National Indian Health Board

NIHB advocates for the rights of all federally recognized American Indian and Alaska Native Tribes through the fulfillment of the trust responsibility to deliver health and public health services.

2020 Legislative and Policy Agenda for Indian Health

February 2020

Established by the Tribes to advocate as the united voice of federally recognized American Indian and Alaska Native (AI/AN) Tribes, the National Indian Health Board (NIHB) seeks to reinforce Tribal sovereignty, strengthen Tribal health systems, secure resources, and build capacity to achieve the highest level of health and well-being for our People. To advance the organization's mission, the NIHB Board of Directors sets forth the following priorities that the NIHB will pursue through its legislative and policy work during 2020.

Introduction:

There exists a special and political relationship between the United States and Tribal Nations. That relationship is predicated on the inherent sovereignty of American Indian and Alaska Native (AI/AN) Tribal governments and enshrined in the over 300 Treaties signed between Tribal Nations and the United States. These Treaties established certain federal obligations and the provision of certain services to AI/AN Tribes and peoples in perpetuity. These federal obligations are reaffirmed by the United States Constitution, judicial case law, federal laws, federal regulations, and presidential executive orders, and collectively form the foundation for the federal trust responsibility. The federal trust responsibility to AI/AN Tribes and peoples include provisions of quality and comprehensive health care resources and services, among other responsibilities such as housing, education, land management, and public safety, among others.

This special trust responsibility provides the legal justification and moral foundation for the creation of health policy specific to Tribes and AI/AN peoples. Moreover, it is firmly acknowledged that the federal government's obligation to carry out its trust responsibility applies to all departments and agencies of the federal government, and not just the Indian Health Service (IHS). In pursuit of its authority under the Constitution and the Trust responsibility, Congress has enacted many Indian-specific laws and included Indian-specific provisions in general laws to address Indian participation in federal programs. The unique treatment of AI/ANs is based on their legal and political status and the federal Trust and Treaty obligations; and is thus not one based on race. For decades, the Executive and Legislative branches of the United States government have implemented policies and legislation on this basis.

In 2020, NIHB will continue to advocate for the fulfillment of the federal trust responsibility and for the preservation and strengthening of the political relationship between the United States and Tribes by working with both the Legislative and Executive branches of government to effectuate the delivery of quality healthcare for American Indians and Alaska Natives and relevant meaningful systems-level change that will improve the health status for all American Indians and Alaska Natives.

Therefore, we assert the following legislative actions must be undertaken to achieve these goals.

Legislative Requests

Secure Advance Appropriations for the Indian Health Service (IHS)

NIHB is asking *Congress to enact advanced appropriations for IHS*. Of the four federal healthcare entities, IHS is the only one subject to government shutdowns and continuing resolutions. This is because Medicare and Medicaid receive mandatory appropriations, and the Veterans Health Administration (VHA) was authorized

by Congress to receive advance appropriations nearly a decade ago. In 2018, the Government Accountability Office (GAO) released a seminal report examining the benefits of authorizing advance appropriations for the IHS (GAO-18-652). Advance appropriations would help provide much better continuity and stability of care, resulting in better health outcomes for American Indians and Alaska Natives. Moreover, it would allow for more efficient use of appropriated dollars by removing budgetary restrictions that force IHS to neglect long-term planning and focus limited resources on the most imminent health needs. In addition, it would ensure parity between IHS and the VHA – both of which have the federal charge to provide direct care services.

Adopting advance appropriations for IHS would also allow health administrators to continue treating patients without wondering if –or when– they have the necessary funding. Additionally, IHS administrators would not waste valuable resources, time and energy re-allocating their budget each time Congress passed a continuing resolution. Indian health providers would know in advance how many physicians and nurses they could hire without wondering if funding would be available when the results of Congressional decisions funnel down to the local level. To implement this request, Congress should:

- Pass **H.R. 1128/S.229** – Indian Programs Advance Appropriations Act and **H.R. 1135/S.2541** – Indian Health Service Advance Appropriations Act of 2019

Seek Permanent Reauthorization for the Special Diabetes Program for Indians (SDPI) with Automatic Annual Funding Increases Matched to Medical Inflation; Amend the Public Health Service Act to permit SDPI Dollars to be received through Self-Determination and Self-Governance Contracts and Compacts

NIHB's long-term request is that Congress pass a permanent reauthorization of the Special Diabetes Program for Indians (SDPI). *In the interim, NIHB is urging that Congress swiftly pass the bipartisan and bicameral agreement reached between the House Energy and Commerce Committee and Senate Health, Education, Labor, and Pensions Committee that would enact a 5-year reauthorization of SDPI*. The current authorization expires on May 22, 2020. Few programs are as successful as SDPI at addressing chronic illness and risk factors related to diabetes, obesity, and physical activity. SDPI is unmatched in terms of its success, especially in declining incidence of diabetes-related kidney disease. The incidence of end-stage renal disease (ESRD) due to diabetes in American Indians and Alaska Natives has fallen by 54% as a result of SDPI. A 2019 report from the Assistant Secretary for Planning and Evaluation found that SDPI is responsible for up to $52 million in annual cost savings under Medicare. Despite its success, SDPI has not received an increase in funding since FY 2004 and has lost over a third of its buying power during this time frame to medical inflation. In fact, SDPI would need to be funded at $234 million in order to have the same buying power it had sixteen years ago.

NIHB also requests that Congress amend the Public Health Service Act in order to restructure the program and allow funds to be delivered through Tribal self-determination and self-governance contracts and compacts (P.L. 93-638). This would ensure stronger Tribal control of SDPI operations, and provide Tribes with greater flexibility to design the program to best meet the needs of their communities. Changing SDPI's structure to allow funds to travel through self-determination and self-governance contracts and compacts is strongly supported by Tribes across Indian Country, including by NIHB, because it affirms Tribal sovereignty and ensures that the Tribal voice is guiding SDPI's future. For 2020, NIHB requests that Congress:

- Swiftly pass the bipartisan and bicameral deal that would reauthorize SDPI for 5 years
- Significantly increase funding for SDPI and tie yearly increases to the rate of medical inflation.
- Amend the Public Health Service Act to allow Tribes to receive SDPI funds through self-determination and self-governance contracts and compacts

Ensure that Medicaid provides greater access to American Indians and Alaska Natives and that the Medicaid program is responsive to the unique needs of the Indian health system.

The Medicaid program is a critical component of the Indian health system. Medicaid resources now account for nearly 13 percent of total funding for IHS, and an even greater amount for Tribally-operated health

programs.[1] Yet, total IHS Medicaid reimbursements account for only a fraction of a percent of total Medicaid spending nationwide. But access to Medicaid has been uneven across Indian country. Depending on the state they are located, IHS and Tribal programs have varying levels of access to Medicaid resources and services. This means that the Medicaid program is not providing equal access to Medicaid services for Indian people as there is a wide variation across the states in Medicaid eligibility, covered services, and reimbursement rates. Therefore, we recommend that Congress do the following:

1. Create an optional eligibility category under federal Medicaid law providing authority for states to extend Medicaid eligibility to all AI/ANs with household income up to 138% of the federal poverty level (FPL).
2. Authorize Indian Health Care Providers (IHCPs) in all states to receive Medicaid reimbursement for all services authorized under Medicaid and specified services authorized under the Indian Health Care Improvement Act—referred to as Qualified Indian Provider Services—when delivered to AI/ANs.
3. Extend full federal funding through a 100% Federal Medical Assistance Percentage (FMAP) rate for Medicaid services furnished by Urban Indian Organizations to AI/ANs, in addition to services furnished by IHS/Tribal providers to AI/ANs.
4. Clarify in federal law and regulations that state Medicaid programs are prohibited from over-riding (through waivers) Indian-specific provisions in federal Medicaid law.
5. Address the "four walls" limitations on IHCP "clinic" services by removing the restriction that prohibits billing for services provided outside a clinic facility.

Phase in Full Funding for Indian Health Services and Programs for American Indians and Alaska Natives in the Indian Health Service (IHS)

Each year the National Tribal Budget Formulation Workgroup (TBFWG) to the IHS works diligently to synthesize the priorities identified by Tribes in each of the health care delivery Service Areas of the IHS into a cohesive message outlining Tribal funding priorities nationally. These priorities are the foundation and roadmap for the work that NIHB does on behalf of Tribes in pursuit of much needed funding for health care services and programs for American Indians and Alaska Natives. In addition to advocating for these national Tribal priorities, NIHB will call on Congress and the Administration to:

- For Fiscal Year (FY) 2021, the Tribal Budget Formulation Workgroup **recommends $9.1 billion** in funding for IHS

Enact Mandatory Appropriations for IHS

In addition to fully funding the Indian Health Service, NIHB and Tribes assert that full funding for IHS should be under mandatory appropriations. This would further affirm the federal trust responsibility for health which is the direct result of treaties, federal law, and Supreme Court Cases. In order for this to be implemented, Congress should enact legislation to create a Tribally-driven feasibility study in order to determine the best path forward to achieve mandatory appropriations for IHS.

Increase Appropriations to Indian Country outside of IHS

Tribes and Tribal organizations receive a disproportionately low number of Department of Health and Human Services (HHS) grant awards. One significant obstacle for Tribes to receive adequate funds for these programs is the fact that block grant funds typically flow directly to states who then must pass funding on to Tribes. This mechanism runs contrary to the trust responsibility that is solely between the United States federal government and Tribal governments – not state governments. Therefore, Congress should:

- Provide direct and sustainable funding to Tribes and Tribal organizations.
- Establish Tribal set-asides in HHS grants and block grants

[1] Samantha Artiga, Petry Ubri, and Julia Foutz, *Medicaid and American Indians and Alaska Natives* (Washington, DC: Kaiser Family Foundation, Sep. 7, 2017), Figure 4.
https://www.kff.org/medicaid/issue-brief/medicaid-and-american-indians-and-alaska-natives/

- Require state-Tribal consultation when states receive funds for which Tribes are also eligible.

Build Capacity of Tribal Public Health

Like state and territorial governments, Tribes have both the rights and responsibilities to provide vital public health services for their communities. To do this, they must also have the tools to carry out these functions. Currently, Tribes are regularly left out of state-run public health systems and are routinely overlooked by federal agencies during funding decisions for public health initiatives. More often than not, federal resources flow directly to the states, and Tribes rarely see those resources for public health initiatives. Congress should:

- Ensure that Tribes gain access to needed funding through a direct Tribal set aside for public health funding or through a Tribally-specific public health block grant program.
- Ensure that Tribes are also eligible for all existing and new public health funds distributed by the Centers for Disease Control and Prevention (CDC) or any other federal agency that are open to states, territories and local public health departments. Wherever practicable, funding should provide Tribal set asides.
- Create flagship funding for Tribal health departments for key public health issues in Indian Country.
- Direct CDC to work directly with Tribes to seek out Tribal input during their internal budget negotiations and formulation process.
- Ensure that Tribes have a leading voice in decisions regarding local water supply and other environmental impacts on or near their lands, and are eligible for funding streams to address environmental hazards such as water and waste contamination and other hazards.
- Ensure that Tribes have direct funding for programs for emergency preparedness such as the Public Health Emergency Preparedness (PHEP) cooperative agreements and the Hospital Preparedness Program (HPP).
- Significantly increase funding for the Good health and Wellness in Indian Country (GHWIC) program. GHWIC is the CDC's largest investment to improve health among AI/ANs.

Provide Additional Funding to Address Substance Abuse in Indian Country

AI/ANs face significant disparities in rates of substance addiction and overdose. For instance, AI/ANs had the highest percentage increase in drug overdose deaths from 1999 to 2015 according to the CDC. While important gains have been made recently in getting Tribal communities funds for opioid treatment and prevention, Tribes remain in need of more significant investments to combat the opioid epidemic and other co-occurring drug and alcohol addiction priorities. Therefore, NIHB requests that Congress:

- Increase a Tribal set-aside for opioid related treatment including the treatment and prevention of Hepatitis C virus.
- In coordination with Tribes, establish trauma-informed interventions to reduce the burden of substance use disorders including those involving opioids.
- In coordination with Tribes, incorporate behavioral health assessments such as Adverse Childhood Experience (ACE) into IHS and provide funding for Tribal health programs to do the same.
- Provide reimbursement for traditional healing services through Medicare and Medicaid and reduce additional barriers in the Medicaid program for the treatment of Substance Use Disorder.

Enact Special Behavioral Health Program for AI/ANs

AI/AN communities grapple with complex behavioral health issues at higher rates than any other population. Destructive federal Indian policies and unresponsive or harmful human service systems have left AI/AN communities with unresolved historical and generational trauma. According to the Substance Abuse and Mental Health Services Administration (SAMHSA), suicide is the 2nd leading cause of death – 2.5 times the national rate – for AI/AN youth in the 15 to 24 age group. Congress should:

- Enact a program to target behavioral health treatment and prevention for Indian Country that would provide the same level of local flexibility and control as the Special Diabetes Program for Indians.
- Establish a Tribal set-aside under the SAMHSA Mental Health Services Block Grant and the Substance Abuse Block Grant.

- Increase appropriations across the federal government for Tribal behavioral health programs and empower Tribes to operate those programs through Tribal Self-Governance contracts.

Strengthen Oversight, Accountability, and Quality Control Measures for IHS

IHS has recently come under scrutiny by inspectors at the Centers for Medicare and Medicaid Services (CMS) as well as the Office of Inspector General at HHS due to decreased accountability at certain IHS-operated hospitals. Reports of agency mismanagement, and lack of enforcement of quality measures, have resulted in patient safety violations and in some cases, even death. While the agency is working to correct these deficiencies, it is critical that Congress continue to provide oversight of the agency so that AI/ANs feel confident in the healthcare being provided. Yet, years after these findings have occurred, there is little evidence that IHS has undertaken measurable improvements in the program.

- Maintain and strengthen oversight of the IHS as they work to improve quality healthcare delivery at the federally-operated hospitals and clinics.
- Enact legislation that would ensure that the IHS undertakes serious reforms when it comes to quality of care health delivery, with full participation of Tribes including both Direct Service and Self-Governance Tribes.

Expand and Strengthen Workforce Development for Indian Health and Public Health Programs

Closely connected with quality of care issues, are workforce challenges within the Indian health system. IHS, Tribal health providers, and Tribal public health programs continue to struggle to find qualified medical and public health professionals to work in facilities or programs serving Indian Country. Nearly half of the public health workforce nationwide is considering leaving their positions within the next five years. According to the Government Accountability Office (GAO) IHS has an "average vacancy rate for physicians, nurses, and other care providers of 25%."[2] Current vacancy rates make it nearly impossible to run a quality health care program. With competition for primary care physicians and other practitioners is at an all-time high, the situation is unlikely to improve in the near future. NIHB has found that many providers undertake the important work of patient care without necessarily adopting a public health mindset; therefore, preventative services are not prioritized. Indeed, chronic underfunding of the Indian health system has forced limited resources to go towards treatment as opposed to prevention and improvements in health status. Therefore Congress should:

- Provide funding for programs designed to recruit and mentor AI/AN youth who are interested in health and public health professions.
- Provide funding for trainings for health care providers and hiring managers at IHS and Tribal health programs on the incorporation of public health into health care, such as the Core Competencies for Public Health Professionals developed by the Public Health Foundation.
- Provide better incentives for medical professionals who want to work at IHS and Tribal sites, including support for spouses and families, and better housing options.
- Enact proposals to provide medical professionals with more equitable pay and benefits in order to incentivize working for the IHS.
- Expand the IHS scholarship and loan forgiveness programs to again include public health professionals, including midwives, nutritionists, and Community Health Aide Program providers. These benefits should be tax exempt so that the agency can provide more opportunities for this program.
- Provide direct funding for Tribal medical residency programs.
- Continue to authorize and fund the Teaching Health Centers program.
- Support the increase of public health sub-baccalaureate certificates and associates degrees offered at educational institutions, and provide dedicated support to Tribal Colleges and Universities to develop these programs.

[2] GAO 18-580: "Indian Health Service: Agency Faces Ongoing Challenges Filling Provider Vacancies"

- Offer additional resources to IHS's training and recruitment efforts for Community Health Representatives and other public health professionals.
- Recognize pharmacists, Licensed Professional Counselors, and Licensed Marriage & Family Therapists as non-physician providers under Medicare Part B, to ensure eligibility for reimbursement of services provided in our Indian health systems.

Expand Tribal Self Governance at the Departments of Health and Human Services and Agriculture

For over a decade, Tribes have been advocating for expanding self-governance authority to programs throughout the Department of Health and Human Services (DHHS). Self-governance represents efficiency, accountability and best practices in managing and operating Tribal programs and administering Federal funds at the local level. In the 108th Congress, Senator Ben Nighthorse Campbell introduced S. 1696 - Department of Health and Human Services Tribal Self-Governance Amendments Act- that would have allowed demonstration projects to expand self-governance to other DHHS agencies. This proposal was deemed feasible by a Tribal/federal DHHS workgroup in 2011. In the 2018 Farm Bill, limited authority was granted to allow a self-governance demonstration project for the Food Distribution Program on Indian Reservations (FDIPR). Therefore, in 2020, NIHB recommends that Congress:

- Expand statutory authority for Tribes to enter into self-governance compacts with HHS agencies outside of the IHS.
- Allow Tribes to enter into self-governance compacts to administer the Supplemental Nutrition Assistance Program (SNAP) and broaden self-governance authority under FDIPR.

Provide Resources to Improve the Health Information Technology (IT) system at IHS

It is critical that Congress provide resources necessary for the IHS and other federal health providers like the Department of Defense (DoD) and Veterans' Administration (VA) to make serious upgrades to their health information technology system. Failure to do puts patients at risk and will leave IHS behind unequipped for the 21st Century healthcare environment. The biggest barrier to achieving this has been the lack of sustainable funding to adequately support health information technology infrastructure, including full deployment and support for Electronic Health Record (EHR). In the FY 2020 spending package, Congress appropriated $1.5 billion for health IT modernization at the VA, and only $8 million to IHS. Resources have been inadequate to sustain clinical quality data and business applications necessary to provide safe quality health services. The information systems that support quality health care delivery are critical elements of the operational infrastructure of hospitals and clinics. The current IHS health information system is called the Resource and Patient Management System (RPMS), and is a comprehensive suite of applications that supports virtually all clinical and business operations at IHS and many Tribal facilities, from patient registration to billing. The explosion of Health IT capabilities in recent years, driven in large part by federal regulation, has caused the IHS health information system to outgrow the agency's capacity to maintain, support and enhance it. Therefore we request that Congress:

- Significantly increase funding for the newly established EHR line item in the IHS budget
- Require IHS to work closely with VA to coordinate upgrades for their respective EHR systems to ensure interoperability with IHS and Tribal EHR systems, whether they be RPMS or a commercial-off-the-shelf (COTS) system

Improve Care for Native Veterans

The federal government's trust responsibility to provide health care to all AI/ANs extends across all departments and agencies of the United States and includes the Veterans' Administration. And yet, although AI/ANs serve in the U.S. military at higher rates than any other race, they are underrepresented among Veterans who access the services and benefits they have earned. AI/AN Veterans are also more likely to lack health insurance and to have a disability, service-connected or otherwise, than Veterans of other races. The Tribal memoranda of understanding (MOUs) between the VA and the Indian Health Service (IHS), Tribes and urban Indian health care providers authorized under the Indian Health Care Improvement Act are ideal

mechanisms for the federal government to preserve and build on the existing excellent relationships that the VA has with IHS and Tribal Health Programs. Yet, these agreements are at risk. To improve care to Native Veterans, we request:

- IHS and Tribal providers should be exempted from any value-based reimbursement scheme for other VA providers.
- Exempt all Native Veterans from copays and deductibles at the VA in accordance with the federal trust responsibility.
- Ensure IHS and Tribal providers are fully reimbursed by the VA for services authorized under the purchased/referred care program.
- Enact legislation establishing a Tribal Advisory Committee at the VA.

Reduce Maternal Morbidity and Mortality Rates among AI/AN Women

According to the World Health Organization, an average of 19 women die from a pregnancy related cause for every 100,000 live births in the United States. The rate of deaths among AI/AN women is 2 to 3 times higher than their white counterparts, and this disparity increases with maternal age. AI/AN women older than 30 are four to five times more likely to die from a pregnancy related cause than their white counterparts. In a 2007-2016 report, CDC found that hemorrhage and hypertensive disorders of pregnancy contributed more to pregnancy-related deaths among AI/AN than white women. However, access to data informing these statistics have been found to underestimate rates. Lack of data leads to inadequate research on social factors contributing to maternal morbidity and mortality among AI/AN women as well. Congress should enact legislation that:

- Improves birth outcomes and reduces maternal morbidity and mortality by improving access to quality, culturally competent maternal care resources in Indian Country.
- Improves data access and collection on maternal health, morbidity, and mortality in Indian Country.
- Increases funding for the training of physicians, medical residents, fellows, nurse practitioners, physicians' assistants, and certified midwives to practice maternal and obstetric medicine in Indian Country.
- Increases funding for home visiting programs and culturally competent models with positive maternal health outcomes.

Promote and Sustain Environmental Health Improvement Efforts in Indian Country

The health of the environment directly impacts public health in Indian Country. Contaminated drinking water, harmful air pollutants, destruction of natural habitats, climate change, extreme weather, and exposure to toxic heavy metals are issues that Tribal communities struggle to prevent, often with little or no support from the federal government. 25% of the nation's 1300 Superfund sites are located in or neat Indian Country, even though Indian County is only approximately 2% of the national land area. Decreased environmental health impacts physical and mental health as well as emotional and spiritual wellness for AI/AN communities and individuals. Lower population counts of species that Tribes use for sustenance and ceremonial practices harm the overall wellness of Tribal members. Many Tribes also rely on traditional foods in areas where there are few affordable, healthy foods for purchase. Improving environmental health aids in the prevention of illness, disease and general well-being. We request that Congress:

- Establish dedicated funding for Tribes for environmental health improvement efforts.
- Dedicate time and resources to developing a body of Tribally-led research into current and pervasive challenges related to environmental health and climate change adaptation.
- Protect Tribal lands, minerals, air, and waterways from non-Tribal exploitation and abuse.
- Ensure all Tribes have access to clean water and proper sanitation infrastructure.
- Provide oversight to agencies such as Housing and Urban Development to ensure federal lead removal programs provide resources, training, and screening tools directly to Tribes.
- Provide needed resources to Tribes most vulnerable to the effects of climate change.

- Support emergency response to emerging/worsening environmental issues resulting from climate change, such as wildfires, heatwaves, and flooding.
- Give Tribes adequate tools to preserve sacred spaces throughout their environment in a way that incorporates Tribal traditions and respects sovereignty.

Support Reauthorization of the Violence Against Women Act and Confront the Missing and Murdered Indigenous People Crisis.

Violence against American Indians and Alaska Natives (AI/AN) is a serious health threat: More than four in five (84%) of AI/AN women have experienced violence, including sexual assault, domestic violence, intimate partner violence, or stalking . The bipartisan 1994 Violence Against Women Act (VAWA) and subsequent reauthorizations provided protection for victims of domestic violence and other abuse. Under the 2013 reauthorization, Tribes gained expanded criminal authority to respond to and prosecute perpetrators of violence. VAWA expired in February 2019, and congressional reauthorization has since stalled. Savanna's Act was originally introduced in the 115th Congress in response to the brutal murder of Savanna LaFontaine-Greywind in North Dakota. A lack of necessary training, coordination, surveillance, and response between key federal, state, and local entities and Tribes to appropriately respond to cases of missing or murdered indigenous women, girls, and people contribute to the loss of life. Therefore, Congress should:

- Reauthorize VAWA and maintain provisions from the 2013 reauthorization that expanded Tribal criminal jurisdiction.
- Pass Savanna's Act to provide resources for training, coordination, surveillance, and response to the Missing and Murdered Indigenous Women crisis.
- Direct the executive branch to coordinate efforts between departments to prevent gender-based violence, trafficking, and exploitation, incorporating federal and Tribal elements.

Support Dental Therapists (DTs) as a Solution to Indian Country's Oral Health Crisis

In January 2017, the Indian Health Service (IHS) began the process of expanding the Community Health Aide Program (CHAP) to Tribes throughout the country. Federal law prohibits IHS or Tribes from utilizing DTs as part of CHAP in any state besides Alaska unless the state gives its permission. This language raises a barrier between Tribes and oral health care services and is an inappropriate delegation to the states of the federal trust responsibility. However, many Tribes have opted to not wait for a remedy from Congress and are actively engaging with states to ensure Tribes can employ dental therapists and have their services reimbursed by state Medicaid programs. Congress should:

- Continue to support the nationalization of CHAP in accordance with the recommendations of the CHAP Tribal Advisory Group.
- Direct IHS to publish a comprehensive report on the impact of DTs under CHAP.
- Direct IHS to revise, update, and reissue the agency's guidance issued in January 2014 that stated Tribes could only employ DTs with the permission of the state legislature.
- Direct the Office of Personnel Management to publish a federal position description for DTs.
- Encourage IHS and other federal agencies to build a health care workforce infrastructure inclusive of dental therapists.
- Encourage states to authorize dental therapy, adhering to the Alaska model as closely as possible.
- Provide resources for education institutions, particularly those affiliated with Tribes, to create programs and curricula for dental therapy education.
- Enact legislation fix to IHCIA removing the state approval requirement for DTs under CHAP.
- Establish standardized oral health care benefits for AI/ANs under state Medicaid programs.
- Expand the authority and funding of the IHS Scholarship and Loan Forgiveness Programs to include DTs as eligible for benefits.
- Create a dental benefit under Medicare.
- Support policy proposals aimed at improving oral health in Tribal communities.

Support Native Youth Policy Agenda

NIHB fully supports the work of Native Children's Policy Agenda. Four national Native organizations – the National Indian Health Board (NIHB), the National Congress of American Indians (NCAI), the National Indian Child Welfare Association (NICWA), and the National Indian Education Association (NIEA) – have come together to create the First Kids 1st Initiative, a joint effort to improve the social, emotional, mental, physical, and economic health of Native children and youth to allow them to achieve their learning and developmental potential. First Kids 1st gives voice and support to Native children and youth and their Tribal communities so they can grow and thrive for years to come. To support the health of Native youth, Congress should:

- Improve access to health services through full funding of IHS and authorizing programs for school-based health clinics.
- Create and sustain workforce development programs for Indian health and public health systems.
- Develop systems-level improvements to support traditionally and locally produced foods, especially in school-based lunch programs.
- Improve the behavioral and mental health and wellbeing of Native youth by increasing access to services and the creation of programs targeted at Native youth, such as residential youth transitional systems and wilderness camps.
- Fund after-school programs and summer activities for children on reservations and in Alaska Native villages.
- Support alcohol and drug free communities by increased funding for Department of Justice, Substance Abuse and Mental Health Services Administration, and the Indian Health Service alcohol and drug treatment programs currently serving Native communities.
- Increase funding to combat illegal drugs, including funding for police, special drug task forces, lab cleanup, and drug treatment programs.

Regulatory / Administration Requests

Educate Members of the Administration on Tribal Sovereignty and the Trust Responsibility

Many federal officials don't understand that Indians are not racial entities but political entities - sovereign nations- with their own laws, cultures, and citizens. Tribes signed treaties and negotiated other agreements with the United States in which they ceded vast amounts of territory in exchange for certain solemn promises. These promises include protecting Tribal self-government and providing for the health and well-being of Indian peoples. Indian treaties are the supreme law of the land, and in carrying out these treaty obligations, the United States has "moral obligations of the highest responsibility and trust."

- Educate Members of the Administration on Indian Country, the Trust Responsibility, and Tribal Sovereignty.
- Educate the Administration that the Trust Responsibility runs from the entire Federal Government to the Tribes; it is not confined to Indian Health Service (IHS) or even the Department of Health and Health and Human Services (HHS). Federal Agencies must work collaboratively to address the health needs of AI/AN.

Preserve and Expand Meaningful Federal Tribal Consultation

On November 6, 2000, President Clinton issued Executive Order 13175 that set forth clear definitions and frameworks for consultation, policymaking and accountability in order to support the following aims: (1) strengthen the government-to-government relationship between the United States and Indian Tribes (2) establish meaningful consultation with Tribal officials in the development of federal policies and (3) limit the number of unfunded mandates imposed on Indian Tribes. In 2009, President Obama issued an Executive Memorandum that called for the head of each federal agency to submit to the Director of the Office of Management and Budget (OMB), within 90 days, a "detailed plan of actions the agency will take to implement

the policies and directives of Executive Order 13175." Moreover, President Obama's Executive Memorandum directs each agency head to submit annual progress reports, with updates on the status of each item listed in the agency's action plan, as well as information on any proposed changes to its plan. What followed was an astonishing number of agencies that created or updated Tribal consultation policies. Many of these consultation policies also created Tribal advisory committees to assist the department in the development of policies and regulations that have an impact on Tribes.

- Preserve the Executive Order on Tribal Consultation.
- Ensure that Tribal Consultation is being conducted by all HHS agencies looking to take actions that will impact Tribes.
- Ensure Tribal Consultation is meaningful and done in a timely manner that provides for informed Tribal engagement.
- Educate the Administration on the government-to-government relationship and the unique legal status of Tribes.
- Preserve and Strengthen Tribal Advisory Committees and provide technical support.

Ensure and Facilitate Meaningful Tribal Consultation with the states

The current administration is promoting more flexibility and authority for states that receive federal funds or grants to operate their programs. Too often, states are not consulting with Tribes in the allocation and use of these funds even though many states use Tribal statistics to apply for these funds. While there is no Trust Respnsibility between states and Tribes, when it comes to the allocation of federal resources, the federal government must facilitate and ensure that those resources reach Tribes and Tribes are engaged in how those resources are used.

- Work with federal agencies to require Tribal Consultation when states receive funds or services from the federal government.
- Facilitate Tribal Consultation when possible between Tribes, states, and the federal government.
- Continue to hold the federal government responsible for how those resources are used.

Preserve Medicaid protections and expanded eligibility for American Indians and Alaska Natives

The Medicaid program is vital in fulfilling the federal trust and legal responsibility toward AI/ANs. In 1976, Congress enacted Title IV of the Indian Health Care Improvement Act (IHCIA) which amended the Social Security Act to require Medicare and Medicaid reimbursement for services provided in Indian Health Service (IHS) & Tribal health care facilities. This was intended to help fulfill the federal Trust Responsibility and bring additional revenue into the Indian health system. With discretionary appropriations consistently falling far short of need, Medicaid provides the Indian health system with much needed funding to provide basic healthcare services to AI/ANs.

In 2017, the Administration undertook efforts to reform Medicaid by issuing guidance and supporting states that wish to implement Work and Community Engagement Requirements as conditions of eligibility for the Medicaid Program. In 2019, the Administration developed additional guidance to encourage states to transition portions of their Medicaid programs to a block grant of per cap scheme.

- Advocate to exempt IHS eligible beneficiaries from all aspects of the block grant/per cap design and implementation which can bring about harmful impacts to those beneficiaries.
- Advocate for exemptions for IHS eligible beneficiaries from state imposed work and community engagement requirements as a condition of eligibility for Medicaid.
- Request that the Administration maintain current special protections for AI/ANs in the Medicaid Program.
- Oppose any efforts of the administration and states that would pose a barrier for AI/ANs to enroll in the Medicaid Program.
- Ensure that IHS and Tribes are not adversely affected by changes to the Medicaid program.
- Advocate for Tribal consultation before any policy changes to the Medicaid program are made.

- Expand services eligibility for Medicaid reimbursement.
- Provide technical assistance and training for enrollment in Medicaid.
- Request CMS support for proposed changes in law governing the Medicaid program that will benefit AI AN populations, and allow the agency to fulfill its Trust Responsibility to the Tribes.

Improve the Health Information Technology (IT) system at the Indian Health Service (IHS)

In light of the U.S. Department of Veterans Affairs (VA) move to modernize their Electronic Health Record (EHR) by shifting away from the Veterans Information System and Technical Architecture (VistA), a system that IHS depended upon, in 2017 IHS announced its intention to begin a process of Health IT Modernization.

In October of 2019, IHS released its highly anticipated Health IT (HIT) Modernization Final Report which focuses on providing recommendations to utilize impactful, community-serving processes, and to adopt data-driven approaches to decision making as IHS works to modernize its Electronic Health Record (EHR). The challenge for IHS has been to execute a strategy to modernize its EHR system and the information technology systems necessary to support it.

- Request IHS to collaborate with the VA and DoD to ensure interoperability of their systems with the system IHS selects.
- Request IHS collaborate with VA and DoD to ensure sharing of information and other resources, so that adequate appropriations for modernization are secured.
- Request IHS to continue to advocate for Health IT as a separate line item in their annual budget request.
- Advocate for IHS to invest in sustainable infrastructure; promote short term and long-term solutions; develop leaders with subject matter expertise within the agency; and develop policies to implement the recommendations found in the IHS Health IT Modernization Report and the IHS Health IT Modernization Roadmap.
- Advocate for IHS to develop systems that support interoperability between the IHS Health IT system and the systems that Tribes adopt.
- Preserve historical patient data so that it is available to incorporate into future Health IT system data warehouses.
- Request continued Tribal consultation over this transition to any new Health IT system.

Ensure Tribal Access to Data

Indian Health Service (IHS) must work collaboratively with Tribes to further develop its Information Data Collection System Data Mart and ensure that Tribes can access their co-owned data. Doing so will improve overall clinical data reporting and provide the most accurate data for developing budget priorities, while allowing Tribal leaders and administrators the most accurate data in determining resource allocation and program development.

- Advocate for timely access to and ownership over Tribal data.
- Ensure adequate protections in place for Tribal and Patient data.
- Recommend that IHS, along with other federal agencies compile health data to evaluate the health effects and impacts on community; and partner with each other to explore addition additional funding options to address the health needs exposed through the data.

Ensure and improve access to culturally competent quality health care for Native Veterans.

American Indians and Alaska Natives (AI/ANs) serve in the U.S. military at higher rates compared to any other ethnic group, and have a higher concentration of female service members. AI/AN Veterans are more likely to lack health insurance, and have a disability, service-connected or otherwise, than Veterans of other races.

Many AI/AN Veterans experience various challenges in receiving VA health care benefits in remote environments. AI/AN Veterans experience health disparities and barriers to access quality health care service due to factors such as distance, poverty, mental health symptoms, historical mistrust, and a limited number of culturally competent providers.

- Educate VA officials about the unique features of the Indian health care system and ensure that any policy changes do not adversely affect the Indian health care system.
- Maintain and strengthen the implementation of the Memorandums of Understanding/ Memorandums of Agreement (MOU/MOAs) between the U.S. Department of Veterans Affairs, the Indian Health Service, and Tribal Health Programs.
- Request reimbursement from the VA for Purchased/Referred Care Services.
- Create a VA Tribal Advisory Health Care Committee to ensure that the VA fulfills its Trust Responsibility to AI/AN Veterans in a culturally competent manner.

Support IHS Efforts to Expand the Community Health Aide Program (CHAP)

CHAP has an enormous amount of potential for Tribes and AI/ANs outside of Alaska. This potential was recognized during the reauthorization of the Indian Health Care and Improvement Act (IHCIA). Tribal advocates supported the ability of IHS to expand CHAP to Tribes outside of Alaska and the support, coupled with the successful history of the program, had widespread lawmaker support along with language included in IHCIA ensuring that IHS had the authority to expand the CHAP outside of Alaska. As IHS moves forward with pursuing a national CHAP, careful consideration and Tribal Consultation must take place on the parameters and scope of the program, the amount of flexibility that I/T/Us will have in growing the program, and where the funding comes from. Because there is much undetermined about what the program will be, NIHB strongly recommends that IHS work closely with Tribes, Tribal organizations, Urban Indian programs to ensure that the CHAP is implemented in a thoughtful and considerate manner that respects Tribal Sovereignty and authority as well as delivers quality, culturally-competent care for AI/ANs.

- Request to be a part of IHS/Tribal Workgroup to develop a policy to expand CHAP.
- Provide technical assistance to Tribes and IHS in expanding CHAP.
- Advocate for appropriate Medicaid reimbursement of the CHAP program.

Support and Expand Telehealth in Indian Country

The Indian health system has not yet been systematically resourced to establish either a sustainable telehealth infrastructure or governance program that would prioritize resources in accordance with identified need, establish and promote best practices, and formally evaluate and report on successes and issues. In communities where it is available, however, telemedicine has allowed Tribal Nations to dramatically improve access to care, accelerate diagnosis and treatment, avoid unnecessary medivacs and expand local treatment options. It has also helped reduce Medicaid costs.

- Recommend that the Federal Communications Commission (FCC) enter into a Memorandum of Understanding with the Indian Health Service to coordinate Health IT and telehealth efforts to best utilize all government resources.
- Request a Tribal Set Aside in FCC Health Funds.
- Establish a formal Telehealth Working Group to Address the Needs of Indian Country.
- Establish a relationship with the FCC Office of Native Affairs and Policy.
- Advocate for telehealth opportunities in Indian Country, but discourage any practices there AI/ANs are pushed to participate in telehealth physician appointments, in lieu of live visits with their doctor, when access to the doctor does not pose an immediate geographic or financial challenge.

Support Tribal Data Sovereignty

Recent federal scientific research initiatives, such as through the National Institutes of Health (NIH) and the Food and Drug Administration (FDA), have sought Tribal leaders' endorsement of their projects in Indian Country. This includes requesting that AI/ANs provide biological samples or electronic health records or that AI/ANs take surveys about their health histories and family medical histories. For other initiatives, federal agencies have circulated draft data or policy guidance and have specifically requested input from AI/ANs to enhance the agency's ability to create targeted medicines or practices to the benefit of AI/ANs. While Tribal advocates support the development of research to prevent and cure diseases, Tribes are Sovereign Nations and are the ultimate stewards of their data.

- Understand that data sovereignty concerns a Tribe's right to govern the collection, ownership, and application of their own data.
- Educate federal agencies so that, should Tribes choose to collaborate with them in some capacity, the processes must be respectful of both Tribal self-determination and Tribal data sovereignty.
- Discontinue practices that target individual AI/ANs, and instead engage in meaningful consultation with Tribes before entering Tribal lands, or seeking individual Tribal members' information.
- Respect the data sovereignty of all self-identified AIANs, whether they reside on Tribal lands or in urban areas.
- Promote cultural sensitivity, proper training, and adherence to Tribal and federal ethics rules. If the Tribe has a research review board, researchers should seek its approval before commencing any project involving the Tribe or Tribal members.
- Respect anonymity of any self-identified AI/ANs to participate in cutting edge or other research studies.