



CANADIAN
PUBLIC HEALTH
ASSOCIATION

ASSOCIATION
CANADIENNE DE
SANTÉ PUBLIQUE

**A Brief to the House of Commons Standing Committee on Health (HESA)
Regarding Bill C-45, an act respecting cannabis and to amend the
Controlled Drugs and Substances Act, the *Criminal Code* and other Acts**

Submitted by the Canadian Public Health Association

15 August 2017

INTRODUCTION

Bill C-45 will legalize and regulate access to cannabis in Canada. Its intent is to permit the legal sale of cannabis while providing a public health framework to help reduce the negative health and social outcomes related to cannabis use while rectifying the serious negative effects resulting from the criminalization of cannabis possession. Bill C-45 also proposes changes to the impaired driving laws with the purpose of more severely punishing those who drive while under the influence of any drug, including cannabis, and prohibits the smoking and vaping of cannabis in federally-regulated places and conveyances. Furthermore, the 2017 Federal Budget provided funding to support cannabis-related public education programs and surveillance activities.

The Canadian Public Health Association (CPHA) has presented [a description of the issues that should be addressed in any cannabis legislation and regulations](#) if a public health approach is to be achieved. Many of the provisions contained in the draft legislation resonate with our proposals. As such, CPHA commends the federal government for this important step in developing a public health approach to addressing cannabis use in Canada.

Bill C-45 also delineates areas of federal and provincial/territorial (FPT) authority. Further efforts should be undertaken to develop this legislation, and the associated regulations and guidelines to minimize inter-provincial variations in approaches. CPHA recognizes the complex inter-relationships of federal, provincial, municipal and Indigenous governance authorities that exist concerning the regulation and sale of alcohol and tobacco, as well as the precedents and constitutional authorities that support those regimes. We also realize that these authorities need to be respected in structuring cannabis-related legislation and supporting regulations. This initiative, however, is a rare opportunity to develop a control system that respects FPT and Indigenous governance rights while providing consistent pan-Canadian regulation.

Topics related to Bill C-45 that require further consideration are addressed below.

RECOMMENDATIONS

Section 10(5): Possession for the Purposes of Selling

This section will result in the crime of possession for the purposes of selling becoming an indictable offence punishable with up to 14 years in prison for those convicted, including young people between the ages of 12 and 18. Section 8 concerning *Possession* and Section 9 concerning *Distribution* provide similar sentencing options for people over 18 years of age, but permit referral to sentencing under the *Youth Criminal Justice Act* for those between 12 and 18. CPHA's viewpoint is that an option for sentencing under the *Youth Criminal Justice Act* for young people should also exist under Section 10(5). In many cases this offense is related to possession for sale by young people to their peers, and the stigma established by such a conviction may cause irreparable harm to their futures,

cpa.ca

404-1525 Carling Avenue
Ottawa, Ontario K1Z 8R9

1525, avenue Carling, bureau 404
Ottawa (Ontario) K1Z 8R9

613-725-3769



outweighing the actual offense. Care should be taken to apply the proposed rules concerning possession for the purposes of sale to reflect the severity of the crime.

Section 158 (1) to (11) Access to Cannabis for Medical Purposes Regulations

Canada's Marijuana for Medical Purposes Regulations (MMR) permit cannabis consumption for medical purposes with strict regulations on licensing, growing, and distribution, and would appear to continue under the proposed legislation. The report from the Canadian Centre for Substance Use and Addiction (CCSA) study tour of Colorado,¹ a state that supports both retail and medical cannabis regulatory systems, noted the confusion and overlap resulting from maintaining parallel systems. As such, it is CPHA's position that the current MMR should be amended such that they are applicable only in specific situations.

CPHA recognizes that certain patients under the legal age for purchase may require access to cannabis, and that other patients may require higher tetrahydrocannabinol (THC) concentrations for treatment than might be accessible through the retail system. For these patients, exceptions to the new legislative and regulatory framework may be required. Patients younger than the designated legal age in their jurisdiction should have access, with their physician's recommendation, to specific cannabis-containing products when other treatments have been unsuccessful. Similarly, CPHA recognizes that certain patients may require more potent forms of cannabis than would be available through the retail system. Distribution of these specialized products should be restricted to those with medical requirements and be produced by authorized manufacturers.

Section 139 (1) Regulations

This section provides the authority to make regulations and appears to be the primary expression of the purpose of the Bill found in *Section 7(g)* which provides for "*enhancing public health awareness of the health risks associated with cannabis use*". The subsections of Section 139 that are related specifically to the enhancement of public health awareness include:

- (f) packaging, labelling and distribution;
- (k) composition and strength;
- (n) promotion;
- (o) information on packages; and
- (p) displays of packages.

We look forward to a transparent and inclusive consultation process leading to regulations that embody public health principles.

Within the Bill and potential regulations, it is important to explicitly recognize the concepts of public health and provide options for their integration. These include:

- **Health promotion** - to support healthier and safer behaviours, beyond the use of labelling and packaging (subsection f) and promotion (subsections n, o and p).
 - Develop and disseminate clear and consistent information regarding the potential risks and benefits associated with the use of cannabis, while recognizing that a preferred approach is to not consume the product or to delay onset of use to the extent possible
 - Develop and implement policies and programs that strengthen community capacity and individual skills that promote healthy behaviours
- **Prevention and harm reduction** - to prevent or delay the onset of use and to reduce the likelihood of harm from use, problematic use and/or overdose – beyond the establishment of THC levels (subsection k).

- Establish federal tax rates for cannabis-containing products based on THC concentrations (i.e., higher tax rates for products with higher THC concentrations)
- Extend support for existing harm reduction programs and develop new programs as needed to address cannabis consumption

Furthermore, we believe that the Bill would benefit from provisions that strengthen the allotment made in Budget 2017 by:

- **Addressing population health assessment** - to understand the extent of cannabis consumption, and measure the potential impact of the interventions, policies, and programs on the population.
 - Monitor vital statistics such as self-reported daily use, age of initiation, types and potency of products consumed, reasons for consumption, sex and socio-economic status
- **Strengthening individual health surveillance** - to understand the effect on society and evaluate the effects of cannabis use.
 - Monitor statistics such as emergency room admittances for cannabis overdose and cannabis-use related injuries
 - Monitor use disorders
 - Monitor the effect of smoking cannabis and other consumption vehicles on health
- **Providing for evidence-informed services** - to help people who are at risk of developing, or have problems associated with cannabis use (and/or other psychoactive substances).
 - Develop tools to help physicians and other health and social services professionals identify individuals at risk of developing a cannabis use disorder
 - Where necessary, adapt current substance use treatment programs to include cannabis

These approaches must be based on the best available information of what works, what is likely to work and what does not work. As such, CPHA also calls upon the federal government to support, develop and implement research programs, including cross-jurisdictional research, that address all aspects of cannabis use, with priorities developed by the Canadian Institutes of Health Research. Underpinning these initiatives is a requirement for an evaluation plan that provides timely assessment of what works and what is not working so that adjustments can be made.

CONSIDERATIONS

Defining a Public Health Approach

Public health is an approach to maintaining and improving the health of populations that is based on the principles of *social justice*, attention to *human rights* and *equity*, and *evidence-informed policy and practice*, and addresses the underlying *determinants of health*. It places health promotion (based on the [Ottawa Charter for Health Promotion](#)), health protection, population health surveillance, and the prevention of death, disease, injury and disability as the central tenets of all related initiatives. It also bases those initiatives on evidence of what works or shows promise of working. This type of approach is organized, comprehensive, and multi-sectoral. It emphasizes pragmatic initiatives and takes into consideration efficiency and sustainability.

A public health approach recognizes that problematic substance use is often symptomatic of underlying psychological, social, or health issues and inequities. As such, it includes the perspective of people who use psychoactive substances or are affected by problematic use. Vital to this approach is the concept that those who work with people affected by, or on issues concerning, psychoactive substances have the necessary education, training and skills to understand and respond to the needs both of people who use these substances and of their families. This knowledge base includes understanding the relationship between substance use and physical and mental disorders.

A public health approach also ensures that a continuum of interventions, policies, and programs are implemented that are attentive to the potential benefits and harms of substances, as well as the unintended effects of the policies and laws implemented to manage them. The goal is to promote the health and wellness of all members of a population and reduce inequities within the population, while ensuring that the harms associated with interventions and laws are not disproportionate to the harms of the substances themselves.

Further considerations regarding possible regulations include:

Minimizing Harms of Use

Advertising and marketing restrictions to minimize the profile and attractiveness of products

The Canadian Centre on Substance Use and Addiction identified the motivational factors for youth cannabis use as being: excitement, social pressure, coping, conformity, and increased understanding.² In addition, youth generally receive conflicting messages from their peers, media, teachers and parents/guardians concerning the harms that may result from the consumption of cannabis products. As a result, youth generally view cannabis use as relatively harmless; this viewpoint must be considered when establishing related legislation and regulations. It should also be recognized that there is a near-complete ban on tobacco advertising, and that alcohol products have restrictions on advertising. Such approaches should be used as examples for any control mechanisms developed for the marketing and advertising of cannabis products.

Taxation and Pricing

Careful consideration needs to be given to taxation and pricing. The challenge will be both to determine the price elasticity for these newly-controlled products, and to establish a price point that reflects product cost, profit margins and a taxation rate that acts as a deterrent to sale, particularly for youth, while limiting the potential of maintaining an illegal market. Examples of such pricing can be found for the sale of alcohol and of tobacco. In both cases, taxation is used as a deterrent to sales, however, arguments can be made that further increases in the taxation rates for alcohol and tobacco are no longer effective at reducing sales. It should also be noted that, in the United States, the tax rate on cannabis products varies across states; Washington State's current tax rate is 44%, while the rate in Denver, Colorado is 29%.³ A final consideration is that the marketplace for cannabis may see the development of a variety of products with varying levels of THC with different levels of risk. As such, consideration should be given to establishing tax rates for such products based on their THC concentration.

Investments in Health Promotion, Harm Reduction and Treatment Services

The Vienna Declaration calls for “reorienting drug policies toward evidence-informed approaches that protect and fulfill human rights” and “implementing and evaluating evidence-based prevention, regulatory, treatment and harm reduction interventions.” This approach was further described in [CPHA's discussion paper](#) concerning illegal psychoactive substances, which identified requirements for programs that address:

- Awareness, information and knowledge;
- Primary prevention, especially for children and youth;
- Empowerment, harm reduction and treatment;
- Reductions in stigmatization and discrimination; and
- Evaluation.

Restrictions on THC Concentration

There are a variety of products with varying levels of THC that may be offered for sale. It is also noted that THC concentration has been on an upward trend over the last decade, from 3% to 16% or higher.⁴ Limitations are required on THC concentrations for all cannabis-related products. For the dried product, a maximum THC concentration of 15% should be established. This level is based on THC levels in the current products, and the levels established by Colorado and Washington states.

Establishing a Safe and Responsible Production System

Product Packaging and Labelling

Governments should take steps to inform citizens of the potential harms associated with the consumption of cannabis and cannabis-containing products, as well as safe consumption practices. These could include: prohibition of general advertising for cannabis-containing products, similar to that required for tobacco products, as well as the proposed plain packaging requirements. Limitations should be placed on the use of corporate logos and graphics on packaging and advertising materials. Also, mandated labelling requirements should be considered that include evidence-informed health warnings and contraindications, as required for beer, wine and spirits (should the evidence support the designations), and information on where to access support services.

Enforcing Public Safety and Protection

Managing the Illicit Market

The legalization of cannabis has the potential to dramatically limit the involvement of illegal activities. To date, however, there is a lack of conclusive evidence to support this contention in Washington and Colorado states.⁵ The likely reasons may include accessibility and selection of the legal product, and a lack of strict enforcement regimes targeted at the illicit market. It may be necessary for the Government of Canada to address product and access issues, while supporting consistent enforcement of renewed, stricter laws to apprehend those who operate outside the boundaries of the new legal system.

REFERENCES

1. Canadian Centre on Substance Use and Addiction. Cannabis Regulation: Lessons Learned in Colorado and Washington State. CCSA. Ottawa, ON: 2015. Available at: <http://www.ccsa.ca/Resource%20Library/CCSA-Cannabis-Regulation-Lessons-Learned-Report-2015-en.pdf>.
2. George T, Vaccarino F (Eds). Substance Abuse in Canada: the Effects of Cannabis Use during Adolescence. Canadian Centre on Substance Use and Addiction. Ottawa, ON: 2015.
3. Henchman J. Taxing marijuana; The Washington and Colorado experience. Tax Foundation. Available at: <http://taxfoundation.org/article/taxing-marijuana-washington-and-colorado-experience>.
4. World Health Organization, 2016. The health and social effects of nonmedical cannabis use. Available at: http://www.who.int/substance_abuse/publications/cannabis_report/en/.
5. James T. The Failed Promise of Legal Pot. *The Atlantic*. 2016. Available at: <http://www.theatlantic.com/politics/archive/2016/05/legal-pot-and-the-black-market/481506/>.

ABOUT CPHA

CPHA is the independent national voice and trusted advocate for public health, speaking up for people and populations to all levels of government. We champion health equity, social justice and evidence-informed decision-making. We leverage knowledge, identify and address emerging public health issues, and connect diverse communities of practice. We promote the public health perspective and evidence to government leaders and policy-makers. We are a catalyst for change that improves health and well-being for all.

OUR VISION

A healthy and just world

OUR MISSION

To enhance the health of people in Canada and to contribute to a healthier and more equitable world.

For more information, contact:

Canadian Public Health Association
404-1525 Carling Avenue, Ottawa, ON K1Z 8R9
T: 613-725-3769 | F: 613-725-9826 | info@cpha.ca | cpha.ca