

Submission to the Ontario Standing Committee on Justice Policy

Bill 174: Cannabis, Smoke-Free Ontario and Road Safety Statute Law Amendment Act, 2017

November 30, 2017

The Centre for Addiction and Mental Health (CAMH) has long advocated for reform of Canada's system of cannabis control.* In 2014, we released a Cannabis Policy Framework¹ recommending a public health approach to cannabis policy. We examined the evidence around the risks and harms associated with cannabis use and concluded that legalization, combined with strict health-focused regulation, provides an opportunity to reduce those risks and harms. For these reasons we are pleased that the federal and provincial (Ontario) governments are moving ahead with bills to legalize and regulate cannabis have public health and safety at their core.

Bill 174 is an excellent start towards regulating cannabis in Ontario. CAMH is particularly pleased that the following evidence-informed policies are part of the bill:

- Minimum age to use, purchase and possess recreational cannabis in Ontario to be set at 19
- Liquor Control Board of Ontario (LCBO) to oversee the retail sales of cannabis (storefronts and online)
- Store locations to be chosen with the objective of ensuring that youth are protected
- Zero-tolerance policies for driving after drug use to be introduced for those with a graduated license and/or those under 21
- Smoking and vaping of cannabis (medical and non-medical) to be regulated under the proposed new Smoke-Free Ontario Act

In this document we will focus on the remaining areas where we believe Bill 174 can be improved. Notably, we recommend that the province:

- allow, initially, for a small, fixed number of privately owned, government-licensed storefronts (see page 2);
- permit smokeless cannabis consumption in licensed establishments (see p. 3);
- prohibit home cultivation (see p. 3);
- clarify that Bill 174 will not result in youth being caught up in the criminal justice system (see p. 5); and
- commit to the advertising / promotion and product packaging guidelines recommended by the Task Force on Cannabis Legalization and Regulation (see p. 4).

* For the details of our prior recommendations to the federal and provincial governments, please see the [Public Policy section of CAMH's website](http://www.camh.ca): www.camh.ca >>> About CAMH >>> Influencing public policy

Retail and distribution

One of the fundamental principles of public health approaches to psychoactive substances is that they must not be bought and sold like regular consumer goods. Since cannabis use comes with health risks, evidence-informed regulations – most importantly, controls on availability – must be put in place.²

From decades of alcohol and tobacco research we know which population-level interventions can reduce health and social harms. The most effective measures include controls on availability, i.e. controls on pricing, retail outlet locations and density, and hours / days of sale, as well as minimum age requirements.³ Evidence also suggests that such policy tools are more effectively implemented and maintained when the retail system is government-run (e.g. via a control board) than where it is privately operated; notably, jurisdictions with public monopolies on alcohol sales tend to experience less alcohol-related harm than those with private retail systems.⁴ In Ontario, the LCBO, which has social responsibility as part of its mandate, carries out these functions. Though there are areas of social responsibility where the LCBO can improve, in many ways it is exemplary in its approach to alcohol sales and control.* This is why we have stated, and continue to believe, that the LCBO is in the best position to handle cannabis sales.⁵

While storefronts operated by the LCBO and secure online sales should be the main (and, ideally, only) points of purchase, there may initially be a need for flexibility. About 20% of cannabis users account for a majority of the cannabis consumed.⁶ It is unclear whether, or to what extent, these frequent users will be willing to purchase their cannabis from LCBO, yet their participation is essential for Ontario's legalization regime to succeed. There may be a need to **allow for a small, fixed number of privately owned/operated but government-licensed storefronts**. These stores would be subject to the same regulations (pricing controls, hours of operation, etc.) as government-operated outlets. The regulations governing the sale of beer, wine, and cider in a limited number of grocery stores could serve as a model for this outlet type.** As we envision them, these licenses would be non-transferrable; when a licensed private storefront is sold, or closes, that license would expire. The number of private storefronts would thus decline to zero over time.

Finally, we recommend that **oversight and enforcement of cannabis regulations be made the responsibility of the Alcohol and Gaming Commission of Ontario**. Relevant regulations include retail location and density; required distance between cannabis storefronts and sites such as schools, community centres, and other cannabis storefronts;*** hours of operation; and staff training. The AGCO already plays a similar role for alcohol and gambling.

* For a brief discussion see [this CAMH submission](#). For more detail see Giesbrecht & Wettlaufer (2013), [Reducing alcohol-related harms and costs in Ontario: a provincial summary report](#)

** For these regulations see <https://www.ontario.ca/laws/regulation/160232>

*** See for instance the [distance requirements](#) developed by Vancouver's city council for cannabis dispensaries.

Places of use

The main health concerns with regards to places of use are A) the harm of second-hand smoke and B) the potential harms of exposure to second-hand vapour. Medical use of cannabis should be accommodated but smokeless options are available and in fact preferable. It is critical that regulations in this area not undermine the gains of the *Smoke-Free Ontario Act* or municipal bylaws governing public use of e-cigarettes, waterpipes, etc.

At the same time, completely restricting cannabis use to private homes increases the chances that non-users, including family members, housemates, and potentially neighbours, will be involuntarily exposed to cannabis. For these reasons, we recommend that the province modify Bill 174 to **allow smokeless cannabis consumption in licensed establishments**. Such establishments would be subject to the same kinds of regulations and oversight placed on those that are licensed to serve alcohol.

Home cultivation

From a public health perspective there are several concerns with home cultivation of cannabis. These include 1) environmental hazards, 2) the absence of safety/quality regulations, 3) the risk of diversion, and 4) children being exposed to cannabis. Although it is true that some personal production of wine and beer is allowed in Ontario, cannabis is much more prone to diversion; home cultivation, even under the parameters proposed in federal legislation would likely undermine the legal market. It is also far from clear that the proposed restrictions are realistically enforceable. Therefore **home cultivation should be prohibited**.

Public education / Youth and young adult prevention

We are pleased that the provincial government has endorsed the Lower-Risk Cannabis Use Guidelines, which, based on a rigorous scientific review, enable cannabis users to reduce their exposure to health risks.^{7*} We hope the province will **broadly disseminate and promote these guidelines**, including alternate versions for different populations.

Youth are at higher risk of cannabis-related harms. There are many strategies and programs designed to reduce, delay, or prevent substance use among youth. Not all are effective, however. It will be important that the government initiatives in this area be evidence-informed.

There is good evidence that family-based programs in middle childhood and early adolescence (e.g. Strengthening Families, which addresses parenting skills) impact alcohol use and self-reported drug use; there are also school-based approaches focusing on strengthening coping and resilience in middle childhood, early adolescence, and later adolescence that have shown promising effects on substance misuse prevention.⁸

We recommend that Ontario **study evidence-informed prevention programs** with a view to introducing non-punitive prevention programs from middle childhood to the post-secondary level and leveraging

* For a summary of the recommendations see [this brochure](#)

existing effective substance misuse prevention initiatives for youth and young adults to support cannabis efforts. In addition, **youth and young adults with lived experience should be included in planning and implementation of prevention initiatives.**

Advertising and promotion

The Task Force on Cannabis Legalization and Regulation as well as the federal and provincial governments have all committed to applying a public health approach to cannabis legalization.⁹ **By definition, a public health approach to cannabis sales will place health considerations ahead of profits.** Under legalization, cannabis production will occur in a commercial, for-profit context, but the industry and its activities must be tightly regulated in order to avoid undue increases in use.

Regulations on advertising, promotion, etc. are covered in federal legislation to legalize cannabis. Among the proposed regulations are:

- that marketing, promotion, and advertising be banned outside of retail locations (with limited in-store promotion such as that allowed by the *Tobacco Act* the only exception to this rule), and
- that products be sold in plain packaging* with clear product information and warnings about health risks.

These proposed regulations are crucial elements of a public health approach to cannabis.¹⁰

Licensed cannabis producers have been vocal in their opposition to these measures. They claim that in the absence of branded, promoted products, consumers will be unable to learn about legal cannabis or distinguish it from black market cannabis.¹¹ There is a tendency in these arguments to conflate factual product information with marketing, or to imply that providing the former is impossible without the latter – and occasionally to misrepresent the planned regulations and their likely effects.¹²

In the system we propose – and towards which Ontario is progressing – there will be no mystery as to where legal cannabis can be obtained. Even in plain packaging, legal cannabis will be recognizable by the simple fact of where it is sold: government-licensed stores and online channels. The link between exposure to advertising and consumption behaviour is well established: exposure to alcohol marketing, for instance, is associated with earlier initiation of alcohol use, increased consumption and more alcohol-related harms (especially among young people), as well as normalization of alcohol use and unrealistic expectations about the effects of alcohol.¹³ One might argue that cannabis sales should not be held to a higher standard than alcohol, which is a riskier substance in terms of health outcomes. But the way alcohol is promoted in Canada is far from a public health approach, and we experience higher levels of alcohol-related harm as a result. With cannabis we have a chance to avoid these mis-steps, creating a market in which public health prevails to the largest extent possible.

We hope the federal government will retain the proposed restrictions on cannabis advertising. **If federal regulations or guidelines do not rise to the standard outlined here, we strongly recommend that the province fill the gap.**

* See [this description](#) of plain packaging measures under consideration by Health Canada for tobacco.

Other considerations

- **Cannabis pricing** will be an important challenge. While higher prices are preferable from a public health perspective, prices must, at least initially, be low enough to draw people away from the black market. And while price mechanisms to incentivize lower-risk (e.g. lower THC and/or higher-CBD) products are promising, it remains to be seen whether they will be feasible in the early days of legalization.
- As stated, we support a minimum age of 19, as well as the province's zero-tolerance approach to impaired driving for young drivers. However, one of the most important arguments for legalization is the need to end the criminalization of users. In that regard, the provision to allow police officers to confiscate cannabis from underage users is worrisome. The provincial government must **clarify that Bill 174 will not result in youth using small amounts of cannabis being caught up in the criminal justice system**. As mentioned above, effective non-criminal prevention strategies exist.
- An effective public health approach will embed these regulations in a comprehensive strategy that includes prevention, treatment, research, and evaluation. **A portion of government revenues from cannabis should be formally dedicated to these activities.**

Very different models for legal cannabis markets are possible, depending on the types of regulation and their implementation. The health impact of cannabis legalization will vary accordingly. We understand that legalization will, naturally, spur some economic opportunities and development. This is not negative in itself. But while a public health approach does not rule out profit, it does subordinate it to population health considerations. It is critical that cannabis regulations continue to be designed – and be maintained – with public health as the primary and overriding objective.

For more information, please contact:

Jean-François Crépault

Senior Policy Analyst

Centre for Addiction and Mental Health

416 535-8501 x32127

JeanFrancois.Crepault@camh.ca

camh The Centre for Addiction and Mental Health (CAMH) is Canada's largest mental health and addiction teaching hospital and one of the world's leading research centres in this field. CAMH is committed to playing a leading role in transforming society's understanding of mental illness and substance use and building a better health care system. To help achieve these goals, CAMH communicates evidence-informed policy advice to stakeholders and policymakers.

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- ¹ Centre for Addiction and Mental Health (2014), *Cannabis Policy Framework*, available at http://www.camh.ca/en/hospital/about_camh/influencing_public_policy/Documents/CAMHCannabisPolicyFramework.pdf.
- ² Room, Fischer, Hall et al. (2010), *Cannabis policy: Moving beyond stalemate*, Oxford: Oxford University Press; Canadian Public Health Association (2014), A new approach to managing illegal psychoactive substances in Canada, retrieved from https://www.cpha.ca/sites/default/files/assets/policy/ips_2014-05-15_e.pdf.
- ³ Anderson, Braddick, Conrod et al. (2016), *The new governance of addictive substances and behaviours*, Oxford: Oxford University Press; Babor, Caetano, Casswell et al. (2010), *Alcohol: No ordinary commodity – Research and public policy*, Oxford: Oxford University Press.
- ⁴ Anderson, Chisholm & Fuhr (2009), Alcohol and Global Health 2: Effectiveness and cost-effectiveness of policies and programmes to reduce the harm caused by alcohol, *Lancet* 373, 2234-46; Babor, Caetano, Casswell et al. (2010).
- ⁵ Centre for Addiction and Mental Health (2017), Submission to the Ontario Legalization of Cannabis Secretariat, retrieved from http://www.camh.ca/en/hospital/about_camh/influencing_public_policy/Documents/CAMHsubmission_LegalizationSecretariatON_2017-08-11.pdf.
- ⁶ Room, Fischer, Hall et al. (2010).
- ⁷ Fischer, Russell, Sabioni et al. (2017).
- ⁸ United Nations Office on Drugs and Crime (2015), International standards on drug use prevention, retrieved from <https://www.unodc.org/unodc/en/prevention/prevention-standards.html>.
- ⁹ Task Force on Cannabis Legalization and Regulation (2016), A framework for the legalization and regulation of cannabis in Canada: The final report of the Task Force on Cannabis Legalization and Regulation, retrieved from <https://www.canada.ca/en/services/health/marijuana-cannabis/task-force-cannabis-legalization-regulation.html>.
- ¹⁰ See Centre for Addiction and Mental Health (2014); Centre for Addiction and Mental Health (2017).
- ¹¹ Ottawa Citizen (2017), Joints by Snoop Dogg or white label cannabis? Government ponders ad restrictions for pot, retrieved from <http://ottawacitizen.com/news/local-news/snoop-dogg-spliffs-or-cannabis-in-a-plain-white-package-government-ponders-advertising-restrictions-for-pot>; CBC News (2017), Cannabis industry opposes call for plain packaging and bans on advertising, retrieved from <http://www.cbc.ca/news/politics/marijuana-promote-brand-legislation-1.3982988>.
- ¹² Global News (2017), Cannabis producers skeptical of whether Ontario's plan can compete with black market, retrieved from <https://globalnews.ca/news/3850463/cannabis-producers-ontario-compete-black-market/>.
- ¹³ Brown & Witherspoon (2002), Mass media and American adolescents' health, *Journal of Adolescent Health* 31, 153-70; van Hoof, de Jong, Fennis & Gosselt (2009), There's alcohol in my soap: portrayal and effects of alcohol use in a popular television series, *Health Education Research* 24, 421-29.