



CANADIAN
PUBLIC HEALTH
ASSOCIATION

The Voice of Public Health

A PUBLIC HEALTH APPROACH TO THE
**LEGALIZATION,
REGULATION AND
RESTRICTION OF
ACCESS TO CANNABIS**

POSITION STATEMENT | OCTOBER 2017



THE VOICE OF PUBLIC HEALTH

The Canadian Public Health Association 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.

We support the passion, knowledge and perspectives of our diverse membership through collaboration, wide-ranging discussions and information sharing.

We inspire organizations and governments to implement a range of public health policies and programs that improve health outcomes for populations in need.

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.

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A Public Health Approach to the Legalization, Regulation and Restriction of Access to Cannabis

Cannabis use is illegal in Canada, yet 12% of the general population, 21% of youth aged 15-19 years, and 30% of young adults aged 20 to 24 years have reported past-year use.¹ It is often viewed as having little effect on the person or society, but its use is associated with negative health outcomes, while criminal charges from its use could have social and economic consequences. The analysis of this use is limited, though, as the available data concerning the effects of cannabis on the person or society come from studies with specific target populations, limited sample size, and restricted timeframes, thereby making its interpretation challenging.

Bill C-45, the *Cannabis Act*, will legalize and regulate access to cannabis in Canada. The intent of the legislation and regulation is to provide a public health framework that should reduce the likelihood of negative health outcomes and the potential effects resulting from criminalization. Bill C-46 proposes changes to the impaired driving laws with the purpose of more severely punishing those who drive while under the influence of drugs, including cannabis. Furthermore, the 2017 Federal Budget provided funding to support public education programs and surveillance activities related to cannabis use.

The Canadian Public Health Association (CPHA) commends the federal government for this important step in developing a public health approach to addressing cannabis use in Canada. The Association also recognizes that additional steps are required to develop and implement a public health perspective.

RECOMMENDATIONS

CPHA calls upon the federal, provincial/territorial and municipal governments, and Indigenous peoples' governing organizations to provide the tools and approaches necessary to meet the objectives of the legislation, and to develop and implement co-ordinated, pan-Canadian approaches that address:

- **Health promotion - to support healthier and safer behaviours**
 - 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

- **Health protection - to ensure that high-quality cannabis-based products free from harmful by-products are available for consumption**
 - Develop and implement federal regulations concerning the growing, harvesting, processing and packaging of cannabis and cannabis-containing products for retail sales
 - Develop and implement a retail sales model that expands the system currently in place for the medical cannabis regime (i.e., e-commerce). Should storefront retail sales be approved by any province or territory, such operations should be restricted to government-controlled,

not-for-profit monopolies or not-for-profit non-governmental organizations. Under no circumstance should retail sales be co-located with sales of other controlled substances such as alcohol, tobacco and/or pharmaceuticals

- All cannabis containing products should be sold in resealable, childproof packaging
 - All relevant smoke-free bylaws for public spaces, and workplace tobacco and alcohol consumption policies should be adapted to include cannabis
- **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**
 - Establish tax rates for cannabis-containing products based on THC concentrations (i.e., higher tax rates for products with higher THC concentrations)
 - Establish limits on product advertising
 - Establish a common minimum age for consumption across Canada
 - Permit alternative approaches for product consumption, to reduce the reliance on inhaling cannabis smoke
 - Clarify the effects of second-hand cannabis smoke
 - Clarify the unique challenges associated with the consumption of edible cannabis-containing products
 - **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 statistics such as self-reported daily use, age of initiation, types and potency of products consumed, reasons for consumption, gender and socio-economic status
 - **Strengthen 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
 - **Evidence-informed services - to help people who are at risk of developing, or have developed problems with cannabis (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, at all levels of government, 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 governments in Canada to support, develop and implement research programs, including cross-jurisdictional research, that address all aspects of cannabis use, with priorities developed with the Canadian Institutes of Health Research. Similarly, underpinning these initiatives is a requirement for an evaluation plan that provides timely assessment of what works and isn't working so that adjustments can be made.

Furthermore, CPHA calls on all provincial/territorial governments and Indigenous peoples' governing organizations to collaborate closely on the development of all cannabis-related legislation, regulations and guidelines to minimize jurisdictional variations in approaches.

Finally, CPHA calls on the Minister of Justice and Attorney General of Canada to introduce a moratorium on criminal prosecution related to possession of small quantities of cannabis for personal use, as a means of reducing the stigma associated with court proceedings and a potential criminal record for a product that will soon be legal. An additional consideration, once the legislation is implemented, is the potential effect of criminalization of youth who provide small quantities of cannabis to other youth for personal use. Care should be taken to apply the proposed rules concerning trafficking to reflect the severity of the crime.

CONTEXT

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.

The Canadian Charter of Rights and Freedoms* and several United Nations conventions† provide

* Section 7 of the *Canadian Charter of Rights and Freedoms* provides for "...the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice" and was used as the legal argument for the Supreme Court decision concerning Insite, the supervised consumption facility in Vancouver, as under Canadian law addiction is considered an illness.

† CPHA recognizes Canada's obligations under the UN agreements to limit the sale and use of illegal drugs; however, we believe that our responsibilities under the following UN Agreements are of equal importance: the *International Covenant on Civil and*

the legal and social foundation on which to build a public health approach. Such an approach is driven by identifying and then acting on the determinants of health across the life course. It addresses physical, biological, psychological and social determinants, as well as social and health inequities.

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 illegal 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, illegal psychoactive substances have the necessary education, training and skills to understand and respond to the needs of both people who use these substances and 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.

A more detailed description of a public health approach is presented in CPHA's working paper entitled: *Public Health - A Conceptual Framework*, while our *discussion paper on illegal psychoactive*

Political Rights; the *International Covenant on Economic, Social and Cultural Rights*; the *Convention Against Torture and other Cruel, Inhuman and Degrading Treatment*; the *Declaration on the Rights of Indigenous Peoples*; and the *International Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities*. The latter commitments should form the basis of the proposed regulatory regime.

substances provides a public health perspective on this issue.

BACKGROUND

CPHA has presented a [description of the issues](#) that should be addressed in any cannabis legislation and regulation. Many of the provisions contained in the draft legislation resonate with our proposals; however, there are topics that require further consideration and these are addressed below.

It should also be noted that the American (US) states that have legalized cannabis have found it easier to start with more restrictive regulations and then ease them in the future, where appropriate. As such, careful consideration needs to be given to product regulations, specifically for smoked forms and edible cannabis products.

Federal, Provincial/Territorial, Municipal and Indigenous Governance Authorities

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 Federal/Provincial/Territorial (FPT) and Indigenous governance rights while providing consistent pan-Canadian regulation of cannabis. CPHA believes that an FPT and Indigenous summary of issues and approaches for their management should be developed that would be applicable within the legal frameworks of the various jurisdictions. The draft federal legislation delineates areas of federal and

provincial/territorial authority, however, further efforts should be undertaken to develop legislation, regulations and guidelines that minimize inter-provincial and Indigenous variations in approaches.

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 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 both alcohol and tobacco. In each case, taxation is used as a deterrent to sales, however, arguments can be made that further increases in taxation rate for alcohol and tobacco are no longer effective at reducing sales. It should also be noted that, in the

United States, Washington State's current tax rate on cannabis products is 44%, and Denver, Colorado has a rate of 29%.³

A final consideration is that the marketplace for cannabis may see the development of a variety of products with varying levels of tetrahydrocannabinol (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 addressed:

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

A step to implementing such an approach was taken when Royal Assent was provided for legislation designed to address the opioid crisis. Further steps, however, are required to support the public health goals of the proposed legislation. Such an approach must be developed, adequately funded and implemented with the support of all levels of government and those who use cannabis.

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.

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 (as previously noted) 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.

Designing an Appropriate Distribution System

The current retail sales model for medical cannabis in Canada uses an e-commerce approach, although storefront dispensaries have been established (illegally) in certain Canadian jurisdictions. The dispensary model is similar to the sales model in the United States. For example, in Washington State, retailers require a license and are limited to selling only cannabis products.⁵ The e-commerce model has numerous benefits in that consistent, high-quality

information concerning products can be provided, and online ‘chat’ support can augment the information available online. It also eliminates the likelihood of placement of shops near areas where children congregate, and concerns regarding signage and advertising for such shops.

CPHA recognizes the value of the current medical cannabis production, processing and distribution system. The anticipated increase in demand when retail sales are legalized, however, could exceed the capacity of the e-commerce sales and mail delivery system. In addition, the establishment of a storefront retail commercial system could lead to an increased variety of products, and purchasers may wish to have the freedom to view and purchase these products in person.

A parallel can be seen between the controlled-access liquor commissions that existed through the mid-1970s in Canada compared to the current “liquor mart” approach. The public health concerns associated with broadening the sale of alcoholic beverages have been documented in [CPHA’s 2011 position paper](#), while work has been undertaken to mitigate some of these concerns through the [National Alcohol Strategy](#) (Canadian Centre on Substance Use and Addiction). Further complicating this situation are the current provincial/territorial responsibilities to establish the means of sales for alcohol and tobacco in each province/territory.

Maximizing market participation through open markets with effective regulation could be an additional approach to achieving the goal of eliminating the illicit trade in cannabis, and has been successful for the sale of alcohol. However, the challenges of establishing a free market approach, discussed elsewhere,⁶ have noted the limitations of a private sales approach. As such, an effective method may include the establishment of government-run, dedicated cannabis retail centres with trained staff

who could enforce limitations on the sale of product, while providing other support information.⁶ However, given the concerns regarding co-use of cannabis and alcohol, the sale of these two products in the same location should be prohibited.

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.⁷ 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.

Consumption in Public Spaces

Restrictions should be in place for cannabis consumption similar to those that have been developed for public and workplace consumption of tobacco products and alcohol.

Accessing Cannabis for Medical Purposes

As previously noted, Canada’s Marijuana for Medical Purposes Regulations allow cannabis consumption for medical purposes with strict regulations on licensing, growing and distribution. These regulations are not encumbered by either restrictions on cannabis potency or age of consumption. However, the [College of Family Physicians of Ontario](#) does not recommend prescribing dried cannabis with a THC concentration above 9%, or prescribing cannabis to patients under the age of 25, unless all other conventional therapeutic

options have been unsuccessful. Furthermore, these regulations do not allow for edibles or other forms of medical cannabis (other than cannabis oil) that have been demonstrated to have therapeutic efficacy in specific situations.⁸

It should be noted that results from the CCSA study tour of Colorado, a state which supports both a retail and medical cannabis regulatory system, noted the confusion and overlap resulting from maintaining the two systems.

CPHA further recognizes that certain patients under the legal age for purchase may require access to the product, while other patients may require higher THC concentrations for treatment than might be accessible through the retail system. For these patients, exceptions to the new regulatory framework may be required. Patients younger than the designated legal age in their jurisdiction would require a medical document that functions like a prescription from a physician to access specific cannabis-containing products, but physicians should take care to recommend the lowest-potency products to meet their patients' needs. Similarly, CPHA recognizes that certain patients may require more potent forms of cannabis than would be legally available. Distribution of these specialized products should be restricted to those with medical requirements and be produced by authorized manufacturers.

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