SPECIAL CHIEFS ASSEMBLY

DATE: DECEMBER 7-9, 2021

ASSEMBLÉE EXTRAORDINAIRE DES CHEFS

DU 7 AU 9 DÉCEMBRE 2021

CONSIDERATIONS FOR DISTINCTIONS-BASED HEALTH LEGISLATION

PURPOSE OF PRESENTATION

- To update Chief & Council across Canada about the progress of implementing AFN Resolution no. 69/2017.
- To discuss First Nations considerations for the Canada's proposal to *co-develop distinctions-based Indigenous health legislation.*

ACTIVITIES TO DATE

- **AFN RESOLUTION**
- **FEDERAL GOVERNMENT BUDGET & MANDATE**
- **CANADA'S ENGAGEMENT ACTIVITES**

AFN RESOLUTION NO. 69/2017 Exploring a Legislative Base for First Nations Health

- *Directs "the Assembly of First Nations (AFN) to examine options related to federal First Nations health legislation that would articulate federal obligations towards First Nations health, reflective of inherent, Treaty and international legal obligations, as well as the nation-to-nation relationship."*
- *Directs "the AFN to develop tools to aid interested First Nations communities in developing their own positions related to federal legislation on First Nations health."*

SUPPORTING FIRST NATIONS

- ✓AFN continues to advocate for funding from the federal government to support First Nations participation in discussions about distinctions-based health legislation.
- ✓AFN research supports First Nations for engagement.
- ✓Legal analysis to guide AFN activities and discussions.
- ✓Open dialogue and Q&A with Minister Miller (former Minister of Indigenous Services Canada).

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Nahwegahbow Corbiere, *Indigenous Health Legislation - Draft Discussion Paper, March 31, 2020:*

- ***"It is important to include a formal affirmation in the legislation of the Crown's fiduciary duty with regard to First Nations health care."***
- ***"Both Treaty Rights and Aboriginal rights related to health care must be examined."***
- ***"It is imperative that the legislation provide for an on going mechanism to ensure that the undertakings made by the governments are met and sufficient resources are set aside."***

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HEALING PATH FORWARD

- **UNDRIP:** Ensure all policies, legislation, and operational practices are consistent with First Nations and Treaty rights, the UN Declaration on the Rights of Indigenous Peoples, and Canada's international obligations.
- **TREATIES:** Continue work to affirm First Nations jurisdiction over all aspects of health and wellness services for their citizens, while affirming that the Treaty right to health is a non-negotiable foundation for any such discussions.
- **FIRST NATIONS FUNDING FOR HEALTH:** Work with First Nations, early and throughout the budget cycle, to identify ten-year projections for new federal investments into the continuum of First Nations health and wellness services across the lifespan, including mental health.
- **COLLABORATION WITH FIRST NATIONS:** Identify, in collaboration with First Nations, funding that would adequately support existing service delivery processes in health promotion and prevention, primary care, wellness, and health systems transformation.
- **ANTI-RACISM IN HEALTHCARE:** Collaborate with First Nations to identify and implement strategies to address anti-Indigenous Racism in Health Care Systems in Canada.
- https://www.afn.ca/wp-content/uploads/2021/08/FINAL_FederalElection-2021_Platform-Report_ENG_3.pdf

NEED FOR DIALOGUE

- Draft Resolution no. 09/2021 was tabled at the AFN AGA in July 2021 but not discussed due to time limitations. The resolution was approved by the AFN Executive in August 2021. In October 2021, AFN Executive approval for this resolution was rescinded and the AFN Secretariat was directed to bring the resolution for discussion at this Special Chiefs Assembly (SCA), December 7-9, 2021.

DRAFT AFN RESOLUTION NO. 09/2021

There are 7 points in the draft resolution:

1. Call on Canada to orient their approach to the development of distinctions-based health legislation by recognizing First Nations peoples' inherent right to self-determination over First Nations health matters.

2. Call on Canada to ensure that support will be provided to First Nations to make free and informed decisions of how best to care for and establish law, policies, and practices to support the health and well-being of First Nations.

3. Direct the Assembly of First Nations (AFN) to call upon Indigenous Services Canada (ISC) to engage in a focused dialogue with First Nations to substantively identify, recognize and engage the protocols elements and processes under which to conduct legislative co-development.

DRAFT AFN RESOLUTION NO. 09/2021

4. Direct the AFN to call upon ISC to ensure that timelines for engagement and co-development of health legislation are reflective of First Nations' needs and capacities and not those of the federal government.

5. Direct the AFN to call up on ISC to ensure that provincial and territorial governments are included in the tri-partite discussions related to co-development.

6. Direct the AFN to call upon ISC to ensure individual First Nations are fully and sustainably funded to allow for their full, direct, and unfettered participation in all legislative co-development process and implementation.

7. Direct the AFN to support the participation of First Nations, regional organizations, and provincial/territorial organizations in their regional engagement processes and to lead national level dialogue and engagement.

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