

Health and Human Services Testimony

Legislative Hearing

**House Committee on Natural Resources
Subcommittee on Indian and Insular Affairs**

H.R. 630 - Urban Indian Health Confer Act

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**Melanie Anne Egorin, PhD
Assistant Secretary for Legislation
Department of Health and Human Services**

Good afternoon Chair Hageman, Ranking Member Leger Fernandez, and Members of the Subcommittee. Thank you for inviting me to testify on H.R. 630, the Urban Indian Health Confer Act and for your continued support for Department of Health and Human Services (HHS) efforts to improve the health and well-being of American Indians and Alaska Natives (AI/AN)..

I am Melanie Anne Egorin, the Assistant Secretary for Legislation (ASL) at the Department of Health and Human Services. My office serves as the primary link between the Department and Congress. ASL provides advice to the Secretary on legislation and facilitates communication between the Department and Congress. The ASL Office provides technical assistance on legislation to Members of Congress and their staff, facilitates informational briefings relating to Department programs to support policy development by Congress, and supports implementation of legislation passed by Congress. The office also informs Congress of the Department's priorities, actions, grants, and contracts.

HHS is dedicated to enhancing the health and well-being of every person and every community in this country. Moreover, we are committed to affirming the relationship between our Department and AI/AN tribes by advancing connections, providing expertise, increasing resources, and partnering to improve the health and safety of tribal communities. The Department works in partnership with American Indians and Alaska Native Tribal communities through a network of over 687 Federal and Tribal health facilities and 41 Urban Indian Organizations (UIOs) that are located across 37 states and provide health care services to approximately 2.6 million American Indian and Alaska Native people annually.

President Biden has prioritized relationships with Tribal Nations that are built on respect for Tribal sovereignty and self-governance, honoring federal trust and treaty responsibilities, protecting Tribal homelands, and conducting regular, meaningful, and robust consultation. The President has also advanced an economic agenda that includes historic levels of funding specifically for Tribal communities and Native people. The Biden Administration has prioritized efforts to address the well-documented funding gaps in Indian Country, which directly contribute to stark health disparities faced by tribal communities. Tribal consultation has been integral to this process. The long-standing recommendations of tribal leaders shared in consultation with HHS and the Indian Health Service (IHS) were used to craft budget proposals that secured stable

and predictable funding to improve the overall health status of AI/ANs, and provide significant investments to direct health care services.

HHS recognizes that we must continue to work in consultation with Tribes and confer with urban Indian organizations, and with our partners in Congress.

H.R. 630, the Urban Indian Health Confer Act

H.R. 630 would amend the Indian Health Care Improvement Act (IHCIA) to establish a UIO confer requirement for HHS. The bill would require HHS to ensure its agencies and offices confer with UIOs in carrying out laws relating to Indian health care.

An integral component of the government-to-government relationship is our commitment to regular and meaningful consultation with Federally-recognized Indian Tribes. The importance of Tribal Consultation has been affirmed through an Executive Order in 2000 and Presidential Memoranda in 1994, 2004, 2009, 2021, and 2022.

HHS takes its responsibility to consult with Tribal governments seriously and first established the Department's Tribal Consultation Policy in 1997, with multiple revisions since its creation, most recently updated in 2012 and evaluated in 2021. Each time the policy has been updated, it was in collaboration with Tribal governments, recognizing that HHS and Indian Tribes share the goal to establish clear policies to further the government-to-government relationship between the Federal government and Indian Tribes. As such, the policy specifically recognizes the unique political status of Tribal governments and it is upon that status that the government-to-government relationship is affirmed through the HHS Tribal Consultation Policy.

HHS has a long-standing commitment to working on a government-to-government basis with Indian Tribes and in partnership with American Indians and Alaska Natives. HHS is also committed to strengthening this relationship and enhancing coordination and collaboration across its Divisions to address Tribal issues within the context of each Division's mission. Each Division shares in the Department-wide responsibility to coordinate, communicate, and consult with Indian Tribes on issues that affect Tribes. All Divisions are responsible for conducting Tribal consultation to the extent practicable and permitted by law on policies that have Tribal implications.

The IHS Tribal Consultation Policy, updated in January 2006 (and presently under evaluation) was developed in consultation with Indian Tribes. The IHS Tribal Consultation Policy outlines that consultation with Indian Tribes will occur, to the extent practicable and permitted by law, before any action is taken that will significantly affect Indian Tribes. Such actions refer to policies that have Tribal implications and substantial direct effects on one or more Indian Tribes or on the distribution of power and responsibilities between the Federal Government and Indian Tribes. The consultation process is triggered with the identification of a critical event, which is defined as a planned or unplanned event that has or may have a substantial impact on Indian Tribes or Indian communities, including but not limited to the development of new or revised policies or programs or funding/budget requests. Part of this process includes facilitating collaboration between HHS Divisions, Regional Offices, and the Indian Tribe(s) to assist with

consultation and address any identified issue(s), such as access to HHS programs and services, that could be provided directly to an Indian Tribe(s). IHS has also developed special Tribal advisory committees to provide leadership, advocacy, and guidance to the Director on policy and program matters.

Although the unique Federal relationship with Indian Tribes is based in part on the fundamental concept of government-to-government relations, other statutes and policies exist that allow for Federal consultation with Indian organizations and confer with UIOs that, by the nature of their business, serve Indian people and might be affected if excluded from the consultation and confer process. The IHS enters into limited, competing contracts and grants with 41 non-profit organizations to provide health care and referral services for Urban Indians in 22 states and 11 IHS Areas. UIOs are defined by 25 U.S.C. § 1603(29) as a nonprofit corporate body situated in an urban center, governed by an Urban Indian controlled board of directors, and providing for the maximum participation of all interested Indian groups and individuals, which body is capable of legally cooperating with other public and private entities for the purpose of performing the activities described in 25 U.S.C. § 1653(a).

In March 2010, as part of the Patient Protection and Affordable Care Act, Congress reauthorized and amended the IHCIA. Congress added a requirement that the IHS “confer,” to the maximum extent practicable, with UIOs in carrying out the IHCIA. “Confer” means engaging in an open and free exchange of information and opinions leading to mutual understanding and comprehension and emphasizing trust, respect, and shared responsibility. HHS supports conferring with UIOs as set forth in the declaration of national Indian health policy in the IHCIA.

In September 2014, the IHS established the policy on “Conferring with Urban Indian Organizations,” in the Indian Health Manual, consistent with the new IHCIA authority. The policy serves as a guide when the Agency seeks input from UIO Leaders on Urban Indian health matters. The IHS urban confer policy strives to ensure that Urban Indian health care needs and priorities are considered at the local, area, and national levels when implementing and carrying out the IHCIA.

This policy has been used since its implementation in carrying out the IHCIA to ensure the highest possible health status for Urban Indians. The IHS is the only agency within the Federal government to implement this formal process, and it is a best practice and critical partnership opportunity. IHS continues to implement its urban confer policy, measure the level of satisfaction of the urban conferring process, and confer with UIOs when necessary to improve the process to bring about the desired results.

We look forward to continuing our work with Congress on this bill and welcome the opportunity to provide technical assistance as requested by the Committee or its Members. We are committed to working closely with our stakeholders and understand the importance of working with partners to address the needs of American Indians and Alaska Natives.