

B.C. Representative for Children and Youth Submission

B.C. Cannabis Regulation Engagement

Background

In April 2017, the federal government tabled Bill C-45, *An Act Respecting cannabis and to amend the Controlled Drugs and Substances Act, the Criminal Code and Other Acts*, in the Canadian parliament to legalize and regulate the recreational use of cannabis in Canada.

In July 2017, the Canadian Council of Child and Youth Advocates sent a letter to Prime Minister Justin Trudeau outlining concerns with the proposed legislation with respect to its potential impacts on the health and safety of children and youth.

In September 2017, the B.C. provincial government opened the public consultation on cannabis legalization and regulation. This brief is a submission to the provincial consultation on cannabis legalization.

Underlying principles

Cannabis use is common in North America, particularly among young people. In 2013, 26 per cent of students in Grades 7 to 12 in schools from throughout B.C. reported having tried marijuana.¹ Cannabis use can also be associated with risks for acute and chronic adverse health outcomes. These risks can include changes in brain structure and neurocognitive effects in adolescents related to intensity of cannabis use.²

The Representative recognizes that cannabis criminalization and conventional anti-drug messaging has failed to stem the use of cannabis by young people.³ The end of a prohibitionist framework for cannabis is an opportunity to engage appropriate public health and public safety mechanisms to protect the health of children and youth. A public health-oriented approach to cannabis regulation can support a pragmatic approach by focusing on the harms of drug use rather than on the use itself. An appropriate public health framework can prioritize the reduction of health risks and social problems over goals such as punishment or drug abstinence.⁴

A public policy framework for cannabis can also focus on promoting public health through regulation of access, use of evidence-informed public health messaging, restrictions on advertising and promotion, and monitoring and surveillance functions.⁵

¹ Smith, et al., 2014.

² Fischer, et al., 2017.

³ Kirst, et al., 2015, p. e474; RCY, 2015; Centre for Addictions Research of B.C., 2016.

⁴ Kirst, et al., 2015.

⁵ Canadian Public Health Association (CPHA), 2016; Kirst et al., 2015.

Cannabis regulation must also strike a balance between creating an overly restrictive framework that encourages consumers (including youth) to seek products through the illegal market, and the risks of cannabis commercialization seen in other jurisdictions (e.g. Colorado and Washington).⁶

Issues and Recommendations

Disproportionate criminalization of youth

Issue: Section 8 of the federal legislation makes it an offence for a young person to possess more than five grams of cannabis, while for adults it will be an offence only over 30 grams. This treatment disproportionately criminalizes young persons based on their age and has the potential to further criminalize youth.

Recommendation: The provincial government request that the federal government amend Bill C-45 to remove this status offence.

Recommendation: The enforcement of cannabis regulations should be treated similarly to current regulations related to tobacco and alcohol; and, the province should take steps to avoid the criminalization of youth by allowing for non-criminal sanctions such as ticketing and confiscation.

Minimizing the potential harms of cannabis use

Issue: Any regulatory framework established by the province must recognize the potential harms of cannabis use on the developing brain.⁷ Additionally, one of the stated intentions of the federal legislation is to decrease youth access to cannabis. Regardless of how cannabis is legally regulated, some youth are still likely to find ways to access the substance, and the risks of youth becoming dependent on cannabis and driving while under its influence remain.

Recommendation: To minimize the potential harms of cannabis for youth, the province should ensure that public health principles be integrated into a regulatory framework. These principles are embedded in the recommendations included below.

Minimum age for sale and consumption of cannabis

Issue: According to UNICEF, Canada has the highest percentage of children ages 11, 13 and 15 who report having used cannabis in the last 12 months.⁸ Age restrictions will not prevent the use of all cannabis by youth, but can help delay the onset of use.

Recommendation: The minimum age for consumption be set at 19 to be consistent with provincial regulations for alcohol and tobacco.

⁶ Kirst, et al., e. 475; CPHA, 2016.

⁷ Canadian Public Health Association, 2016; Grant & Bélanger, 2017, p. 2; Fischer, et al., 2017, p. e2.

⁸ Centre for Addictions Research of B.C., 2016, p. 5.

Recommendation: The province work with federal, provincial and territorial governments to ensure a consistent regulatory approach to cannabis with the same age restrictions across provincial and territorial boundaries.

Cannabis distribution system

Issue: Lessons learned from alcohol distribution suggest that government controlled stores are more effective than privately controlled stores in addressing the public health consequences of alcohol use.⁹

Recommendation: The sale of cannabis should only be permitted in retail outlets that are highly monitored and controlled by government.

Regulation of retailers

Issue: Restrictions on retailers who sell alcohol and tobacco have been shown to be effective at reducing the promotion of products to children.¹⁰

Recommendation: A framework for restrictions on retailers to prevent the sale and promotion of cannabis to children and youth should include the following limitations:

- No sale of cannabis in retail outlets where children and youth are permitted to enter (e.g. grocery stores);
- Restrictions on promotional signage, hours of operation, days of sale and the geographic density of outlets;
- Requirements for warning signage describing the potential health risks of cannabis use similar to warning signage required for retailers of tobacco;
- Mandatory training programs for sales staff at point of sale, which include the health and safety risks of cannabis use;
- A set perimeter for cannabis outlets to ensure no cannabis sales take place in areas adjacent to where children and youth congregate including schools, playgrounds and parks;
- Prohibition against the sale of cannabis in retail outlets that sell alcohol;
- Restrictions on sale of cannabis in edible forms that could be attractive to children and youth (e.g. candy such as lollipops). Where edibles are permitted, products that could be appealing to children (e.g. chocolates) should be sold in tamper-proof containers.
- Escalating system of penalties for adults who supply children and youth with cannabis, similar to what is in place for tobacco in B.C.

⁹ Centre for Addictions Research of B.C., 2016, p. 3.

¹⁰ Babor, et al., 2010.

Regulating the potency of cannabis products

Issue: The current version of the federal legislation does not fully account for the potential harms of cannabis on the developing brain.¹¹ These concerns are particularly acute for children and youth with mental health challenges.

Recommendation: The harmful effects of cannabis be addressed by setting potency limits for cannabis products by either federal or provincial regulation, and that cannabis quantities and potency be restricted for those under the age of 25.¹²

Labelling of products

Issue: While the federal legislation places limits on packaging that might be appealing to young people (Section 25), there are other packaging requirements that can support positive public health outcomes. These include plain packaging which has shown to be effective at reducing tobacco use.¹³ Labelling should also include appropriate warnings as well as a “standard dose” measure”. The labelling of standard drinks for alcohol, for example, can help consumers determine if they have exceeded national low drinking guidelines.¹⁴ A similar measure could be established for cannabis.

Recommendation: The province should ensure that all cannabis and cannabis-containing products are subject to plain packaging regulations. All cannabis products should be required to have labels which include evidence-informed health warnings, contraindications, harm-reduction messaging and information on accessing support services, product weight, number of “standard doses” and percent of tetrahydrocannabinol (THC) and cannabidiol (CBD).¹⁵

Cannabis Use and Driving

Issue: In Ontario, cannabis-impaired driving is now more common than alcohol-impaired driving. Research also suggests that cannabis-impaired driving increases the risks of being in a motor vehicle accident.¹⁶

Recommendation: Invest in the development and implementation of programs for routine roadside detection of cannabinoids and determine suitable consequences for youth who are found to be under the influence.

Promoting Healthy Environments

Issue: Given the potential health risks of second-hand cannabis smoke on children and youth, limitations should be placed on where cannabis products can be smoked.

¹¹ CPHA, 2016, p. 5; Fischer, et al., 2017, p. e2.

¹² For similar recommendations see: CPHA, 2016; Grant & Bélanger, 2017.

¹³ Smoke-Free Ontario Scientific Advisory Committee, 2017.

¹⁴ Centre for Addictions Research of B.C., 2016, p. 4.

¹⁵ See Centre for Addictions Research of B.C., 2016, p. 1; Canadian Public Health Association, 2016.

¹⁶ Grant & Belanger, 2017; Boak et al., 2015; Papafotiou, et al., 2005.

Recommendation: The smoking of cannabis products be prohibited in places in a manner consistent with the B.C. [Tobacco and Vapour Products Control Act](#) and Regulations.

Health Promotion and Prevention Strategies

Issue: Evidence-based education, prevention and guidance on cannabis use are key elements for reducing the public health harms of this substance. Conventional anti-drug messaging has been fear-based, not based on evidence and has promoted stigmatizing and discriminatory ideas about substance use. Recent research suggests that prevention programs that intervene at broader socio-ecological levels and which are grounded in constructivist approaches that foster skill building are more effective at reducing the harms of substance use.¹⁷

Recommendation: Invest in and implement a provincially funded public health-informed strategy to reduce the harms of cannabis use for young people. This strategy should be informed by the latest evidence of what actually works to reduce the harms of youth substance use. The strategy should, in particular, focus on providing credible information to youth about the health risks of cannabis and the safety risks of driving under the influence of cannabis, as well as strategies for reducing these harms.¹⁸ Public health promotion strategies should be developed in consultation with youth and should reflect the diversity of youth in terms of gender, gender and sexual identity, culture and ethnicity, and where they live.

Issue: Use of cannabis during pregnancy may increase adverse outcomes for women and their babies, although further research is needed that can control for confounding issues such as tobacco and alcohol use and mother's age. Particularly as new research emerges, pregnant women, health care providers and policy makers could benefit from education on the potential effects of cannabis use during pregnancy.¹⁹

Recommendation: Any publicly funded health promotion strategy should include information for pregnant women and health care providers on any adverse effects of cannabis use during pregnancy and on any cautions about breastfeeding and cannabis use.

Taxation and Pricing

Issue: Taxation can be used to encourage the use of less harmful types of cannabis.²⁰ Tax revenues can also be used to offset the harms of cannabis by encouraging reduced usage.

¹⁷ Hyska, 2013.

¹⁸ See for example: *Canada's Lower-Risk Cannabis Use Guidelines* in: Canadian Research Initiative in Substance Use, 2017; Fischer et al., 2017.

¹⁹ Gunn, et al., 2015.

²⁰ CPHA, 2016;

Recommendation: Similar to what has already been proposed for alcohol,²¹ a variable taxation rate system should be established for all THC-containing products that is based on the concentration of THC, with higher-concentration products having a higher tax rate.²²

Recommendation: A specific percentage of taxes collected from the sale of cannabis products should be prescribed in legislation to support research, public education, monitoring, harm-reduction and treatment of cannabis-related issues.

Conducting a Child Right's Impact Assessment

Issue: Bill C-45 has not undergone a rigorous analysis to ensure that it conforms to Canada's legal obligations under the *UN Convention on the Rights of the Child (UNCRC)* and other core international law instruments that have been ratified by Canada.

Recommendation: The provincial government should request of the federal government that a Child Rights Impact Assessment be undertaken to ensure conformity with the *UNCRC*. A key aspect of this analysis should be widespread consultation with children and youth, pursuant to Article 12 of the *UNCRC*.

Ensuring access to services

An RCY report on *Youth Substance Use Services in B.C. (2016)* showed that: availability of these services varies considerably throughout the province; the accessibility of services is limited by long-wait times; there is inadequate information on where to find services; and, there are too few services for Indigenous, pregnant and parenting, LGBT2Q+²³ youth, and youth who are marginalized due to poverty and other issues.

Recommendation: The province invest in research on the prevention and treatment of cannabis problems, establish a service-delivery model and fund a continuum of interventions, policies, and programs that can address problematic youth substance use including problems with cannabis. Funding for mental health promotion and treating mental illness in adolescents should also be increased.

Ensuring Involvement of Indigenous Partners

Issue: The legacy of colonialism has resulted in health and social disparities for many Indigenous children in B.C. These same disparities can result in poor access to services including substance use services as well as health promotion strategies that do not take

²¹ Thomas, et al., 2009; Stockwell, et al., 2006.

²² Canadian Public Health Association, 2016, p. 6;

²³ Lesbian, Gay, Bisexual, Transsexual, Transgender, Queer, Two-Spirit. The plus sign acknowledges the evolving aspects of sexual and gender identities.

into consideration local conditions and the cultural needs of Indigenous children, youth and their families.²⁴

Recommendation: The province should consult with Indigenous bands, nations and communities as well as Indigenous youth on adapting legislation, regulations, health promotion, prevention and treatment programs to meet the needs of Indigenous children, youth and their families.

Conduct on-going monitoring and data collection

Issue: The availability of reliable data on the use and harms of cannabis use among youth is essential to understand the impacts of regulatory frameworks. This data can be used over the long-term to help inform changes to B.C.'s approach.

Recommendation: Invest in a reliable approach to monitoring and reporting on the effects of cannabis regulation on the use and harms among young people.

Conclusion

The mandate of the B.C. Representative for Children and Youth is to help children, families and caregivers navigate the often complex service system – in addition to carefully monitoring the services provide to these children as well as investigating and reporting on individual cases and larger trends to spur necessary improvements. In all matters the Representative's Office brings to light the need for policies and programs that are child- and youth-centred and that achieve the best possible outcomes for vulnerable children and youth in B.C.

To that end, the implementation of a regulatory framework for recreational cannabis use must be informed by a focus on the well-being and health of children and youth in B.C. This means recognizing that cannabis use can have a harmful effect on developing brains and can become a problem for some youth.

The Representative urges policy- and decision-makers to recognize these risks and to invest significantly in appropriate public health controls, as well as sound and evidence-based education and awareness programs. These programs cannot focus on one-off presentations about the dangers of drugs, but must be embedded in constructive and on-going efforts to help children and youth to develop awareness of themselves, their relationships and their environments in holistic ways and to enable them to make health enhancing decisions.²⁵ Health promotion and prevention efforts must also recognize the

²⁴ Representative for Children and Youth, 2015.

²⁵ See the IMinds curriculum as an example of this approach. Available through the Centre for Addictions Research of B.C. at: <https://www.uvic.ca/research/centres/carbc/assets/docs/iminds/iminds-primer-web-en.pdf>

diversity of children and youth in B.C. and be able to speak to these differences in meaningful ways.

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