

National Indian Health Board



Transmitted via e-mail: Tribalgovernmentconsultation@va.gov

April 11, 2016

U.S. Department of Veterans Affairs
810 Vermont Avenue NW
Washington, DC 20420
Suite 915E

Re: U.S. Department of Veterans Affairs Recognition of Tribal Organizations for Representation of VA Claimants

On behalf of the National Indian Health Board (NIHB), I write to submit comments regarding the *Recognition of Tribal Organizations for Representation of VA Claimants*.

Established in 1972, the NIHB is an inter-Tribal organization that advocates on behalf of Tribal governments for the provision of quality health care to all American Indians and Alaska Natives (AI/AN). The NIHB is governed by a Board of Directors consisting of a representative from each of the twelve Indian Health Service (IHS) Areas. Each Area Health Board elects a representative to sit on the NIHB Board of Directors. In areas where there is no Area Health Board, Tribal governments choose a representative who communicates policy information and concerns of the Tribes in that area with the NIHB. Whether Tribes operate their entire health care program through contracts or compacts with IHS under Public Law 93-638, the Indian Self-Determination and Education Assistance Act (ISDEAA), or continue to also rely on IHS for delivery of some, or even most, of their health care, the NIHB is their advocate.

NIHB expresses appreciation to the Department of Veteran Affairs (VA) for the proposal to amend 38 CFR part 14 in order to include recognition of Tribal organizations in assisting Native American VA benefit claims. However, we request that the VA clarify that Tribal governments, including veterans departments within these governments are eligible for recognition as Veterans Service organizations. If it is the VA's goal to "address the needs of Native American populations who are geographically isolated from existing recognized Veterans Service Organizations", then authorizing Tribal governments, who provide a variety of social services to their Tribal citizens directly, would be the most effective way to reach remote groups of AI/AN veterans

NIHB respectfully requests that the VA take into consideration the pre-requisites for Tribal organizations to become recognized as accredited veteran service organizations. A significant

number of Tribal organizations will not be able to meet the requirements outlined in 38 CFR 14.628(d). We believe that the eligibility criteria is overly stringent and restrictive. The list of requirements under Section D of 38 CFR 14 do not align with the inherent responsibilities of Tribal nations, which include the provision of services all Tribal citizens, including AI/AN veterans. There are some Tribal nations that operate their own veterans departments, many smaller in size and do not meet the current requirements, which were established without Tribal nations in mind. The VA should amend the requirements to address gaps for AI/AN veterans and to better fit the unique circumstances of how Tribal nations serve their veterans.

We encourage the VA to clarify what measurement would constitute a “sizable” number of veterans or eliminate this requirement for recognizing Tribal nations and Tribal organizations. There are 567 federally recognized Tribes, all with their own unique needs; some have smaller governments and less resources than other Tribal governments. We urge the VA to take into consideration these differences when establishing parameters for determining “sizable” veteran populations.

In addition, Tribal nations provide many types of different services to their citizens. Resources leveraged to provide these services come from a variety of sources, including: economic development ventures, taxes, federal grants and other state and private funding sources. These financial assets are used at the discretion of elected Tribal leaders to provide for their community. Sovereign Tribal governments, who have inherent authority to delegate funding based on the needs of their citizens, cannot comply with the requirement that Tribal Nations “commit a significant portion of its assets to veterans’ services.” Tribal nations are well suited to assist with the benefit claims of veterans, but this language, if applied to the Tribal governments as a whole, would preclude them from VA recognition and eliminate accreditation opportunities for employees to provide these essential services. We encourage the Department of Veterans Affairs to waive this requirement or clarify a narrow application of this language, in consultation with Tribal nations.

NIHB requests the Department of Veterans Affairs to engage in additional Tribal consultation with Tribes interested in becoming recognized veterans service organizations, but are unable to meet the requirements. NIHB also asks that the VA hold an All-Tribes call to fully inform, update, and gather input from Tribes on its proposal to update its regulations to recognize Tribal organizations for representation of VA claimants. It is very important that this All-Tribes call take place before the rulemaking process begins as the rulemaking process is not a substitute for meaningful Tribal Consultation.

Thank you for the opportunity to comment on the *Recognition of Tribal Organizations for Representation of VA Claimants*. NIHB strives to be a partner alongside the VA to ensure that the needs of our Native American Veterans’ are met. Please contact Devin Delrow, NIHB

RE: Comment on 38 CFR Part 14

April 11, 2016

Federal Relations Director at ddelrow@nihb.org if you have any additional comments or questions on the issues addressed in these comments.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Lester Secatero', with a long horizontal flourish extending to the right.

Lester Secatero
Chairman, National Indian Health Board

CC: Stephanie Birdwell, Director, VA Office of Tribal Government Relations