

Bipartisan Support for Urban Confer at Senate Hearing

Category: Press Release

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FOR IMMEDIATE RELEASE

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The Administration and Congress emphasized the importance of urban confer legislation on issues such as COVID-19 vaccine distribution and Medicaid reimbursement in this week's Senate hearing.

WASHINGTON, D.C. (July 25, 2022) - On July 20, 2022 the National Council of Urban Indian Health (NCUIH) testified before the Senate Committee on Indian Affairs (SCIA) in support of the Urban Indian Health Confer Act (H.R. 5221). Dr. Patrick Rock (Leech Lake Band of Ojibwe), Chief Executive Officer at the Indian Health Board of Minneapolis and NCUIH member, explained how this bipartisan, bicameral legislation would enable Urban Indian Organizations (UIOs) to engage in urban confer with all divisions within the Department of Health and Human Services (HHS) so that American Indians/Alaska Natives (AI/ANs) living in urban areas are made aware of major healthcare policies that affect them. Deputy Director of the Indian Health Service (IHS), Benjamin Smith, also testified on this critical legislation.

- [Watch full hearing](#)
- [Text of NCUIH testimony](#)
- [Text of IHS testimony](#)

Testimony Highlights

Lack of Urban Confer Affects COVID-19 Vaccine Rollout and 100% FMAP Implementation for UIOs

In his [testimony](#), Dr. Rock stressed how the lack of Urban Confer has enabled HHS and agencies outside of IHS to disregard the needs of urban Indians and neglect the federal obligation to provide healthcare to all AI/ANs, "Through the Indian Health Care Improvement Act, the Indian Health Service has a legal obligation to confer with UIOs, which is an essential tool used to ensure access to health services for Native people. **Unfortunately, HHS has interpreted it to mean that only IHS has the requirement to confer with UIOs.** It is crucial to patient care that HHS and ALL agencies it operates establish a formal confer process."

To define the severity of this issue, he explained how communication issues between HHS and UIOs surrounding the initial COVID-19 vaccine rollout in December of 2020 created unnecessary hardships, resulting in many clinics experiencing serious delays in vaccine distribution. This had dire consequences, as the pandemic took the lives of AI/ANs at the highest rates of any population. Dr. Rock continued to explain how urban confer would also help with the implementation of the American Rescue Plan Act (ARPA) provision that provides 100% Federal Medical Assistance Percentage (FMAP) for services provided to Medicaid beneficiaries at UIOs for two years. Congress authorized this with the intent to increase financial resources for UIOs, however, UIOs are still not receiving any financial benefit from 100% FMAP and do not have a policy to confer with the Centers for Medicare and Medicaid Services (CMS) on this issue. In response to Senator Tina Smith's (D-MN) concerns about this ARPA provision that Congress worked hard to get for UIOs and how urban

confer may have alleviated this issue, Dr. Rock noted that, “Unfortunately, we have yet to see really any type of activity or actual reimbursement occur, utilizing the 100% FMAP through the federal system, which is extremely, extremely disappointing. We continue to seek out solutions moving forward. I think we’re going to need to help with our state partners as well as our federal partners including CMS. This would be an important point to have access to and conferring with CMS.” He highlighted that **“an urban confer policy across HHS agencies, including CMS, would be instrumental in ensuring that obstacles relating to programs and benefits that directly affect UIOs are addressed quickly so UIOs are better equipped to provide healthcare to their patients.”**

Dr. Rock emphasized that H.R. 5221 remedies such problems and codifies a proper Urban Confer policy, thus ensuring that AI/AN lives are no longer jeopardized by the lack of adequate communication pathways between HHS agencies and UIOs. To conclude, Dr. Rock stated that H.R. 5221 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. He urged SCIA to move forward with this necessary legislation to further improve healthcare delivered to urban Indian patients.

Administration Emphasizes the Importance of Urban Indian Inclusion in Federal Communication

The Administration highlighted that urban AI/AN communities are affected by the absence of an urban confer policy and that UIOs have been persistent in their advocacy to establish a confer process across all of HHS. During the hearing, IHS Deputy Director Benjamin Smith said, “IHS has consistently heard from UIOs through the confer process they would like the opportunity to confer with other HHS operating divisions and staff offices. They have also expressed that the need to confer with other HHS agencies is even more critical due to the pandemic and need for interagency collaboration.” In addition, he said that “the IHS confer process works to ensure that health care priorities for urban Indian populations are being heard and addressed at the local, area, and national levels.”

During questioning, Deputy Director Smith stressed the impact that IHS’ urban confer policy has on UIOs and urban Indians, such as COVID funding decisions, “Throughout the pandemic, Congress provided several supplemental packages that required funding decisions that had a huge impact on urban Indian organizations. We engaged in our policy in invoking our policy to confer with urban Indian organizations to solicit their input prior to making those funding decisions. And we believe that that did have an impact on the manner in which we made those decisions.”

Bipartisan Support from SCIA Members

H.R. 5221 has generated support from Members of Congress on both sides of the aisle. In Senator Smith’s opening remarks and introduction of Dr. Rock, she expressed support for this legislation, which was also introduced by her and Senator James Lankford (R-OK) in the Senate this past May, “This measure is an important step towards parity for urban Native communities and something that I think we should all be able to agree on. I look forward to working with the committee to get this bill across the finish line this year.” Later in her questioning about the urban confer bill, Senator Smith emphasized that “If there had been good consultation across all Department of Health and Human Services, that I think would have been easier to resolve on issues of data sharing, 100% FMAP, I would say also federally qualified health center issues, all of those would be easier to resolve if we had the kind of consultation that our bill would require.”

Senator James Lankford (R-OK) highlighted two UIO leaders from his state on their work towards bettering AI/AN health, “Leaders like Robyn Sunday-Allen and Carmelita Skeeter in Tulsa and in Oklahoma City, they’re the reason that all this works so well. They work incredibly hard and they’re

absolutely the gold standard for health care in clinic operations” and went on to express his support for urban confer, “I’m proud to be able to co-sponsor with Senator Smith, the Senate companion Urban Indian Health Confer Act. This simple legislation will ensure that UIOs are brought into important conversations and confer with HHS. We talk a lot about consultation with Tribes. But currently, HHS is not doing consultation with urban Indian clinics and that needs to start.”

Background

An Urban Confer is an established mechanism for dialogue between federal agencies and UIOs. Urban confer policies are a response to decades of deliberate federal efforts (i.e., forced assimilation, termination, relocation) that have resulted in 70% of AI/AN people living outside of Tribal jurisdictions, thus making Urban Confer integral to address the care needs of most AI/AN persons. NCUIH has long advocated for the importance of facilitating confer between numerous federal branches within HHS and UIO stakeholders without any resolve. Currently, only IHS has a legal obligation to confer with UIOs. It is important to note that urban confer policies do not supplant or otherwise impact Tribal consultation and the government-to-government relationship between Tribes and federal agencies.

The *Urban Indian Health Confer Act* (H.R. 5221/S.4323) will ensure the many branches and divisions within HHS and all agencies under its purview establish a formal confer process to dialogue with UIOs on policies that impact them and their AI/AN patients living in urban centers. This bill was first introduced on September 10, 2021, by Rep. Raúl Grijalva (D-AZ-3), Rep. Betty McCollum (D-MN), Rep. Tom Cole (R-OK), Rep. Karen Bass (D-CA), Rep. Eleanor Holmes Norton (D-DC), and the late Rep. Don Young (R-AK). On October 5, 2021, Walter Murillo (Choctaw Nation of Oklahoma), NCUIH President-elect and Chief Executive Officer of NATIVE HEALTH in Phoenix, Arizona, testified before the House Subcommittee for Indigenous Peoples of the United States in support of H.R. 5221 and on November 2, 2021, this legislation [passed](#) in the House by an overwhelming majority of 406 votes. An identical bipartisan bill was also introduced in the Senate on May 26, 2022, by Sen. Tina Smith (D-MN) and Sen. James Lankford (R-OK), S. 4323.

- [NCUIH Urban Confer Fact Sheet](#)
- [H.R. 5221 Legislative Text](#)
- [S. 4323 Legislative Text](#)
- [NCUIH Press Release: Bipartisan Urban Indian Health Confer Act Introduced by Grijalva, McCollum and Cole](#) (September 10, 2021)
- [NCUIH Press Release: Bipartisan Urban Indian Health Confer Act Introduced by Senators Smith and Lankford](#) (June 8, 2022)
- [Press Release: Chair Grijalva Introduces the Urban Indian Health Confer Act to Create Parity for American Indians and Alaska Natives Living in Urban Areas](#) (September 13, 2021)
- [Press Release: U.S. Senators Smith and Lankford Introduce Legislation to Create Parity Within the Indian Health Care System](#) (July 12, 2022)
- [NCUIH Press Release: Congressional Hearing Highlights How Lack of Urban Confer Delayed Vaccine Rollout for Urban Indians](#) (October 6, 2021)
- [NCUIH Press Release: House Passes NCUIH Urban Indian Health Confer Bill](#) (November 3, 2021)

Next Steps

NCUIH will advocate for a swift markup in the Senate on this bill. In addition, NCUIH continues to advocate for an established confer policy between all HHS agencies and UIOs to improve the delivery of health services to all AI/ANs living in urban settings.