may direct;

(f) Review and approve the Annual Report;

(g) Provide an Annual Report to the Chief and Council and consult from time to time with Chief and Council on the health needs of the community;

(h) Hire and dismiss a qualified health care administrator;

(i) Advise the Band Council on health and health related policy matters;

(j) Ensure that policies and procedures are in place to maintain the traditional confidentiality of medical records.

10. The Board may enter into agreements for the retention of a qualified health care administrator who shall be responsible and accountable directly to the Board and who shall be the senior health services staff officer.

11. The Board shall have the power to maintain, control, and manage the affairs of the various health and related activities of the Mathias Colomb First Nation, and the power to disburse funds up to the amount of the

budget approved by the Band Council and where necessary any parties to any agreements made pursuant to this By-law and to disburse any other grants, fees, donations or other monies received by the Authority in the course of operating their programs and activities pursuant to the Mathias Colomb Health Policy Manual.

Duties of Health Care Administrator

12. The Board may determine from time to time the duties and responsibilities of the qualified health care administrator and without restricting the generality of the foregoing the qualified health care administrator shall be responsible for;

(a) Organizing and managing the day to day business of the Board;

(b) Establishing procedures to implement policies contained in the Mathias Colomb Health Policy Manual;

(c) Personnel administration and supervision of health services and staff including the power to hire and fire, subject always to such policy as to appeals or grievances as may established by the Board;

(d) Financial administration;

(e) Program supervision;

(f) Liaison with other agencies;

(g) Managing all arrangements contracted for with others;

(h) Reporting to the Board on all the above mentioned matters in such form and on such schedules as the Board may from time to time determine.

Staffing and Personnel

13. The Board may determine from time to time the duties and responsibilities and the number of staff and personnel of the Board and without restricting the generality of the foregoing including inter alia; Dental Assistants,

Dental therapists; Nurses; Midwives; Traditional Indian Healers; Medical officers of health; Environmental health officers; Clerks; and other necessary personnel.

14. The Board may recognize persons who act as traditional Indian Healers and may provide for a method of any remuneration or any compensation to the traditional Indian Healers for such services.

Program and Services

15. The Board shall administer, manage, maintain and deliver, in accordance with the Health Transfer Agreement between the Minister of National Health and Welfare and the Mathias Colomb Band, the following health services and programs and it is hereby enacted that at a minimum specific Provincial standards relating to such programs shall apply until such time as there may be an Agreement to the contrary between the Minister of Health and Welfare for Canada and the Mathias Colomb Band.

(a) Those treatment services mentioned in Appendix 6 (A) of Health and Welfare Canada's Health Program Transfer Book dated September 28, 1987 and any amendments thereto;

(b) Communicable disease control;

(c) Occupational and environmental health and safety;

(d) Emergency health planning.

16. The Band shall administer and maintain such other local health services as are determined by the Band Council to be required to be administered, maintained, and delivered to members of the Mathias Colomb First Nation.

Enforcement and Penalties

17. Insofar as they are not inconsistent with this by-law or any future by-law, specific Provincial laws and regulations relating to the matters mentioned in Paragraphs 15 (a), (b), (c) and (d) are hereby incorporated as part

of this by-law and may be enforced as part of this by-law, until such time as the Band Council may otherwise agree with the Minister of Health and Welfare for Canada.

18. The Board may, from time to time recommend to the Chief and Council:

(a) Amendments to this by-law;

(b) The enactment of further by-laws to create or give effect to programs required for the health and well being of members of the Mathias Colomb First Nation;

(c) Other measures that may be required to enable the Board to carry out its duties and responsibilities.

19. The Board is hereby authorized to take any action necessary to ensure this by-law or policy established thereunder is complied with.

20. The Board may consult with the Band Council when enforcing this by-law or ensuring compliance with this by-law.

21. This by-law shall be enforced by Band Constables or any other Peace Officers serving the Mathias Colomb Band or by inspectors employed or designated by the Board.

22. Every individual, person or corporate body shall comply with this by-law and the laws and regulations referred to in Paragraph 17.

23. A violation of this by-law that continues for more than one day constitutes a separate offence for each day during which it continues.

24. Any individual, person or corporate body who violates any of the provisions of this by-law shall be guilty of an offence, and shall be liable on a summary conviction to a fine not exceeding \$1,000.00 or imprisonment for a term not exceeding 30 days, or to both a fine and imprisonment, for each violation.

Interpretation

25. In this by-law, the masculine includes the feminine, the feminine the masculine and the singular includes the plural and the plural the singular as the context requires.

Severability

26. In the event that a Court of competent jurisdiction or other body with jurisdiction determines that any provision herein is unlawful or beyond the jurisdiction of the Chief and Council, and/or the Government of Canada said provision shall be severable from this by-law and the remainder of the terms of this by-law and any regulations thereunder or future by-laws shall remain in full force and effect.

For the Protection of Directors and Officers

27. No Director of Officer of the Board shall be liable for:

(a) the acts, receipts, neglects or defaults of any other director or officer or employee;

(b) For joining in any receipt or act for conformity;

(c) For any loss, damage or expense happening to the Board through the insufficiency or deficiency to title to any property acquired for or on behalf of the Board;

(d) For the insufficiency or deficiency of any security upon which any of the monies of the Board are placed or invested;

(e) for any loss or damage arising from the bankruptcy, insolvency or tortious act of any person, firm or corporation including any firm, person, firm or corporation, including any firm person or corporation with which any monies, securities or effects shall be deposited or lodged;

(f) for any loss, conversion, misapplication or misappropriation of or any damage resulting

from any dealings with any monies, securities or other assets belonging to the Board;

(g) for any other loss, damage or misfortune whatever;

unless the above shall happen by his failure to exercise the powers and to discharge the duties of his office of trust honestly in good faith and in the best interests of the Board, and to exercise the degree of care, diligence and skill that a reasonable prudent person would exercise in comparable circumstances.

Indemnities to Directors and Officers

28. Subject to the provisions of this by-law, every Director and Officer of the Board, his heirs, executors, administrators and other legal personal representatives and persons acting on instruction of the Board shall be indemnified by the Board for:

(a) Any liabilities, costs, charges and expenses that he sustains or incurs in respect of any action, suit or proceeding—that is proposed or commenced against him in respect of the bona fide execution of the duties of his office; and

(b) all other charges, expenses which he sustains or incurs in respect of the affairs of the Board.

DONE AND PASSED by Chief and Council in Council
assembled this 19 day of July A.D.,
1989.

THE MATHIAS COLOMB
BAND OF INDIANS:

Per:
A/C *M. Hawk*
.....
Chief

George Cottell
Flora J. Cottell
B. V. Cottell
~~.....~~
Walter Dick
John ...
Joseph ...
.....
.....

(A QUORUM FOR THIS BAND CONSISTS OF SIX (6) COUNCIL MEMBERS)