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Joseph Deese, M.D. Elected Fellow of Emergency Physicians College



Joseph E. Deese, MD

Joseph E. Deese, MD, has been named a Fellow of the American College of Emergency Physicians (ACEP) during a ceremony held recently in Seattle, Washington. A native of Robeson County and graduate of Pembroke State University,

Dr. Deese earned his medical degree from UNC-Chapel Hill's School of Medicine in 1978. He has practiced emergency medicine for the past 12 years, 7 of which have been at Southeastern General Hospital.

Fellowship in ACEP requires certification by the American Board of Emergency Medicine and three consecutive years' membership with the ACEP. Fellows must also meet four other experience-based criteria.

Fellows must also meet four other experience based criteria. Before joining SGH, Dr. Deese was director of the Emergency Department at Richmond Memorial Hospital and Emergency Medical Technician-I director for Cumberland County.

He served as a preceptor of Fayetteville AHEC medical residents at Cape Fear Valley Medical Center. He has also served on the board of directors of the Southeastern Family Violence Center and as a preceptor of senior medical students from Bowman Gray in SGH's Emergency Department.

In addition to his duties as a full-time staff physician at SGH's Emergency Department, Dr. Deese is medical director of the NC Cancer Institute.

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For example, the government has the obligation to ensure that sound management practices are employed in developing, protecting, and disposing of tribal timber rights. There are several federal programs administered by the BIA in conjunction with the Department of Agriculture designed to aid tribal forest management. Unfortunately, this is one area where the performance of the federal government has received some of its strongest criticism from Indians. Another natural resource that is the subject of federal trust duties is the tribal right to hunt and fish. Usually, this right must be derived from treaties or agreements, but even so, it is not necessarily limited to tribal lands. If the federal government has this duty to an Indian tribe, then it must protect the right to hunt and fish without interference by the state or by non-Indians.

TRUST PROPERTY—TRUST FUNDS

Indian tribes and individuals currently have almost \$600,000,000.00 in three different Indian accounts administered by the BIA. These funds come from the sale or lease of tribal trust resources and lands, from federal court judgments and Indian claims and awards, and other payments to tribes or individuals. The federal government is obligated to administer these funds safely, according to sound principles of accounting and management, and to invest them in the highest interest-bearing accounts permitted by law.

SELF-GOVERNMENT

The federal government must protect the Indian right to self-government. The trust relationship between the federal government and a recognized tribe is unique in the law of trust because it is a relationship between two sovereign governments. Under the trust relationship, the federal government acknowledges this government-to-government relation and is obligated to preserve it. The federal government is bound to refrain from doing anything that interferes with the tribe's right to determine its destiny (within certain restraints imposed by Congress) and to prevent unwarranted interference by the state into Indian self-government. In order to ensure the proper functioning of tribal government, the federal obligation includes providing technical assistance and economic services necessary for Indians to rebuild their societies and tribal economies. The objective is to allow Indians to exist in America's pluralistic society with their own cultural identity maintained. This aspect of the federal trust duty is difficult to enforce, however, because federal courts have characteristically viewed the federal obligation as little more than preventing the destruction of tribal government rather than the affirmative duty to enhance and promote cultural separateness through tribal government.

SOCIAL, MEDICAL, AND EDUCATIONAL SERVICES

The federal government, of course, is required to provide those social, medical, and educational services secured by treaties. And Congress seems to have recognized in past years that its obligation to Indian tribes for these services extends beyond those rights secured by treaties. For example, the Indian Self-Determination and Educational Assistance Act of 1975 speaks of a "federal responsibility for assistance to education of Indian children." The Snyder Act of 1921 also listed a sweeping range of services that the Department of the Interior must provide to Indians. H.R. 334 authorizes the Lumbee to plan, conduct, consolidate and administer programs, services, and functions authorized under the Snyder Act. This bill also allows the tribe all authority provided under the Indian Self-Determination Act. Although the Congress has acted in recognition of its duty to Indians concerning education, health, and social needs, the federal government is nonetheless reluctant to concede that it is required to provide these services. The future probably holds a considerable amount of litigation in which the exact nature of the government's obligation in this area is to be determined.

SUMMARY OF TRUST DUTIES

The trust relationship has advantages and disadvantages for Indians. The Institute for the Development of Indian Law has identified five ways in which the federal trusteeship, which carried out with diligence and loyalty, may benefit Indian tribes: (1) protection of tribes and individuals from taxation by state or local governments; (2) the provision of legal services by the Department of Justice to secure and protect legal rights; (3) federal management of Indian trust funds; (4) preference for Indians in employment under the Federal Indian Preference Law; and (5) protection from the federal government of abuses that would occur absent the trust relationship. Disadvantages of the relations include: (1) federal paternalism in discharging its trust duties; and (2) federal control over Indian lands and resources. While some critics contend that the relationship should be abandoned because of federal intrusiveness, most Indians agree that maintaining the trusteeship is critical to the future of Indians' dealings with the federal government. In addition, there are present signs that the Congress has begun to take its trust responsibilities more seriously than in the past.

If you have questions or comments, please do not hesitate to call. My number is 919-521-2831.

Dr. Cheryl Locklear To Receive Top PSU Alumni Association Award Feb. 6

Dr. Cheryl Ransom Locklear of Pembroke, a '75 summa cum laud graduate of Pembroke State University who was the first Native American to graduate from the UNC-Chapel Hill School of Dentistry, and Fred George of Laurinburg, vice president of manufacturing for the Eastern Region of the U.S. For Campbell Soup Company, have been named the winners of the top awards this year of the Pembroke State University Alumni Association.

The awards will be presented at PSU's Alumni Awards Homecoming Dinner Saturday, Feb. 6, at 5 P.M. in PSU's Chavis Center. Locklear will receive the "Outstanding Alumna Award," while George will receive the "Distinguished Service Award." New members of the PSU Athletic Hall of Fame and new alumni officers will also be elected at the dinner, for which the admission price is \$15 per person.

For persons wishing to attend both the dinner and the alumni dance at 9 P.M. that evening, the total cost is \$20 per person. Locklear established her private dental practice in Red Springs in '85 and established the Ransom Locklear Professional Complex in Red Springs in '88. It was named for her maiden and married names.

Not only was she the first Native American to graduate from the UNC-Chapel Hill School of Dentistry in '79, she was the first Native American accepted to the UNC-Chapel Hill Dental Surgery Degree Program in '75. In '84 Locklear also received from UNC-Chapel Hill's School of

Public Health a Master of Public Health Degree in Dental Public Health Administration.

The first "Miss Lumbee" in '67, she was valedictorian of Pembroke Senior High School in '71 and earned her Bachelor of Science in mathematics at PSU as a summa cum laud graduate in '75. After a two-month internship with the Phoenix Area Health Regional Office in '79, she served from 1980-85 as public health dentist for the Robeson/Bladen County schools in the administration of public health programs in 40 schools.

A lifetime member of the PSU Alumni Association for which she has served on the Board of Directors, Locklear presently serves as vice chairperson of Southern National Bank of Red Springs. She is a member of the N.C. Dental Scholars Selection Committee, the Robeson County Morehead Selection Committee, the Southeastern Dental Society, the N.C. Dental Society, and

the American Dental Association. Her awards include being named "One of Five Outstanding Young Women of North Carolina by the Jaycees." Locklear, who is the daughter of Flora Ransom of Pembroke and the late Marvin Ransom, had three children: Nanci, 20, Morehead Scholar at UNC-Chapel Hill; Sarah, 12; and Christopher, 11.

George, who is in his second year of a four-year term as a member of the PSU Board of Trustees, is a member of the PSU Chancellor's Club. He serves as vice chairman of the PSU Foundation Board and a member of the PSU Development and University Relations Advisory Subcommittee.

George has established the Margaret Kennerdell George Endowed Memorial Scholarship at PSU in memory of his mother, who as a social worker enhanced the lives of less fortunate children in Akron, O. This scholarship is being awarded annually to a PSU female student majoring in social work. George, who has served as guest keynote speaker for the annual PSU Angus McLean Executive Symposium Series, employs a large number of PSU graduates with Campbell Soup Company.

He serves on the Board of Directors of the Scotland County Chamber of Commerce, is a member of Foundation Board of Scotland Memorial Hospital, vice president of the Scotland County Concerned Citizens for the Homeless, a member of the Board of Directors of the Scot-

CONTINUED OF PAGE 2

Federal Recognition: What It Really Means

by Cynthia L. Hunt, Indian Law Unit, Lumbee River Legal Services

This is the second article in our series of articles on federal recognition. Federal trust responsibilities will be the focus of this article. The next article will focus on federal benefits and services.

FEDERAL TRUST RESPONSIBILITIES

A trust, in essence, is a relationship concerning property in which one person (the "Trustee") holds legal title to property has the responsibility to safeguard and manage the property in a way that most benefits the beneficiary. The federal trust obligations to Indians and tribes can arise in one or more of the following five ways:

- A: treaties and agreements;
- B: the United States Constitution;
- C: decisions by the federal courts;
- D: acts of Congress; or
- E: principles of international law.

Absent treaties or agreements, tribes will enter into a trust relationship with the federal government based on acts of Congress—that is will become eligible under acts passed in recognition of the federal trust responsibilities that apply to recognized tribes.

H.R. 334 will allow the Lumbee to have land taken into trust for the tribe. For example, the tribe may decide to purchase some land and transfer the title to the property to the federal property, and the interests are held in common for the benefit of all living members of the tribe. All tribal members are entitled to equal protection in decisions of the tribe concerning tribal property. The manner in which a tribe chooses to use its the extent that the members participate in the governmental should become involved in its government. I would also like to emphasize that this does not mean the tribe will be put on a reservation. The Lumbee tribe will never be put on a reservation. In broad terms, the existence of a trust relationship means that the federal government is obligated by law to act always in the best interests of one tribe to another and may change over time.

Moreover, there is disagreement over the precise extent of the federal obligations. The Department of the Interior defines the federal responsibility as the legal obligation of the United States Government to protect valuable Indian land, minerals, water rights, and other natural resources. Many Indians consider this definition inadequate. For example, the American Indian Policy Review Commission referred to the federal trust obligation as "an established legal obligation which requires the United States to protect and enhance any Indian trust resources and tribal self-government and to provide economic and social programs necessary to raise the standard of living and social well-being of the Indian people to a level comparable to the non-Indian society." Consequently, the federal trust obligation can be discussed in terms of three broad topics: 1. protection of Indian trust property; 2. protection of the Indian right to self-government; and 3. provision of those social, medical, and educational services necessary for the survival and enhancement of the tribes.

One should note that while there are currently federal statutes authorizing the Bureau of Indian Affairs and other federal agencies to provide benefits and services under all three of the above areas, the point of the present discussion is whether the Congress is required by the trust relationship to provide these as it pleases. In addition, the importance of the trust relationship and of defining its scope is that the trust relationship is often brought into play when Indians and the federal government differ about how to interpret the various federal programs. What follows is a discussion of the above three areas in the relationship.

TRUST PROPERTY

Indian trust property generally takes the form of land held in trust by the federal government for the tribe, land held in restricted status for individuals, allotment lands held by individuals, federal trust funds holding Indian monies, Indian natural resources (such as water or mineral rights), and tribal business organizations. This trust property includes land, minerals, water rights, timber resources, hunting and fishing rights, and trust fund monies.

TRUST PROPERTY—LAND

Trust land may be created in four ways: (1) by treaty or agreement; (2) by statute when Congress expressly designates land for reservation; (3) by Executive Order to designate reservation land under general authority from Congress to do so; and (4) by "withdrawal" of public purposes. Land held by individual Indians in restricted status is land which may not be disposed of without federal permission. Allotment land is land allotted from tribal lands to an individual, held in restricted status, which historically is associated with the Era of Termination. The federal trust obligation with respect to trust land is basically to preserve Indian ownership and prevent the land passing to non-Indians except for sound reasons. But the federal obligation extends beyond land in Indian possession; the federal government is also obligated to assist Indians in obtaining lands to which they have valid claims.

TRUST PROPERTY—RESOURCES

Tribal resources may include mineral deposits such as coal, gas, oil, uranium, or other fuels or metals; these resources may also include water rights and timber rights. Tribal resources are those resources on or beneath tribal lands as well as certain others, such as water, to which the tribe has a claim through treaty, judgment, or agreement. The federal government is obligated by the trust duty to protect and promote tribal utilization of these natural resources.