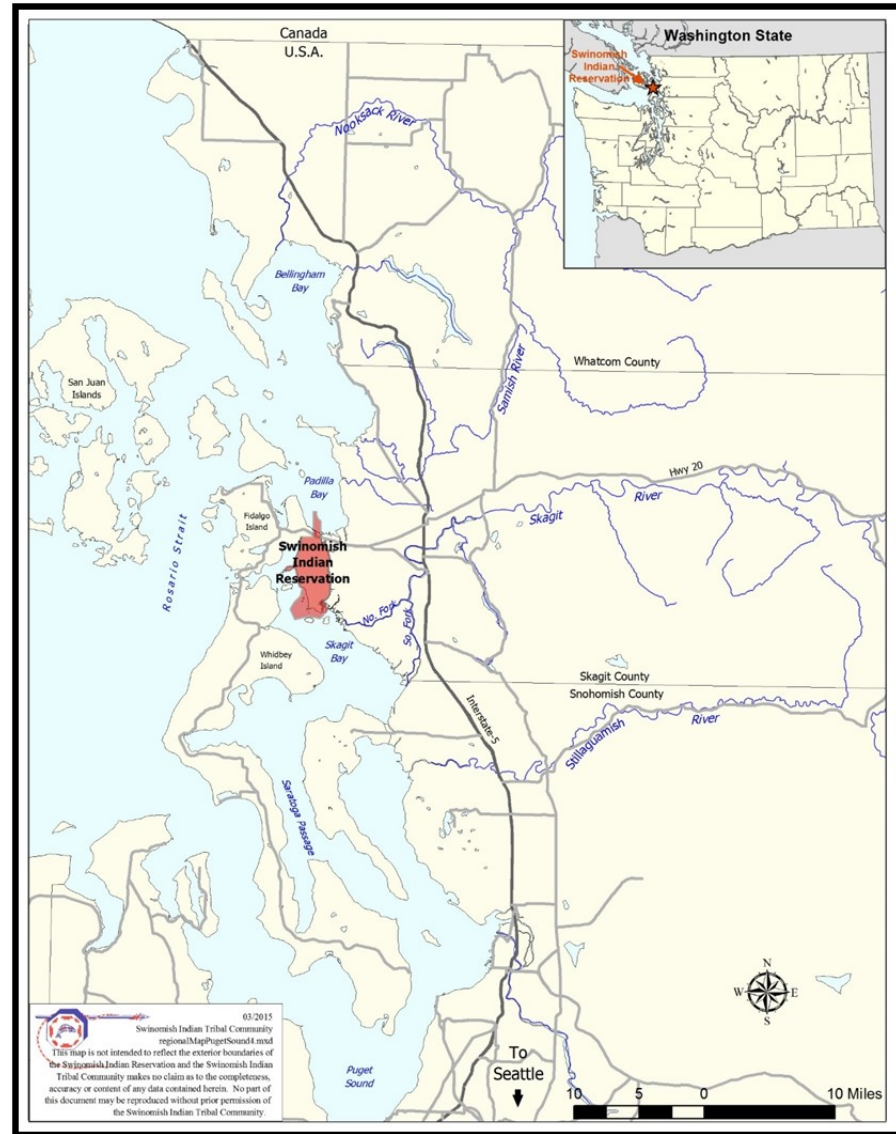


# *Building a 21<sup>st</sup> Century Dental Team at Swinomish Indian Tribal Community*

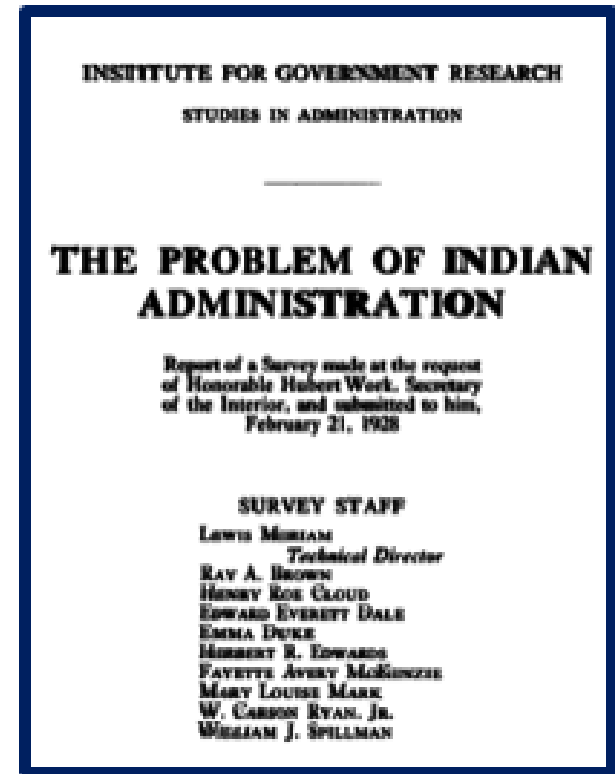


# Swinomish Indian Tribal Community



# 1928 – Meriam Report

- Thirteen dental positions for dentists
- No detailed precise program of dental work mapped out: a dentist is not required to visit specified reservations or schools at designated times
- Dental visits were up to the dentist to decide ... sixty days is considered the limit of time to be given one place
- It is rarely possible for dentists to return to communities oftener than once every two years
- Dental equipment usually supplied by traveling dentist
- The Indian Office reports that any child in need of dental care can receive it regardless of whether or not he has funds; on closer questioning, it was admitted that the only children who received dental care were those who could pay for it
- No dental hygienists are employed, thus a very effective and economical preventive facility is lacking
- The work attempted is largely of an emergency character



# Indian Health Service Overview

- General U.S. Population has an average of 1,500 Patients per Provider/Dentist
- Typical I.H.S. Provider/Dentist availability is 2,800 Patients per Provider

*Typical I.H.S. Provider is expected to service 86% more patients than the U.S. Dental average*



# Swinomish Dental Clinic

- Part of the Indian Health Service system of dental clinics
  - There are 29 I/T/U Dental Clinics in the State of Washington. In 2012, **only 55%** of Native Americans have access or are accessing these Clinics
  - Clinics are operated directly by the Indian Health Service or by the Tribes or Urban Indian organizations through Contracts or Self Governance Compacts
  - Indian Health Service provides **only 22%** of current program funding from Dental Program funds – balance comes from the Tribal general fund and 3<sup>rd</sup> Party billing, mainly Medicaid
- The SITC Dental Clinic is operated by the Swinomish Indian Tribal Community through a Self Governance Compact
- Typical 2018 staffing consisted of: 1 full-time and 1 part-time Dentist, 1 Dental Therapist, 2 Dental Hygienists, 3 full-time and 3 part-time Dental Assistants, 1 full-time and one part-time receptionist, 1 office manager/Dental Therapist coordinator





# Old I.H.S. Provided Dental Trailer Swinomish Indian Tribal Community





# Swinomish Dental Clinic after Self Governance



# Medical Care System in the 1970s

- Imagine when Primary Care could only be provided by an MD, i.e. no Physicians Assistants or Nurse Practitioners
- In the 21<sup>st</sup> Century, the Primary Care System is reliant on Mid-Level Providers
- Dental Practices are operating under the similar model that Medical was under in the 1970s
- Swinomish Medical Clinic has operated with Mid-Levels for 37 years!





# Dental Health Aide Therapists (DHATs) provide:

- Cultural awareness and understanding of community needs
- Routine and preventive care – dentists can now prioritize more complex cases
- Improved pediatric care
- Cost savings to tribal health systems
- Relief to overburdened IHS system
- A new educational/employment field for AI/AN students



# Alaska DHAT Scope of Practice

- **Dental Health Aide Therapist (DHAT)**

[----]-----

<50 Billable Procedures

- **DDS**

[-----]

>500 Billable Procedures

Source: Dr. Louis Fiset, BA-DDS-University of Washington



# Why a 2 Year DHAT Program

- Competency reached with 2 years for the <50 Billable Procedures
- Curriculum fits a 2 year structure
- Training costs lower
- Graduates return to their communities sooner
- Cost of social commitments for trainees lower



# Alaska Native Oral Health Solution: DHATs

**In 10 years, Alaskan  
DHATs have  
expanded care to  
over 45,000 Alaska  
Natives!**





# ADA attempts to stop Alaska's success

Litigation against Alaska Native Tribal Health Consortium (ANTHC), individual DHATs, and the State of Alaska

## Governor Murkowski 2nd class dental care for Alaska Natives deserves a ferocious reaction!



No Alaskan should face irreversible dental surgery by an unlicensed therapist with no dental degree. Alaska law is being broken unnecessarily.



Alaska Dental Society, Inc. • 9170 Jewel Lake Road • Anchorage, Alaska 99502-3303  
Pursuing policies that enhance the well-being of Alaskans.



SWINOMISH INDIAN  
TRIBAL COMMUNITY

# Alaska Attorney General Opinion recognized IHS certification of DHATs to work in Native Villages without a license from the State of Alaska

## MEMORANDUM

State of Alaska  
Department of Law

TO: Robert E. Warren, DDS  
Alaska Board of Dental  
Examiners

DATE: September 8, 2005

FILE NO: 663-05-0152

TEL. NO.: 451-2811

FROM: Paul R. Lyle  
Sr. Assistant Attorney General

SUBJECT: State Licensure of  
Federal Dental Health  
Aides

### INTRODUCTION

The Alaska Board of Dental Examiners is concerned that dental health aides employed in Native Health Clinics are performing dental procedures for which state law requires a license as a dental hygienist or a license as a dentist under AS 08.32 and AS 08.36, respectively. You have asked us to review whether dental health aides employed by these clinics must be licensed under state law.

Native Health Clinics are operated by various Alaska Native non-profit corporations formed under state law by Alaska tribes. These nonprofit corporations operate under contract with the United States Department of Health and Human Services, Indian Health Service, Alaska Area Native Health Service to provide health care to Alaska Natives.<sup>1</sup> Dental health aides are trained under standards set by the Community Health Aide Certification Board, a board of the federal government that operates under

<sup>1</sup> The Indian Self-Determination and Education Assistance Act (ISDEAA), 25 U.S.C. § 450a *et seq.*, generally requires the federal government to enter into compacts with Indian tribes to transfer the management of federal programs designed to benefit Indians and Alaska Natives to tribes and tribal organizations. The Department of Interior and Related Agencies Appropriations Act, 1998, Pub. L. No. 105-83, §§ 325(a) and 325(c), 111 Stat. 1543, 1597-98 (1997), required certain Alaska Native nonprofit corporations to form a tribal consortium to enter into an ISDEAA compact to provide health services to Alaska Natives statewide. The consortium is named the Alaska Native Tribal Health Consortium (ANTHC) and is a nonprofit corporation formed under Alaska law. ANTHC negotiated a global compact with the Indian Health Service, Alaska Area Native Health Service. Under the compact, individual Native nonprofit corporations provide health services in Native clinics under separately negotiated funding agreements with the Area Service.



# Favorable State Court ruling upholding IHS certification of DHATs to practice in Native Villages

## IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

### THIRD JUDICIAL DISTRICT AT ANCHORAGE

THE ALASKA DENTAL SOCIETY, THE )  
AMERICAN DENTAL ASSOCIATION, )  
DR. T. HOWARD JONES, DR. )  
MICHAEL BOOTHE, DR. PETE HIGGINS )  
and DR. GEORGE SHAFFER, )

Plaintiffs, )

v. )

STATE OF ALASKA, COMMISSIONER )  
WILLIAM NOLL OF THE DEPARTMENT )  
OF COMMERCE, COMMUNITY AND )  
ECONOMIC DEVELOPMENT IN HIS )  
OFFICIAL CAPACITY, THE DEPARTMENT )  
OF COMMERCE, COMMUNITY AND )  
ECONOMIC DEVELOPMENT, THE )  
ALASKA NATIVE TRIBAL HEALTH )  
CONSORTIUM, and DOES 1 through 8, )

Defendants. )

Case No. 3AN-06-04797CI

### ORDER

#### Introduction

The primary question in this case is whether the Alaska Dental Practices Act ("ADPA") is preempted by the federally implemented Community Health Aide Program under 25 U.S.C. §1616l. Subsidiary issues before this Court are whether Plaintiffs have a private right of action, whether separation of powers is violated if this Court orders the State to enforce the ADPA, whether the equal protection clause of the Alaska

3AN-06-4797CI

1 of 21

*The Alaska Dental Society, et al. v. SOA, et al.*  
ORDER



**SWINOMISH INDIAN  
TRIBAL COMMUNITY**

# ADA attempts to stop Alaska's success

After losing its court battle in Alaska to prevent DHATs from providing services to Native Villages, the following language was inserted in the re-authorization of the Indian Health Care Improvement Act (as part of the Affordable Care Act):

Expansion of the Indian Health Service Community Health Aide Program “*shall exclude dental health aide therapist services from services covered under the program...*”

- Unless requested by “*an Indian tribe or tribal organization located in a State (other than Alaska) in which the use of dental health aide therapist services or midlevel dental health provider services is authorized under State law to supply such services in accordance with State law.*”





# Adding a Dental Therapist to the Swinomish Dental Clinic



# Adding a Dental Therapist to the Swinomish Dental Clinic

- Procedure review for FY 2012, 2013 and 2014 for Swinomish Clinic showed that over 50% of procedures and services could have been provided by a trained dental therapist under the Alaska model
- Analysis shows that the same procedures could have been covered with 50% personnel cost savings by replacing dentist time with dental therapist time
- Analysis shows that dentist time could have been significantly re-oriented to more complex dentist-only procedures, i.e. such as prosthodontic, advanced restorative and surgical procedures, etc.



# Political Road to Sovereignty Solution

- Swinomish worked for 5 years with the Northwest Portland Area Indian Health Board (NPAIHB) and a coalition of community advocates, public health organizations and dental professionals to pass a bill in the Washington Legislature authorizing dental therapists to practice in Washington in order to meet the requirement of the IHCA limiting language
- Then Swinomish worked for 2 more years to pass a **Tribal Specific DHAT Authorization Bill**
- Before 2016, no bill got out of House or Senate Committees in Washington State, blocked by legislators working on behalf of the Washington State Dental Association
- **Swinomish determined it had the power and obligation to address oral health systems change by exercising its Tribal Sovereignty**



# Sovereignty in Action: Step 1

## Invest in our new workforce model

- Swinomish has entered into an Agreement with the Alaska Native Tribal Health Consortium to provide DHAT Training to Swinomish members
- Swinomish has funded two Tribal Members to attend the DHAT 2 Year Training program in Alaska. Both are expected to graduate June 2019.





# Sovereignty in Action: Step 2

## Build Tribal Regulatory Framework

- Swinomish created a Division of Licensing, bringing together existing Tribal licensing and regulatory functions:
  - Including licensing/regulating child care services and on-Reservation businesses
  - Swinomish also self-certifies its mental health providers and regulates admission to practice in Swinomish Tribal Court
- Swinomish adopted the first Tribal Dental Health Provider Licensing Code to license and regulate Dentists, Hygienists and Dental Therapists
- This is a quintessential exercise of Tribal sovereignty: regulating Tribal providers who are employed by the Tribe, paid with Tribal funds, working in a Tribal clinic built on Tribal land, and improving the health of Tribal community members



# Overview of Swinomish Dental Licensing Code

- Established Dental Health Licensing Board of at least five (now expanded to six) members, with five year terms:
  - Chair of Swinomish Senate's Health, Education and Social Services (HESS) Committee
  - Enrolled Member of the Tribe
  - Dentist or other individual with experience in oral health education and training
  - Individual with education, experience, interest in and commitment to improvement in oral health among Native Americans
  - Swinomish Chief Dental Officer



# Overview of Swinomish Dental Licensing Code

- **Licensing Board duties:**

- Consult with and advise Swinomish Senate and Division of Licensing on technical and policy matters, and recommend Licensing Code amendments
- Review and approve Division of Licensing procedures and forms
- Conduct hearings and appeals from license or sanctions decisions

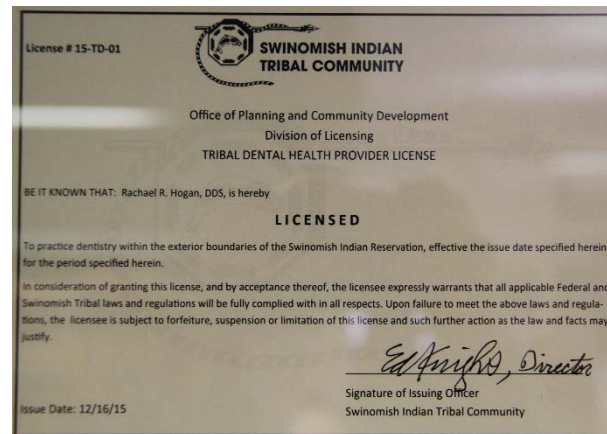
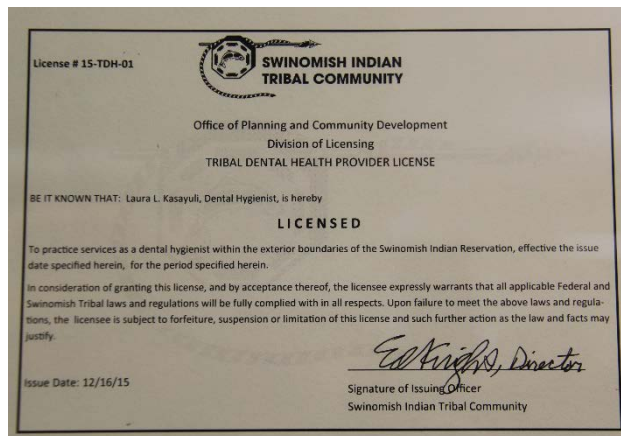
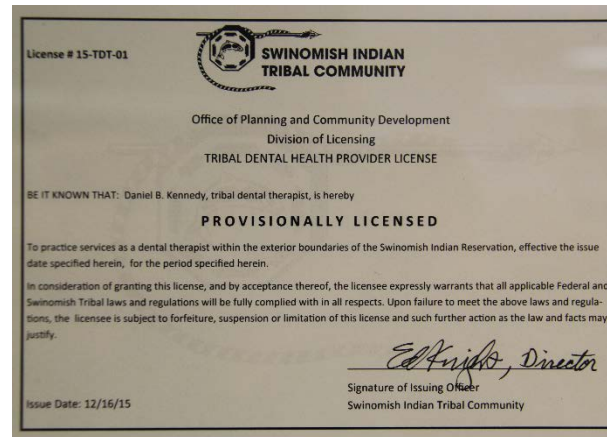
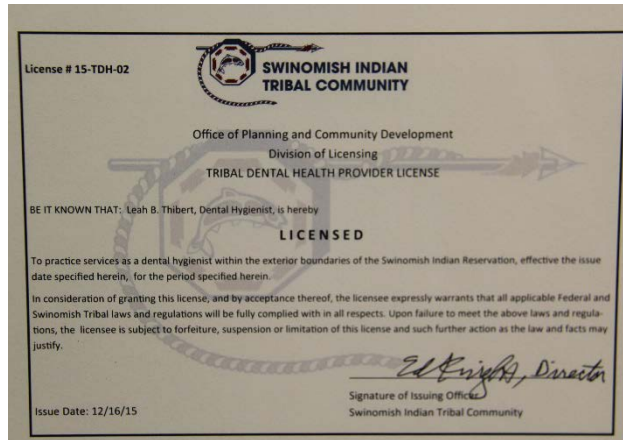
- **Division of Licensing duties:**

- Investigate license application and
  - Issue license,
  - impose conditions on license,
  - or deny application
- Investigate complaints
- Take action to protect public or sanction licensees



# Sovereignty in Action: Step 3

## License Qualified Providers





# Overview of Swinomish Dental Licensing Code

- License requirements include:
  - Must meet Tribal minimum standards of character for contact with Indian children or elders
  - Employed by Tribe or eligible for employment when licensed
  - Complete required training and continuing education
  - Demonstrate formal education, training and/or personal or professional experience that would reasonably be expected to result in cultural competence
  - If a Dentist, have experience supervising Dental Therapists or complete an acceptable course on supervision



# Overview of Swinomish Dental Licensing Code

- Robust investigative and appeal provisions to:
  - protect public safety
  - provide due process to license applicants or holders
- Division of Licensing authority to impose range of sanctions:
  - Probation, with regular reporting, limited practice, continued education
  - Reprimand
  - License suspension
  - License revocation



# Overview of Swinomish Dental Licensing Code

- Creating a licensing code and an administrative process is resource intensive
- Every Tribe may not need to replicate the Swinomish model
- Swinomish worked with the NPAIHB to make its licensing system available to collaborating Tribes:
  - Swinomish amended its Dental Licensing Code to provide for licensing of dental providers employed by Washington and Oregon Tribes
  - Template Memorandum of Agreement and Tribal code documents were prepared for use by collaborating Tribes



# Overview of Swinomish Dental Licensing Code

- Intertribal health care licensing:
  - Fosters Tribal autonomy and independence from state regulation
  - Parallels state initiatives to expand professional license reciprocity and portability
  - Conserves limited Tribal resources and avoids needless duplication
  - Is a cooperative exercise of Tribal sovereignty that strengthens Tribal authority and governance



# Overview of Swinomish Intertribal Licensing Process

## Process for Swinomish license of Dental Therapist:

### ▪ LEGAL INFRASTRUCTURE

- Tribe employing the Dental Therapist enters into a Memorandum of Agreement (MOA) with Swinomish
- Tribe adopts Dental Licensing Code
- Provides Certificate of Insurance pursuant to MOA
- May adopt Tort Claims Code (optional but recommended)

### ▪ LICENSING PROCESS

- MOA requires Swinomish licensure of **both** the Dental Therapist **and** Supervising Dentist
- Application, with Letter(s) of Reference, HIV/AIDS and Suicide Prevention Education Verification





# Overview of Swinomish Intertribal Licensing Process

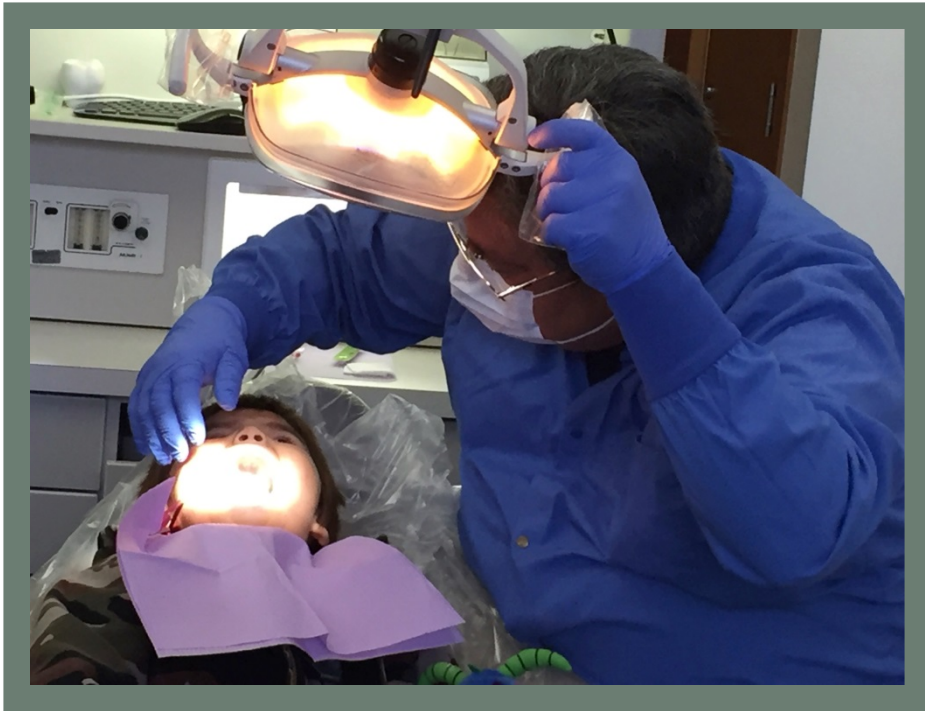
- Background check
- Letter certifying cultural competency
- Practice Agreement between Dental Therapist and Supervising Dentist
- For Dental Therapist application: complete Preceptorship (may be issued a Provisional License until Preceptorship is completed)
- For Supervising Dentist application: complete Supervisory Training



# Sovereignty in Action: Step 4

## Provide services!

On January 4, 2016, Daniel Kennedy, an experienced DHAT, joined the Swinomish Dental Team in making history by becoming the first Tribally licensed Dental Therapist providing services in the lower 48 states.



# February 22, 2017

Four years after the effort began, Governor Jay Inslee signs the Dental Health Aide Therapist Bill into law



# RCW 70.350.020

## Authorization—Conditions.

(1) Dental health aide therapist services are authorized by this chapter under the following conditions:

(a) The person providing services is certified as a dental health aide therapist by:

(i) A federal community health aide program certification board; or

(ii) A federally recognized Indian tribe that has adopted certification standards that meet or exceed the requirements of a federal community health aide program certification board;



# RCW 70.350.020

(b) All services are performed:

(i) In a practice setting within the exterior boundaries of a tribal reservation and operated by an Indian health program;

(ii) In accordance with the standards adopted by the certifying body in (a) of this subsection, including scope of practice, training, supervision, and continuing education;

(iii) Pursuant to any applicable written standing orders by a supervising dentist; and

(iv) On persons who are members of a federally recognized tribe or otherwise eligible for services under Indian health service criteria, pursuant to the Indian health care improvement act, 25 U.S.C. Sec. 1601 et seq.





# ANTHC/Illisagvik Training program is the **gold** standard for Dental Therapy Training

- With the ANTHC/Illisagvik program as the basis of our education program, we are taking action to facilitate access to DHAT training for tribal members



# Progress to date

- In early 2017, the project secured a cooperative agreement between Swinomish and Skagit Valley College to start a DHAT education program in partnership with the college
- Skagit Valley College will house the first calendar year of the education program. The second calendar year of the education program will be at the Swinomish dental clinic.
- In 2017, Swinomish created and approved plans for a clinic expansion to accommodate the education program
- Mid-2017 the project convened the DHAT Education Advisory Committee
- DHAT Education Advisory Committee, Swinomish, and Skagit Valley College decided to use the Alaska Dental Therapy Education program as a basis for the Washington Dental Therapy Education Program because it incorporates both CHAP standards and CODA requirements
- A feasibility study was completed. A gap analysis of the college programs was completed.
- Swinomish and Skagit Valley have created an implementation timeline which will culminate in acceptance of a first class in the fall of 2020
- First round of funding has been secured
- Swinomish broke ground in April 2018 for the clinic expansion



# THANK YOU!





# SWINOMISH INDIAN TRIBAL COMMUNITY DENTAL HEALTH PROVIDER LICENSING CODE

[HTTP://WWW.SWINOMISH.ORG/MEDIA/48067/1511DENTAL.PDF](http://www.swinomish.org/media/48067/1511DENTAL.PDF)

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