

**July 20, 2022**  
**Senate Committee on Indian Affairs of the United States of America**  
**Legislative Hearing on H.R. 5221**  
**Testimony of Dr. Patrick Rock (Leech Lake Band of Ojibwe), Chief**  
**Executive Officer, Indian Health Board of Minneapolis**

Chairman Schatz, Vice Chairman Murkowski, and Members of the Senate Committee on Indian Affairs of the United States, thank you for the opportunity to testify today on urban confer policies. My name is Dr. Patrick Rock, I am a member of the Leech Lake Band of Ojibwe and I serve as a medical provider and Chief Executive Officer of the Indian Health Board in Minneapolis, Minnesota. Established over 50 years ago, the Indian Health Board of Minneapolis is the oldest urban Indian organization (UIO) in the country which provides medical, dental, medication-assisted treatments, health and wellness programming, and counseling services to more than 5,000 American Indian and Alaska Native (AI/AN) patients each year. In addition, I am a member of the National Council of Urban Indian Health (NCUIH), which represents the 41 UIOs across the nation who provide high-quality, culturally-competent care to urban Indians, who constitute over 70% of all AI/ANs.

I testify today in support of the *Urban Indian Health Confer Act* (H.R. 5221), which requires agencies and offices within the U.S. Department of Health and Human Services (HHS) to confer with UIOs regarding health care for AI/ANs living in urban areas. This legislation enables UIOs to engage in important dialogue with all divisions within HHS so that urban Indian communities are made aware of major healthcare policies. I will speak to you today about the importance of this bipartisan legislation and how it improves communication between federal agencies and UIOs on healthcare issues, and in turn, improves healthcare access for the more than 70% of AI/AN people that reside in urban areas.

For the reasons stated herein, I urge the Members of this Committee to act on their commitment to improving urban Indian health and move forward on this legislation.

## Background

UIOs are a critical part of the Indian Health Service (IHS) system, which includes IHS facilities, Tribal Programs, and UIOs. This is commonly referred to as the I/T/U system. Unfortunately, UIOs experience significant parity issues compared to the other components of the I/T/U system, as well as other federally funded health care systems, which greatly impacts our services and operations. This includes the lack of clear communication and urban confer policies between UIOs and federal agencies.

Urban confer policies are the response to decades of deliberate federal efforts, such as forced assimilation, termination, and relocation, that has resulted in 70% of AI/AN people living outside of Tribal jurisdictions. Thus, urban confer has become an essential tool used to address the health care needs of most AI/AN persons.

Currently, only IHS has a legal obligation to confer with UIOs. It is crucial that HHS, and the agencies it operates, establish a formal confer process to communicate with UIOs on policies that impact them and their AI/AN patients living in urban centers. Urban confer policies do not supplant or otherwise impact Tribal consultation and the government-to-government

relationship between Tribes and federal agencies. The lack of urban confer has enabled HHS agencies outside of IHS to disregard the needs of urban Indians and neglect the federal obligation to provide health care to all AI/ANs.

## Establish Urban Confer Between HHS Agencies and UIOs

I would like to applaud two leaders of this Committee, Senators Tina Smith and James Lankford, for their bipartisan introduction of the identical companion legislation, *Urban Indian Health Confer Act* (S. 4323), which reiterates the vital importance of establishing formal paths of communication between UIOs and federal agencies.

Specifically, this legislation requires HHS agencies to confer with UIOs on healthcare issues affecting AI/ANs and provides a forum for important feedback from AI/AN stakeholders. A clear communication pathway between federal health agencies and UIOs is imperative, especially during the ongoing COVID-19 pandemic that has disproportionately impacted AI/ANs. Missed opportunities for awareness and information provided to UIOs regarding AI/AN healthcare can be easily avoided through a confer process.

For example, key information regarding vaccine distribution for the initial COVID-19 vaccine rollout in December of 2020 was poorly communicated to UIOs and created unnecessary hardships. HHS addressed initial communications only to Tribes and did not direct it to the UIO component of the IHS system. When HHS was asked about whether UIOs needed to similarly decide between an IHS or state vaccine allocation, it was unclear for weeks as to whether they were expected to make such a decision. Eventually, HHS asked UIOs to decide between receiving their vaccine distribution from either their state jurisdiction or IHS on the same day as the initial deadline (which thankfully HHS subsequently extended for several days). Some UIOs were informed of the deadline by their Area office with no formal national communication. Consequently, UIOs were prevented from providing input, resulting in many clinics experiencing serious delays in vaccine distribution. For example, Native American LifeLines, the Baltimore UIO, did not receive vaccines until just 5 days before the general public was eligible. This had dire consequences, as the pandemic took the lives of AI/ANs at the highest rates of any population. Ultimately, this flawed process could have been easily avoided with an urban confer policy.

In an October 2021 House Natural Resources Subcommittee for Indigenous Peoples of the United States (SCIP) hearing on H.R. 5221, IHS Deputy Director, Benjamin Smith, confirmed the failure to properly communicate with UIOs around COVID-19 vaccine distribution in his remarks, **“Initially urban Indian organizations were not included in the discussion and request from the Department of Health and Human Services about whether urban Indian organizations would receive their vaccine allocation from the state or from the Indian Health Service. As a result, it was unclear to urban Indian organizations on whether they were expected to make a similar decision as tribes did. It was ultimately determined that the urban Indian organizations could select a state or Indian Health Service for their vaccine allocation. In some urban Indian organizations, however, there were delays in the initial vaccine rollout.”**<sup>1</sup>

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<sup>1</sup> [https://naturalresources.house.gov/hearings/remote-scip-legislative-hearing\\_october-5-2021](https://naturalresources.house.gov/hearings/remote-scip-legislative-hearing_october-5-2021)

Today, the ongoing public health crisis that is COVID-19 continues to amplify the long-overdue need for urban confer among HHS agencies to adequately communicate the constantly changing healthcare policies with UIOs that directly impact their patients.

An urban confer policy across HHS would require all agencies within HHS to engage in direct communication with UIOs on issues, resources, and programs that affect UIOs and their patients. The current lack of urban confer policies for agencies other than IHS is a significant roadblock to UIOs' efforts to engage with these agencies to improve health services for AI/ANs living in urban areas. For example, last year, Congress passed the American Rescue Plan Act (ARPA) which authorized 100% Federal Medical Assistance Percentage (FMAP) reimbursement for services provided to Medicaid beneficiaries at UIOs for eight fiscal quarters. The congressional intent of this extension was, in part, to address a longstanding inequity within the Indian healthcare system and to increase financial resources for UIOs during the COVID-19 pandemic. The ARPA FMAP extension ends in less than one year, but UIOs have generally not received any financial benefit either through cost-saving reimbursement from states or increased rates. Overall, UIOs cannot expect to receive any such benefit in the absence of guidance and advocacy from the Centers for Medicare & Medicaid Services (CMS), as CMS is the federal agency responsible for the administration of the Medicaid program. While IHS has engaged with urban confer with UIOs on this matter, CMS currently does not have an urban confer policy and thus UIOs have restricted opportunities to engage and collaborate with CMS on implementing FMAP in the manner intended by Congress. Many federal agencies do not understand that over 70% of AI/ANs reside in urban areas and that UIOs are a critical part of the Indian healthcare system. An urban confer policy with agencies, such as CMS, would be instrumental in ensuring that obstacles relating to programs and benefits that directly affect UIOs are addressed quickly so that UIOs are able to access all resources available to provide healthcare to their patients.

This legislation remedies these problems and codifies a proper confer policy between HHS and UIOs, thus ensuring that AI/AN lives are no longer jeopardized by the lack of adequate communication pathways between HHS agencies and UIOs.

## Strong Indian Country and Congressional Support for Urban Confer

The support for confer with UIOs is strong among stakeholders in Indian Country. In November 2020, the National Congress of American Indians (NCAI) passed a resolution to "Call for the U.S. Department of Health and Human Services Secretary to Implement an Urban Confer Policy Across the Department and its Divisions."<sup>2</sup> In October 2021, Walter Murillo (Choctaw Nations of Oklahoma), Chief Executive Officer of NATIVE Health, and President-Elect of NCUIH, testified before the House Natural Resources SCIP in support of H.R. 5221, citing the ongoing challenges that UIOs and urban AI/ANs continue to face given the absence of an urban confer policy across all HHS agencies.

Members of Congress from both sides of the aisle have expressed their direct support for urban

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<sup>2</sup> The National Congress of American Indians Resolution #PDX-20-021.

[https://www.ncai.org/attachments/Resolution\\_ROtzxPAdbKLfUbrnRVmUoOfklRbZgxXvXJBCqoyBgPomYTflsHu\\_PDX-20-021%20SIGNED.pdf](https://www.ncai.org/attachments/Resolution_ROtzxPAdbKLfUbrnRVmUoOfklRbZgxXvXJBCqoyBgPomYTflsHu_PDX-20-021%20SIGNED.pdf)

Indian health and confer policies with UIOs. In the same SCIP hearing on H.R. 5221, Representative Matt Rosendale recognized the importance of Indian parity by emphasizing Walter Murillo's statement of "**no policies about us, without us,**" and Representative Darren Soto said, "It's time to modernize and improve health access for our Native Americans. This requires us to have greater urban access through the Indian Health Service and the U.S. Department of Health and Human Services, which is why we applaud Chair Grijalva for this great bill [H.R. 5221]." <sup>3</sup>

We are pleased that this critical legislation was ultimately passed in the House on November 2, 2021, by an overwhelming majority of 406 votes.

## Conclusion

The *Urban Indian Health Confer Act* is an essential parity issue for UIOs that ensures that AI/ANs residing in urban areas continue to have access to high-quality, culturally competent health services. We must move past the notion that only IHS has a trust obligation to AI/ANs, as the federal government bears a responsibility to provide health care for all AI/AN people. Urban confer must be established across HHS to further improve healthcare delivered to urban Indian patients.

We therefore urge the Senate Committee on Indian Affairs to continue to prioritize urban Indian health and ensure the swift passage of this bill, thereby enabling UIOs to continue providing high-quality, culturally competent care to AI/AN people, regardless of where they live.

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<sup>3</sup> [https://naturalresources.house.gov/hearings/remote-scip-legislative-hearing\\_october-5-2021](https://naturalresources.house.gov/hearings/remote-scip-legislative-hearing_october-5-2021)