

June 7, 2023
Written Testimony of Francys Crevier (NCUIH)
Legislative Hearing on H.R. 630
House Subcommittee on Indian and Insular Affairs

My name is Francys Crevier, I am Algonquin and the Chief Executive Officer of the National Council of Urban Indian Health (NCUIH), the national representative of urban Indian organizations receiving grants under Title V of the Indian Health Care Improvement Act (IHCIA) and the American Indian and Alaska Native (AI/ANs) patients they serve. On behalf of NCUIH and these 41 Urban Indian Organizations (UIOs), I would like to thank Chair Hageman, Ranking Member Leger Fernandez, and members of the Subcommittee for the opportunity to testify at this hearing.

Today, I am submitting testimony in support of the *Urban Indian Health Confer Act* (H.R. 630), which requires the Secretary of the U.S. Department of Health and Human Services (HHS) to ensure the Department's agencies and offices confer with UIOs on matters relating to health care for AI/ANs living in urban areas.¹ This legislation enables UIOs to engage in important dialogue with HHS agencies and offices so that they become more responsive to the health needs of urban Indian communities. This bipartisan legislation will improve communication between HHS and UIOs on issues, policies, and programs that affect the health of urban AI/AN people and, in turn, will improve healthcare and healthcare access for AI/AN people residing in urban areas. Currently, when we submit letters to HHS regarding our issues, they can be thrown away and not taken into consideration due to the lack of a confer policy, meaning 70% of our population isn't considered when it comes to HHS initiatives. CDC published a report last month that said the highest number of deaths of COVID-19 after 85+ year olds, are AI/ANs.² This must stop now. This is negligence and a flagrant violation of the trust obligation. Our life expectancy was reduced by almost 7 years, our suicide rate is at 30%- we need this policy and full funding to support this Indian Country's public health emergency.

Most importantly, this legislation will work to fulfill the federal government's trust responsibility to provide healthcare to AI/ANs no matter where they live.³

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

Background on Urban Indian Organizations

The Declaration of National Indian Health Policy in IHCIA states that: "Congress declares that it is the policy of this Nation, in fulfillment of its special trust responsibilities and legal obligations to Indians to ensure the highest possible health status for Indians and urban Indians and to provide all resources necessary to effect that policy."⁴ In fulfillment of the National Indian Health Policy, the Indian Health Service funds three health programs to provide health care to AI/ANs: IHS sites, tribally operated health programs, and UIOs (referred to as the I/T/U system).

¹ 118 H.R. 630, available at: <https://www.congress.gov/118/bills/hr630/BILLS-118hr630ih.pdf>

² Farida B. Ahmad, COVID-19 Mortality Update — United States, 2022, 72 MMWR Morb Mortal Wkly Rep (2023), <https://www.cdc.gov/mmwr/volumes/72/wr/mm7218a4.html> (last visited Jun 5, 2023).

³ 25 U.S.C. § 1601.

⁴ 25. U.S.C. § 1602(1).

As a preliminary issue, "urban Indian" refers to any AI/AN person who is not living on a reservation, either permanently or temporarily. UIOs were created in the 1950s by American Indians and Alaska Natives living in urban areas, with the support of Tribal leaders, to address severe problems with health, education, employment, and housing caused by the federal government's forced relocation policies.⁵ Congress formally incorporated UIOs into the Indian Health System in 1976 with the passage of IHCA. Today, UIOs continue to play a critical role in fulfilling the federal government's responsibility to provide health care for AI/ANs and are an integral part of the Indian health system. UIOs work to provide high-quality, culturally competent care to the over 70% of AI/ANs living in urban settings.

The 41 IHS-contracted UIOs operate over 85 facilities, providing critically important healthcare services to Native people living in urban areas, including primary care services, mental and behavioral health services, and traditional medicine. UIOs are more than just healthcare providers. They provide services addressing social determinants of health like housing, nutrition, and domestic violence and are also cultural hubs for Native people.

Establish Urban Confer Between HHS Agencies and UIOs

It is well established that "federal health services to maintain and improve the health of...[AI/ANs] are consistent with and required by the Federal Government's historical and unique legal relationship with, and resulting responsibility to, the American Indian people."⁶ The United States cannot fulfill the trust responsibility without ensuring that HHS, the Department responsible for "enhance[ing] the health and well-being of all Americans, by providing for effective health and human services,"⁷ engages with UIOs on matters that relate to AI/AN health. Unfortunately, in the absence of an urban confer requirement, HHS and many of the agencies and offices within HHS fail to adequately communicate with UIOs and include UIOs in the direction of healthcare services and programs that affect UIO patients.

An Urban Confer is an open and free exchange of information and opinions that leads to mutual understanding and comprehension and emphasizes trust, respect, and shared responsibility.⁸ Urban confer is established mechanism for dialogue between the federal government and UIOs that are a response to decades of deliberate federal efforts (i.e., forced assimilation, termination, relocation) that resulted in well over seventy percent (70%) of AI/AN people living outside of Tribal jurisdictions, thus making Urban Confer integral to addressing the AI/AN health needs. Urban Confer helps coordinate and integrate care between UIOs and the federal agencies and offices that work to fulfill the United States' national policy, set forth by Congress in IHCA "to ensure maximum Indian participation in the direction of health care services so as to render the persons administering such services and the services themselves more responsive to the needs and desires of Indian communities."⁹

Currently, only IHS has a legal obligation to confer with UIOs.¹⁰ Because of this, IHS has developed

⁵ Relocation, National Council for Urban Indian Health, 2018. 2018_0519_Relocation.pdf

⁶ 25 USC § 1601.

⁷ Health and Human Services, About HHS, <https://www.hhs.gov/about/index.html> (last visited May 31, 2023).

⁸ 25 U.S.C. § 1660d

⁹ 25 USC § 1602.

¹⁰ *Id.*

a robust Urban Confer policy, which has proven to be an invaluable venue for UIOs to share feedback, recommendations, and testimony on the unique needs of AI/ANs living in urban areas. According to IHS “[t]he IHS Urban Confer Policy provides guidance for seeking input from Urban Indian Organization Leaders on health matters to ensure the health care needs of urban Indians are considered at the local, Area, and national levels, when implementing and carrying out the IHCA.”¹¹ An urban confer requirement across HHS would require all agencies and offices within HHS to engage in direct communication with UIOs on issues, resources, and programs that affect UIOs and their patients. The current lack of an urban confer requirement for HHS agencies and offices outside of IHS acts as a significant roadblock to UIO efforts to engage with these agencies to improve health services for AI/ANs living in urban areas. 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. Requiring agencies, such as CMS, to confer with UIOs 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.

Public health crises, such as the COVID-19 pandemic, amplify the long-overdue need for urban confer with HHS to adequately communicate the constantly changing healthcare policies with UIOs that directly impact their patients. For example, a vital request from HHS regarding distribution for the initial COVID-19 vaccine rollout in December 2020 was not communicated to UIOs and created unnecessary hardships. HHS addressed initial communications only to Tribes and did not direct them to the UIO component of the I/T/U system. When HHS was asked about whether UIOs needed to similarly decide between an IHS or state vaccine allocation, it was unclear as to whether they were expected to make such a decision. UIOs were essentially an afterthought, even though they are a vital part of the government’s implementation of the trust obligation. 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 to Tribes (which thankfully HHS subsequently extended for several days). Some UIOs were informed of the deadline by their Area office but there was 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 five days before the general public was eligible. Ultimately, this flawed process could have been easily avoided had HHS conferred with UIOs.

In an October 2021 House Natural Resources Subcommittee for Indigenous Peoples of the United States (SCIP) hearing on the *Urban Indian Health Confer Act* (H.R. 5221), IHS Deputy Director, Benjamin Smith, confirmed the failure to properly communicate with UIOs around COVID-19 vaccine distribution in his remarks. According to Deputy Director Smith: **“[i]nitially 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**

¹¹ Indian Health Service, Office of Urban Indian Programs, Urban Confer Policy, <https://www.ihs.gov/urban/urban-confer-policy/> (last visited May 31, 2023).

organizations, however, there were delays in the initial vaccine rollout.”¹²

H.R. 630 requires HHS agencies to confer with UIOs on healthcare policies and programs that affect AI/ANs. Meeting regularly with UIOs through Urban confers will ensure that AI/AN people residing in urban areas are able to voice their needs and priorities to HHS, including how HHS can support funding for health and wellness, access to care, and coordination between providers, public health systems, and community services for American Indians and Alaska Natives in urban areas. It ensures that HHS has their finger on the pulse of urban Indian issues and can greatly improve the lives of all AI/ANs as part of their mission and obligation. This legislation remedies these problems by codifying a confer requirement 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. For example, 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.”¹³ The resolution affirmed that “the federal trust responsibility to provide health care to AI/ANs does not apply solely to the IHS because the obligation extends to all government agencies, including the U.S. Department of Health and Human Services (HHS), its agencies and divisions.”¹⁴

I would like to also thank two leaders in the Senate, Senators Tina Smith and Markwayne Mullin, for their bipartisan introduction of the identical companion legislation, *Urban Indian Health Confer Act* (S. 460). In a March 2023 Senate Committee on Indian Affairs (SCIA) hearing, SCIA Vice-Chair Senator Murkowski said about the legislation, “We don't have urban Indian health organizations in Alaska but we often call Anchorage our largest Native village because it is home to the largest Native population in the state. I support this bipartisan legislation because it would give urban Indian health care providers a voice in the policies and the services offered by the Department of Health and Human Services.”

I would like to emphasize that members of Congress from both sides of the aisle have expressed their direct support for urban Indian health and confer policies with UIOs. For example, in a SCIP hearing on the 2021 iteration of this bill, H.R. 5221, 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].”¹⁵ H.R. 5221 passed

¹² House Natural Resources Subcommittee on Indigenous Peoples of the United States Holds Hearing on Pending Legislation.117 Cong. (2021). <https://acrobat.adobe.com/link/review?uri=urn:aaid:scds:US:ae945cea-41c0-3fa7-8457-739f454dbb02>

¹³ The National Congress of American Indians, The National Congress of American Indians Resolution #PDX-20-021 (Nov. 8, 2020), available at: https://www.ncai.org/attachments/Resolution_ROTzxPAdbKLFUbrnRVmUoOfklRbZgxXvXJBCqoyBgPomYTflsHu_PDX-20-021%20SIGNED.pdf

¹⁴ *Id.*

¹⁵ House Natural Resources Subcommittee on Indigenous Peoples of the United States Holds Hearing on Pending Legislation.117 Cong. (2021). <https://acrobat.adobe.com/link/review?uri=urn:aaid:scds:US:ae945cea-41c0-3fa7-8457-739f454dbb02>

in the house on November 2, 2021, by an overwhelming majority of 406 votes.

Conclusion

Urban confer must be established across HHS to further improve healthcare delivered to urban Indian patients. The *Urban Indian Health Confer Act* is essential to uphold the trust responsibility of the United States and ensures that AI/ANs residing in urban areas have an avenue for direct communication with HHS and the agencies and offices within HHS charged with overseeing the health of their AI/AN patients.

We, therefore, urge the House Natural Resources Committee 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.