

Federal responsibilities and position

The Government of Canada has what is called a fiduciary relationship with First Nations, Inuit, and Métis peoples, set out by federal legislation and Supreme Court of Canada interpretations. This means the federal government is obliged by legislation to act on behalf of Indigenous¹ Peoples and not put its own interests ahead of them. However, the Government of Canada continues to regard its role to provide health services as a matter of policy and not a legal obligation. It also regards its relationship, in terms of health, to *only* be with status First Nations and Inuit living in traditional territories.

Many First Nations have Treaty rights to health, made under written (Treaty 6), implied (Treaties 1-5), or verbal (Treaties 7-11) commitments. These Treaties were negotiated between 1871 to 1921. Under them, the federal government has further obligations to provide health care to the signatory communities in four provinces (Manitoba, Saskatchewan, Ontario, and Alberta) and two territories (Northwest Territories and the Yukon). Treaty Six has come to be known as a foundational numbered Treaty with respect to health due to its Medicine Chest Clause written in the text. It has since received varied interpretations in the Canadian judicial system, some more broad than others.

Challenges with the federal government's loose acknowledgement of its legal responsibilities to First Nations, Inuit, and Métis health care causes gaps in health service access and delivery that provincial and territorial governments resist filling. This creates jurisdictional confusion and disputes, and poses barriers to equitable access to care for First Nations peoples, Inuit, and Métis peoples.

Provincial and territorial responsibilities and position

Only a small number of provinces and territories clearly define their jurisdiction or role in Indigenous health care. Others imply it, are unclear, or use modern treaty and self-government agreements to clarify responsibilities. There is a need for more consistent and clear articulation of provincial and territorial roles and responsibilities in relation to Indigenous health care.

Many provinces and all the territories have mechanisms in their health policies and legislation to support Indigenous participation and self-administration in the health care system. This involvement is often in leadership or decision-making roles for planning and delivery of health programs and services. Innovative approaches to support Indigenous self-determination in health care have also surfaced with the trend to establish centralized health care administration and delivery models.

Other positive developments include:

- Recognition of traditional healing practices and professions under some provincial and territorial legislation.
- Adoption the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), and its 46 Articles, by the Governments of Canada and British Columbia.
- Commitments to cultural safety (British Columbia is particularly notable for this work, led by the First Nations Health Authority in that province).

Much work is needed to ensure these types of policies and legislation are implemented more broadly across Canada.

¹ The term 'Indigenous' is used through this document to refer to First Nations peoples, Inuit, and Métis peoples collectively, regardless of registered status or location of residence. When referring to specific Indigenous groups, the terms 'First Nations,' 'Inuit,' and 'Métis' will be used.



Indigenous-led health care

Many Indigenous communities across Canada continue to assert inherent rights to self-government in health care. They do this through local policy grounded in public health and health protection, as well as by reclaiming authority over the administration and delivery of health services in their communities. However, administrative barriers and heavy federal oversight can create further obstacles and inequities in delivery of and access to Indigenous-led care.

Looking ahead

The federal government and many of the provinces and territories have made efforts to restore relationships with Indigenous Peoples, in line with their role in reconciliation and in response to national and international reports and recommendations. Almost every jurisdiction in Canada has now responded in some way to the Truth and Reconciliation Commission (TRC), National Inquiry on Murdered and Missing Indigenous Women and Girls (NIMMIWG), and/or the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).

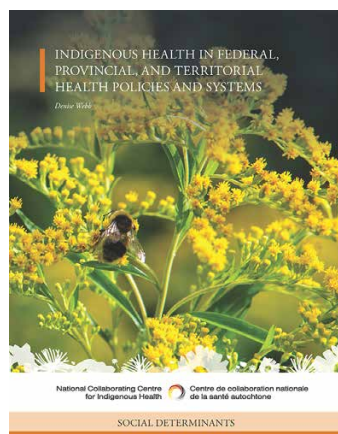
Despite such efforts, past federal commitments to policy change tied to national inquiries and Indigenous-led reports have been followed by

resistance, debate, and delays that span decades. The fact that each report repeats recommendations from the previous ones highlights the need for dedicated and concerted efforts to coordinate and establish implementation strategies at all levels of governments and health care systems. These need to be between Indigenous and non-Indigenous parties and include frameworks to ensure accountability.

There is much promise in the anticipated co-development of a new federal distinctions-based Indigenous health legislation. The legislation is currently being developed with national and regional Indigenous organizations; provincial, territorial, and self-governing Indigenous governments; health professionals; and the public through a series of engagement events and dialogue. Its implementation is intended to improve access to high-quality, culturally safe, and relevant health services, free of racism and discrimination for all Indigenous peoples.

Further work is recommended to explore traditional Indigenous governance models and teachings. These connect spiritual, familial, cultural, economic, and political spheres and embody a holistic perspective. This work may lead to an investigation of how best to collaborate and work between both structures (traditional and colonial) in order to revitalize and uplift Indigenous self-determination over all aspects of health and well-being.

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