



BC ASSEMBLY OF FIRST NATIONS

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BCAFN SPECIAL CHIEFS ASSEMBLY
March 9-10, 2023
Hybrid - In person & online via Zoom

Draft Resolution 06/2023

SUBJECT: ADVANCING A POSITIVE PATH FORWARD ON FIRST NATIONS HEALTH GOVERNANCE

MOVED BY: CHAIRPERSON KHELSEM, SQUAMISH NATION

SECONDED BY: ANNIE SILVER, PROXY, CHEAM FIRST NATION

DECISION:

WHEREAS:

- A. First Nations have an undeniable sovereign responsibility and mandate to ensure the health, safety, and well-being of their members;
- B. the *United Nations Declaration on the Rights of Indigenous Peoples*, which the government of Canada has adopted without qualification, and has, alongside the government of BC, passed legislation committing to implement, affirms:
- Article 18:** Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions.
- Article 19:** States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior, and informed consent before adopting and implementing legislative or administrative measures that may affect them.
- Article 21(1):** Indigenous peoples have the right, without discrimination, to the improvement of their economic and social conditions, including, inter alia, in the areas of education, employment, vocational training and retraining, housing, sanitation, health and social security.
- Article 23:** Indigenous peoples have the right to determine and develop priorities and strategies for exercising their right to development. In particular, Indigenous peoples have the right to be actively involved in developing and determining health, housing and

other economic and social programs affecting them and, as far as possible, to administer such programs through their own institutions;

Article 24(1): Indigenous peoples have the right to their traditional medicines and to maintain their health practices, including the conservation of their vital medicinal plants, animals and minerals. Indigenous individuals also have the right to access, without any discrimination, to all social and health services;

(2) Indigenous individuals have an equal right to the enjoyment of the highest attainable standard of physical and mental health. States shall take the necessary steps with a view to achieving progressively the full realization of this right.

- C. via Resolution 2010-01, the BC AFN Chiefs-in-Assembly supported a change to the structure and appointment of the First Nations Health Council (FNHC) to be fifteen members, three appointed for each health region through their own processes. The resolution directed that the [FNHC] "...will be responsible for reporting to Nations within their region, accountable for progress and processes at all levels, representation, and ensuring that ratification processes and decision making process are community driven and Nation based";
- D. in 2010, the FNHC advanced a Consensus Paper at the fourth annual Gathering Wisdom for a Shared Journey Forum which was supported by a majority of First Nations present at that meeting. Under the Consensus Paper, the FNHC was supported "as a provincial-level political and advocacy organization that is representative of and accountable to BC First Nations" and clarified that direct accountability of the FNHC to BC First Nations on health-related matters will be through the Regional Caucuses and Gathering Wisdom Forums;
- E. the FNHC's mandate is described in the 2010 Consensus paper as: dedicated political leadership for the implementation of the Health Plans; Support to First Nations in achieving their health priorities and objectives; health advocacy and relationships; politically oversee the transition of First Nations and Inuit Health Branch (FNIHB) to a new First Nations Health Authority; and promote and ensure communication, transparency, cost-effectiveness and accountability of the FNHC to First Nations;
- F. the FNHC serves a dual role as FNHC political leaders and members of the non-profit FNHA society and in this role appoint the Board of Directors, meaning there is categorically no separation between politics and business;
- G. since health transfer in 2013, and through the legally binding BC Tripartite Framework Agreement on First Nation Health Governance (Tripartite Framework Agreement), the FNHA has provided funding to our community health programs. The FNHA revamped the First Nations Health Benefits with the intent to support our people living at home and away from home. This program provides First Nations patients with the costs of dental, drugs, supplies, mental health support and patient transportation. The FNHA has a legal obligation through the Tripartite Framework Agreement to the First Nations people living in BC for the provision of health services;
- H. in 2015, the First Nations Leadership Council ("FNLC", a collaborative political working partnership between the UBCIC, First Nations Summit, and BC Assembly of First Nations) signed a Protocol on the Social Determinants of Health with the FNHC ("Protocol"). In the Protocol, the

FNLC and FNHC acknowledged their respective and separate governance and accountability structures;

- I. the FNHC is not subordinate to the FNLC, and the relationship between the FNHC and the FNLC is set out in the 2015 Protocol. The 15 FNHC members are accountable to the First Nations governments that appointed them within their respective regions, and the mandate and work of the FNLC is collectively directed by Nations' governments through resolutions of the three political organizations. Neither the FNLC nor other First Nations Organizations, are subordinate to the FNHC;
- J. through their legal and binding Tripartite Framework Agreement, Canada, the Province of BC and the FNHA have provisions for formal organizational evaluations every five years. Through its commitment to a high standard of accountability and transparency, the FNHA also publishes and provides an overview at regional caucuses on annual reports that include independently audited financial statements;
- K. in spring 2021, First Nations leaders and delegates at the respective meetings of the Union of BC Indian Chiefs (UBCIC), BC Assembly of First Nations (BCAFN), and the First Nations Summit (FNS) unanimously passed resolutions mandating a First Nations Health Governance Structure Renewal (UBCIC 2021-14; BCAFN 02/2021; FNS #0621.11) overseen by a Chiefs Health Governance Committee (Committee). By Resolution 2021-14, the BC AFN Chiefs-in-Assembly called for "this engagement and decision-making process to be immediately initiated, and for a renewed mandate and structure to be agreed upon by First Nations throughout BC including co-developing legislation as described in section 9.1 of the Tripartite Health Framework Agreement prior to renewal of the First Nations Health Authority's (FNHA) Canada Funding Agreement in 2023." There was a two year period for the work to take place prior to the expiry of the 10 year agreement;
- L. essential documents required from the FNHA and the FNHC have not been provided to the Committee to carry out its work, despite repeated requests since 2021, and despite commitments in the Protocol from 2015 to information sharing;
- M. the FNLC has communicated to the FNHC, Federal and Provincial governments that they should only renew their ten-year funding agreement, which expires on March 31, 2023, once a third-party Health Governance Review is completed, and that an interim funding agreement be put in place to ensure seamless delivery of services to First Nations, to avoid any threats to service delivery to First Nations community health programs and services to their citizens;
- N. the FNLC has been unable to secure funding arrangements or funding support from BC or the Federal government for their third-party Health Governance Review, which has stalled since 2021. The FNHA and FNHC have communicated to BC and Canada that the Review called for in the resolutions is not needed because the FNHC is carrying out its own review;
- O. the FNHC voluntarily initiated an evaluation in fall 2022 conducted by a third-party consultant for First Nations leaders to increase accountability and continuous learning, share stories of change over time, identify current strengths, and highlight opportunities to improve FNHC's governance, role and structure;

- P. the resolutions processes at the BCAFN, FNS and UBCIC assemblies do not include a provision for the additional demonstration of consent of every First Nation in BC. In fall 2022, resolutions were passed by consensus and in full accordance with resolutions processes at those organizations, and by UBCIC Resolution 2022-50, the BC AFN Chiefs-in-Assembly once again called “on the FNHA and the FNHC to cooperate in an arms-length health governance review and not enter into any further funding agreements including a renewed Canada Funding Agreement or the Tripartite Data Quality & Sharing Agreement, on behalf of First Nations prior to the external review of FNHA’s governance structure and mandate by Title and Rights Holders”;
- Q. the FNLC organizations are broadly mandated, and work collaboratively, to support First Nations to advance their Aboriginal Title and Rights, and Treaty Rights, and to advocate for substantive policy change that will benefit all First Nations in BC. First Nations Organizations, including the FNHC, hold a variety of mandates to work to improve the socio-economic conditions of First Nations communities in BC through their focused work in their respective sectors;
- R. on February 13th, 2023, the FNLC and the FNHC had a meeting to discuss issues of common interest as per commitments in the Protocol and agreed to work together more closely and attend to needs in our communities; and
- S. on February 28-March 2, 2023 First Nations in BC met at the 12th Annual Gathering Wisdom to discuss the Ten-Year Strategy on social determinants of Health, which is intended to examine the social determinants of health from an Indigenous perspective, describe the relationship between the social determinants of health and colonization, demonstrate linkages between the 7 directors and social determinants of health, and to represent a whole of government approach to accelerate progress on the social determinants of health with the goal of restoring health and wellness. The Chiefs and proxies in attendance passed a resolution that approved and supported the Ten Year Strategy and directed the FNHC to complete the independent evaluation of the First Nations Health Governance structure, the resolution was supported by 150 votes, with 24 opposed (84% in favour, 16% opposed).

THEREFORE BE IT RESOLVED THAT:

1. the BCAFN Chiefs-in-Assembly supports a renewal of a ten-year funding agreement for necessary community health services, care, and benefits for approximately 200,000 First Nations people in BC;
2. the BCAFN Chiefs-in-Assembly directs the Regional Chief and staff to communicate to the First Nations Health Council (FNHC), federal and provincial governments that an arm’s length Health Governance Review is not needed;
3. the BCAFN Chiefs-in-Assembly directs the BCAFN to end engagement, participation, or support for the arm’s length Health Governance Review called for in BCAFN Resolutions 2021-02 and 2022-23 and rescinds the actions called for in those resolutions; and
4. the BCAFN Chiefs-in-Assembly directs BCAFN to advise First Nations to utilize the BC First Nations Health Governance Structure’s established engagement pathways to provide feedback and direction to their elected representatives on the FNHC.