

SUMMARY:
**FIRST NATIONS HEALTH COUNCIL PROCESS TO IMPLEMENT
THE TRIPARTITE FRAMEWORK AGREEMENT ON FIRST NATION HEALTH GOVERNANCE**

Introduction:

- At Gathering Wisdom for a Shared Journey IV, First Nations passed Resolution 2011-01
- Resolution 2011-01 directed the FNHC to “develop a strategy and approach for the conclusion of sub-agreements to the Framework Agreement, and share this strategy and approach with First Nations for feedback”
- The FNHC Process to Implement the Tripartite Framework Agreement on First Nation Health Governance describes the FNHC’s approach to oversee the conclusion of sub-agreements over the next two years
- It is important to note that this is the FNHC’s proposed approach, and this document may change depending on the approach agreed to amongst the tripartite partners, and the feedback received from First Nations
- It is key to note that the “negotiations” are complete – funding and all other key issues were resolved in the Framework Agreement; the purpose of sub-agreements is simply to agree upon the mechanics of the transfer (how and when to transfer people, documents, funding, facilities)

Guiding Documents:

- **Consensus Paper**
 - By Resolution 2011-01, First Nations adopted the Consensus Paper: British Columbia First Nations Perspectives on a New Health Governance Arrangement
 - The Consensus Paper establishes 7 Directives:
 1. Community-Driven, Nation-Based
 2. Increase First Nations Decision-Making and Control
 3. Improve Services (*Consistent with the Principle of Comparability*)
 4. Foster Meaningful Collaboration and Partnership
 5. Develop Human and Economic Capacity
 6. Be Without Prejudice to First Nations Interests (including but not limited to Aboriginal Title and Rights, Treaty Rights, self-government agreements, court proceedings, the fiduciary duty of the Crown, and existing community health funding agreements)
 7. Function at a High Operational Standard
 - All sub-agreements must be consistent with the Consensus Paper, including the Directives
- **Resolution 2011-01 Workplan**
 - By Resolution 2011-01, First Nations directed the First Nations Health Council to develop a workplan for next steps
 - That workplan has been drafted and circulated to Regional Caucuses for review and feedback by December 31, 2011
 - The FNHC Process to Implement the Tripartite Framework Agreement on First Nation Health Governance Process document is in alignment with that Resolution 2011-01 Workplan

- **Tripartite Framework Agreement on First Nation Health Governance**
 - By Resolution 2011-01, First Nations approved the *Tripartite Framework Agreement on First Nation Health Governance* (“Framework Agreement”)
 - The Framework Agreement establishes the agenda, criteria, and scope of the sub-agreements to be concluded: Human Resources and Record Transfer; Information Management and Information Sharing; Non-Insured Health Benefits; Assets and Software; Accommodation; Capital Planning and First Nations Health Facilities; and, Alignment or Termination of Canada’s Contribution Agreements

Roles & Responsibilities:

- There are a number of groups that will be involved in the process to finalize sub-agreements, and it is important to bring clarity to the different roles and responsibilities of each of these groups
- **First Nations and Regional Caucuses**
 - Receive, and provide feedback on, reports from the FNHC on the status of the implementation of the Framework Agreement
 - Opportunities to volunteer for subject-matter task groups and/or provide advice to the FNHC on specific subject matters
- **First Nations Health Council**
 - By Resolution 2011-01, the FNHC has the mandate to oversee the transfer of FNHC to a new FNHA
 - Appoints the support team and participates in tripartite discussions
 - Undertakes advocacy as required
 - Approves the strategy and approach, and final sub-agreements
 - Reports to First Nations about the status of tripartite discussions
- **First Nations Health Council Governance Working Group**
 - Appointed by the FNHC to provide guidance to the conclusion of sub-agreements on a regular basis
 - Prepare documents, draft agreements, and recommendations for tripartite discussions and approval of the FNHC
 - Participates in tripartite discussions as required
- **First Nations Health Council Chair**
 - The FNHC has identified its Chair as its lead for the implementation of the Framework Agreement; the FNHC Deputy Chair will support the Chair in this role (including acting in the capacity of Chair when the Chair is unavailable)
 - Does not make decisions independent of the FNHC, but implements the direction of the FNHC on a day-to-day basis
 - Provides leadership to the tripartite process to ensure ongoing progress
 - Participates in tripartite discussions
 - Keeps fully updated on the status of all elements and reports regularly to the FNHC

- **Interim First Nations Health Authority Board of Directors**
 - Legal entity responsible for supporting the tripartite discussions and meeting the requirements of the Framework Agreement
 - Executes legal agreements
 - Meets operational and structural requirements as established in legal agreements
 - Provides advice to the FNHC on tripartite issues and sub-agreements

- **Interim First Nations Health Authority Staff (CEO, FNHC Secretariat, Interim FNHA Staff)**
 - Provides advice to the FNHC on the tripartite process and subject matter
 - Participate in tripartite discussions as required to ensure that the tripartite discussions allow for an integrated and successful transition from FNIH to a permanent FNHA
 - Prepare documents and other materials as requested, including communications materials
 - Provide logistical, administrative, and management support to the tripartite discussions

- **Technical Support (Legal Counsel, Technical Support)**
 - Support staff or teams may be identified as required to carry out the direction of the FNHC in the detailed tripartite discussions, including providing advice and recommendations, preparing documents, and reporting to the FNHC
 - Legal counsel will be retained to provide legal advice to, and prepare legal documents for, the FNHC
 - Subject-matter experts may be contracted throughout the process to provide specific advice to the FNHC, prepare documents and for the FNHC, and participate in tripartite discussions

**FREQUENTLY ASKED QUESTIONS:
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THE TRIPARTITE FRAMEWORK AGREEMENT ON FIRST NATION HEALTH GOVERNANCE**

1. Where does the mandate for this work come from?

This First Nations health governance process arose from the *Tripartite First Nations Health Plan* signed by the First Nations Leadership Council, Government of Canada, and Government of British Columbia in 2007. In that *Plan*, the Parties committed to a process to transfer the existing First Nations and Inuit Health Branch-BC Region to First Nations control, and created a First Nations Health Council to represent First Nations in this process.

In March 2010, the First Nations Summit and the Union of BC Indian Chiefs passed resolutions mandating the First Nations Health Council to oversee health governance negotiations pursuant to a *Basis for a Framework Agreement on Health Governance*. This *Basis Agreement*, which was signed by federal and provincial governments and the First Nations Health Council in July 2010, established the negotiations agenda for the transfer of health programs and services to First Nations control.

In May 2011, First Nations Chiefs in BC passed Resolution 2011-01 at Gathering Wisdom for a Shared Journey IV. This Resolution endorsed: a *Consensus Paper: BC First Nations Perspectives on a New Health Governance Arrangement* – a document establishes First Nations interests and standards for the new health governance arrangement; and *Tripartite Framework Agreement on First Nation Health Governance* – a legal agreement that firmly captures the commitment for the transfer of health programs and services to First Nations control, and establishes the commitment for a new health partnership amongst federal and provincial governments and First Nations in BC. Resolution 2011-01 also mandates the First Nations Health Council with overseeing the transfer of First Nations & Inuit Health-BC Region to a new First Nations Health Authority.

2. What are the tripartite partners discussing now?

The *Framework Agreement* marks the end of the negotiations process and clearly sets out the agenda for future discussions to implement the Parties' commitment to transfer health programs and services to First Nations control, and establish a new health partnership amongst the federal and provincial governments and First Nations. This agenda includes finalizing the following documents within two years, or within a timeframe otherwise agreed to amongst the Government of Canada, Government of British Columbia, and the First Nations Health Council:

- Health Partnership Accord: A high-level Accord that will establish a political commitment for a longstanding, enduring partnership in support of First Nations health at all levels, including through reciprocal accountability, innovation, and relationships.
- Medical Service Plan Premiums Letter of Understanding: A letter that will describe the transition of the current process for the payment of MSP Premiums for First Nations in BC from FNIH to a new First Nations Health Authority.

- Sub-Agreements: Detailed agreements that will describe the mechanics of the transfer of First Nations and Inuit Health-BC Region to a First Nations Health Authority. These sub-agreements will be in the following areas: Human Resources; Health Benefits; Records Transfer, Information Management and Information Sharing; Assets and Software; Accommodation; Capital Planning / First Nations Health Facilities; and, Assignment or Termination of Canada Contribution Agreements.

3. Who will sign the agreements?

The political agreement – the Health Partnership Accord – will be signed by the Government of Canada, Government of BC, and the First Nations Health Council.

The legal agreements (the sub-agreements flow from the legal *Framework Agreement* and describe legal commitments of the Government of Canada, Government of BC as applicable, and the First Nations Health Authority) will be signed by the First Nations Health Council’s legal and operational entity, the First Nations Health Society (which will become the interim First Nations Health Authority).

4. What is the nature of the sub-agreements?

The negotiations are complete – they were for the negotiation of the *Basis Agreement* and the *Framework Agreement*. These two agreements approved by First Nations establish the broad commitments of the Parties to the scope of the health transfer, the programs to be transferred, the funding to be transferred, and the timeframes and supporting processes for transfer.

Therefore, all future discussions are largely an implementation exercise – they are quite simply legal agreements that describe the mechanics of how to physically and legally transfer office space, assets, employees, funding, information, records, and programs from the First Nations and Inuit Health Branch to a First Nations Health Authority. Therefore, these discussions will be very technical and detailed in nature, and entirely within the scope of what First Nations have approved in the *Framework Agreement* and *Consensus Paper*. It is important to note that these sub-agreements enable us to take over the federal programs and operations as they currently exist; they will not describe program redesign, which will take place in collaboration with First Nations only after the sub-agreements are completed.

5. Will the agreements be shared with First Nations?

The political Health Partnership Accord will be shared with First Nations and be a public commitment document amongst the Parties.

The other sub-agreements will contain very detailed information, and at times confidential and personal information, that may not be appropriate for broad distribution. The signatories to these sub-agreements will be bound by privacy legislation intended to protect the confidential information of individual First Nations and federal employees. Legal advice will be sought on the disclosure of some or parts of these sub-agreements.

6. How are First Nations on the ground involved in the process? Chiefs? Health Directors?

Although the sub-agreement discussions are largely technical and mechanical in nature, there may be the need for First Nations to provide their input and wisdom into specific subjects from time to time. In these cases, the First Nations Health Council will strike subject-matter working groups to help identify First Nations interests in those specific subjects. The First Nations Health Council will canvass all regions for volunteer First Nations leaders and health directors to participate on these working groups.

The real opportunity and need for First Nations leadership and health director involvement will be in program redesign – your direction and wisdom will be required to improve the current federal health programs and services to meet First Nations’ needs. This program redesign process will take place after the sub-agreements are finalized – likely starting in 2013.

7. When do we redesign programs to meet our needs as First Nations?

First Nations have clearly stated that some, if not all, of the current federal health programs, services, and accountability processes do not meet their needs. The purpose of this health transfer process is to put greater control over these issues into the hands of First Nations.

The program redesign process must be driven by First Nations, who have the on-the-ground experience and wisdom on how to transform health programs and services to meet First Nations’ needs. The First Nations Health Council has circulated a draft “Engagement and Approvals Pathway” to First Nations that describes a process for First Nations to provide direction on the redesign of federal programs. Once finalized, this process would require a multi-staged way of gathering, summarizing, and confirming feedback from all First Nations in BC on how to better create and deliver programs to communities and citizens.

It is important to note the timing of this program redesign. This would not take place until after the sub-agreements are completed and the new First Nations Health Authority established. The sub-agreements will not describe this program redesign. However, we are anxious to start the work to collect your feedback on the priorities and concepts for the redesign of federal health programs and services, and anticipate engaging with First Nations on these issues following the approval of a new First Nations health governance structure at Gathering Wisdom for a Shared Journey V in May 2012.

8. Why is the term “Interim First Nations Health Authority” used in this document?

Through Resolution 2011-01 approved by First Nations at Gathering Wisdom IV, First Nations called upon the existing First Nations Health Society to take steps to become the interim First Nations Health Authority. This work is in-progress. Therefore, for the purposes of this document, the term “interim First Nations Health Authority” applies to the existing First Nations Health Society Board of Directors and staff, and to a future interim First Nations Health Authority Board of Directors and staff.