

Chapter 7C CHEROKEE WELLNESS COURT

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Sec. 7C-1. Purpose.

This chapter shall be interpreted and construed so as to implement the following purposes and policies:

- (1) To offer treatment to both juvenile and adult offenders who have committed a crime that is directly or indirectly related to a substance abuse or addiction issue;
- (2) To identify and recommend potential Wellness Court participants to the Wellness Court Team for legal and clinical screening as soon as possible during the sentencing or dispositional stage of the court process;
- (3) To strictly monitor and supervise each participant through regular and frequent drug and alcohol testing, court appearances and program requirements;
- (4) To impose immediate sanctions and offer immediate rewards or incentives when a participant's behavior warrants such actions; and
- (5) To make the participant a part of the Wellness Court Team and to encourage and support each participant in the goal of individual wellness.

(Ord. No. 49, 12-15-2005)

Sec. 7C-2. Definitions.

Wellness Court. The Wellness Court is a Trial Court of Special Jurisdiction within the provisions of Section 7-1(a), with jurisdiction to hear all cases referred to it pursuant to Cherokee Law.

Wellness Court Judge. The Wellness Court Judge shall be appointed upon nomination by the Principal Chief, and confirmation by the Tribal Council for a term of four years. The Wellness Court Judge shall be an attorney licensed by the North Carolina State Bar and shall be subject to the other requirements of Section 7-8. In the case of a vacancy, the Chief Justice of the Cherokee Court may name a temporary replacement for a period not to exceed 90 days. The Wellness Court Judge is an Associate Judges of the Trial Courts of Special Jurisdiction pursuant to Section 7-1(b).

(Ord. No. 49, 12-15-2005; Ord. No. 589, Art. IV, 2-8-2007)

Sec. 7C-3. Jurisdiction.

- (a) The Wellness Court shall have jurisdiction over any case that is transferred to it by the Cherokee Court. Upon successful completion of the Wellness Court program, or at such a time when a participant of the Wellness Court becomes ineligible to continue in the program as set out in the Wellness Court policies and procedures, the Wellness Court will transfer jurisdiction of each case back to the Cherokee Court for any final disposition.
- (b) Referrals to the Wellness Court shall be made by the Cherokee Court once a criminal defendant has plead guilty to or has been convicted of at least one

criminal charge where alcohol or drugs is at issue. Wellness Court referrals may be made as a part of a conditional sentence or may be made as part of a mixed or suspended sentence.

- (c) Once a referral is made to the Wellness Court, the Wellness Court caseworker shall be assigned to the case to evaluate the eligibility of the individual and shall report any ineligible individuals back to the Cherokee Court judge who made the referral.

(Ord. No. 49, 12-15-2005)

Sec. 7C-4. Rules of Evidence.

The Wellness Court shall not be a court of record. Any information obtained, used or disclosed by a member of the Wellness Court Team, including the participant, while the participant is under the jurisdiction of the Wellness Court shall not be used as evidence against the participant in any other proceeding in the Cherokee Court or any other court in any other jurisdiction. All Wellness Court records are privileged and confidential and shall not be disclosed except to the members of the Wellness Court Team. The Rules of Evidence adopted by the Eastern Band of Cherokee Indians shall not apply in any Wellness Court proceedings.

(Ord. No. 49, 12-15-2005)

Sec. 7C-5. Wellness Court procedures.

- (a) Establishment of policies and procedures.

- (1) Policies and procedures for the Wellness Court shall be established by the Cherokee Wellness Court Planning Team.
- (2) Thereafter, the Wellness Court Team shall amend and modify the policies and procedures as necessary to improve the Wellness Court process. Any such amendments or modifications shall be by a majority vote at a Wellness Court Team Meeting and only after notice of the meeting is given to each member of the Wellness Court Team at least 10 days prior to the meeting.
- (3) In order for the policies and procedures to be amended or modified, there shall be present at the Wellness Court Team meeting the judge and at least four other members of the Wellness Court Team.

- (b) Hearings.

- (1) All Wellness Court hearings shall be closed to the public. Only participants and members of the Wellness Court Team shall be present during the court hearings. An individual participant may request that other participants be barred from the courtroom during a court hearing and the Judge shall honor the request.
- (2) The Wellness Court is strictly a non-adversarial forum and there shall be no prosecuting or defense attorneys allowed to participate in any court proceedings.
- (3) The Wellness Court Judge shall make all findings relevant to each participant's case pursuant to the policies and procedures adopted by the Wellness Court Team.

- (4) Wellness Court hearings shall proceed pursuant to the policies and procedures adopted by the Wellness Court Team.
 - (5) Wellness Court hearings shall require a quorum of the Wellness Court Team in order to proceed. A quorum of the Wellness Court Team shall be defined as the judge, the case manager or court coordinator, the treatment specialist and at least one other member of the Wellness Court Team as may be described in the policies and procedures adopted by the Wellness Court Team.
- (c) Sanctions. If a participant is not compliant with the requirements of the Wellness Court, sanctions against the non-compliant individual may be issued by the Wellness Court Judge. Sanctions include but are not limited to incarceration, community service work and an increase in requirements issued by the Wellness Court Team.
- (Ord. No. 49, 12-15-2005)