

Summary of Impact Study 21EI2014

Rights relating to francophone long-term care homes in New Brunswick

By Michel Doucet

In this impact study, author Michel Doucet examines the language obligations of long-term care homes in New Brunswick. He begins with a historical overview of health care programs for seniors in New Brunswick, beginning with the enactment of the *Poor Law* in 1786, exploring the *Social Welfare Act* and its repeal under the *Equal Opportunity* program, and ending with the 1982 *Nursing Homes Act* which currently governs the province's long-term care program.

The author then discusses the legal and regulatory environment of nursing homes in New Brunswick. In his view, since these private institutions are the means chosen by the province to exercise its constitutional power in the delivery of care to seniors, nursing homes can be understood as third parties within the meaning of section 30 of the province's *Official Languages Act*. He adds that by providing services on behalf of the province, these services must also meet the language requirements that apply to it.

The author continues by discussing New Brunswick's positive obligation to act under section 16.1 of the *Charter of Rights and Freedoms (Charter)* and under the *Act Recognizing the Equality of the Two Official Linguistic Communities in New Brunswick (Equality Act)*. He argues that the province must take positive steps to respect the equality of official languages and equality of official language communities in the delivery of services to seniors, even if the obligations of the province are carried out by a third party. Yet, he notes that the government has completely ignored the *Equality Act* with regards to nursing homes.

In conclusion, the author argues that the province must make the necessary changes to laws and relevant programs to ensure equal access to equal health care for francophone seniors anywhere in the province. He expresses that the province cannot continue to ignore its obligations in this area.