

**RESOLUTION OF THE GOVERNING BODY OF THE  
THREE AFFILIATED TRIBES OF THE  
FORT BERTHOLD INDIAN RESERVATION**

*A Resolution entitled, "Authorization to pursue litigation regarding unpaid Contract Health Services on behalf of Tribal members"*

**WHEREAS,** This Nation having accepted the Indian Reorganization Act of June 18, 1934, and the authority under said Act; and

**WHEREAS,** The Three Affiliated Tribes Constitution authorizes and empowers the Mandan, Hidatsa & Arikara Tribal Business Council to engage in activity on behalf of and in the interest of the welfare and benefit of the Tribes and of the enrolled members thereof; and

**WHEREAS,** The Indian Health Service provides health care services to residents of the Fort Berthold Reservation as direct services at the local clinics staffed by IHS employees, as supplemented with Tribal funds; and

**WHEREAS,** When the Indian Health Service is unable or unwilling to provide needed health services to Tribal members, and the member is "on or near the reservation", and the member has a health situation which is serious or life-threatening, the Tribal member may be referred to off-reservation health service providers for further medical treatment, with the patient generally understanding that the referral by the IHS constitutes willingness on the part of IHS to pay for such services, with this whole process being referred to as Contract Health Care, and the area in which such services may be delivered being called a Contract Health Care Services Delivery Area (CHSDA); and

**WHEREAS,** Tribal members who are referred to such non-IHS medical providers are generally treated as ordinary patients of the non-IHS health care provider and are expected by such provider to be financially responsible for the cost of medical treatment provided, even if IHS has agreed to make payment for such medical services; and

**WHEREAS,** Even though IHS has referred the Tribal member to an off-reservation medical provider, for various reasons, IHS may not be willing or able to pay the cost of the medical services provided – 1) the IHS may say the health condition requiring treatment is not life-threatening or 2) that the IHS has no more funds to pay for such referrals, or 3) that the IHS did not authorize the referral in the first place, which is sometimes the case when the Tribal member needs emergency medical services off the reservation; and

**WHEREAS,** A case involving a Tribal member is now pending in State court, by virtue of the fact that the Tribal member was sued in State court for non-payment of medical services provided by a Bismarck hospital pursuant to a referral from an IHS facility that provided initial medical services to the Tribal member; and

**WHEREAS,** Because the IHS is a necessary party who should be liable for the cost of the medical services provided to the Tribal member, but is not a party to the lawsuit because the IHS is a federal agency not subject to state court jurisdiction, the case needs to be removed to Federal court for the purpose of joining the IHS into the lawsuit and seeking repayment from the IHS of the medical services provided to the Tribal member; and

**WHEREAS,** This case could be brought as a class action on behalf of all other American Indians similarly situated who have been referred to off-reservation medical service providers by the IHS and where the IHS has not made payment to the provider.

**NOW THEREFORE BE IT RESOLVED,** that the Tribal Business Council hereby authorizes the Legal Department to join the IHS in the lawsuit involving the Tribal member and to go to Federal court to seek payment from the IHS for the unpaid medical bills of the Tribal member; and

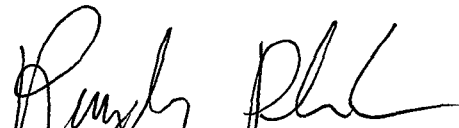
**NOW THEREFORE BE IT FURTHER RESOLVED,** that the Tribal Business Council hereby authorizes the Tribal Legal Department to explore all of the options of pursuing a class action on behalf of the Tribal member whose medical bills were not paid by IHS and report back to the Tribal Business Council at the next Tribal Business Council meeting to determine whether it is feasible to bring a class action lawsuit against the IHS with regard to the obligations of the IHS for Contract Health Care within a CHSDA.

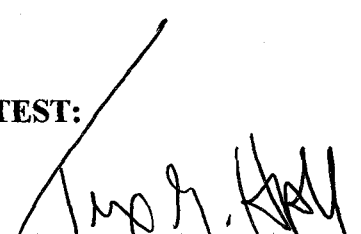
**CERTIFICATION**

I, the undersigned, as Secretary of the Tribal Business Council of the Three Affiliated Tribes of the Fort Berthold Indian Reservation hereby certify that the tribal Business Council is composed of seven (7) members of whom five (5) constitute a quorum, 6 were present at Regular meeting thereof duly called, noticed, convened and held on the 8<sup>th</sup> day of January, 2003, that the foregoing Resolution was duly adopted at such meeting by the affirmative vote of 6 members, 0 members opposed, 0 members abstained, 0 members not voting, and that said Resolution has not been rescinded or amended in any way.

Chairman  Voting. [ ] Not Voting.

Dated this 8<sup>th</sup> day of January, 2003.

  
Secretary, Randy Phelan  
Tribal Business Council

**ATTEST:**  
  
Chairman, Tex G. Hall  
Tribal Business Council