

## Joint submission to Health Canada: legislative review of the *Cannabis Act*

November 21, 2022

The Centre for Addiction and Mental Health (CAMH) and scientists at the Canadian Institute for Substance Use Research (CISUR) are pleased to jointly submit this response to the federal government's legislative review of the *Cannabis Act*. The stated purpose of the *Act* is to protect public health and public safety, with an emphasis on youth; in particular, it is intended to "protect the health of young persons by restricting their access to cannabis and protect young persons and others from inducements to use cannabis."<sup>1</sup>

This submission is organized according to the categories in the federal government's discussion paper, "Taking Stock of Progress."<sup>2</sup> From a public health perspective, the most effective measures to minimize substance-related harm are bans on advertising, price controls, and restrictions on availability.<sup>3 4</sup> We address all three areas below. The *Cannabis Act* places an emphasis on putting public health first, and in this we submission offer 11 recommendations to ensure that it continues to do so.

### ***Minimizing harms***

The *Cannabis Act* includes regulations explicitly intended to minimize harms and safeguard public health. The most innovative of these measures are the regulations around advertising, marketing, and promotion and the plain packaging and labelling requirements. Youth are known to be susceptible to alcohol and tobacco advertising,<sup>5 6</sup> and the *Act's* restrictions on these activities are in line with experts' recommendations.<sup>7 8 9 10</sup> Similarly, while packaging can influence young people's consumption, the *Act's* requirements for plain packaging and labelling appear to be successfully making cannabis less appealing to youth.<sup>11</sup> In fact, the *Cannabis Act's* evidence-based regulations around advertising and packaging should be considered the gold standard and a model for any jurisdiction seeking to legalize cannabis.

One aspect of the *Act's* packaging and labelling requirements could be improved. There is currently no standard THC unit in Canada, making it difficult for consumers to understand their THC intake. Setting a standard THC unit of either 2.5mg or 5mg and requiring its use on cannabis packaging and labels would benefit people who use cannabis.

Price controls may be the single most effective way to control substance-related harms.<sup>12</sup> Reductions in cannabis prices can be expected to lead to increases in consumption. Conversely, prices based on potency, with more potent products more expensive, can encourage the consumption of less potent products.<sup>13</sup> Federal excise tax is currently based on THC for potency cannabis oils, extracts, edibles, and topicals, but not for dried or fresh cannabis, which accounts for most of the cannabis consumed in Canada.<sup>14</sup>

The *Cannabis Act* takes a cautious approach to edible cannabis products, with a limit of 10mg of THC per package and a broad ban on products and packaging that are appealing to youth. However, there are

many products on the market – chocolates, flavoured soft chews, and candy for example – that can reasonably be assumed to appeal to youth. This is of particular concern given that Canada has seen a marked increase in unintentional cannabis poisonings in children since legalization.<sup>15</sup>

*Recommendations:*

- 1) The *Cannabis Act*'s advertising, marketing, and promotion regulations should be maintained in their entirety. The federal government should also ensure compliance, including at points of sale and online.
- 2) The *Cannabis Act*'s packaging and labelling regulations should also be maintained in full.
- 3) Health Canada should launch a consultation to determine the optimal standard THC unit. Once set, use of the standard unit should be added to labelling requirements.
- 4) The federal excise tax on cannabis should not be reduced. The federal government should move towards an excise tax based on THC for dried and fresh cannabis in order to incentivize the consumption of less potent products.
- 5) The limit of 10mg of THC per package for edibles should be maintained. In addition, Health Canada should investigate whether different kinds of legally available edibles appeal to youth.

***Education and awareness***

While education is no substitute for regulation, public education efforts that deliver appropriate messages to particular audiences are important. While lower-risk cannabis use guidelines exist (and were updated earlier this year<sup>16</sup>), it is unclear to what extent the public is aware of them. These guidelines, which can help people understand the risks of cannabis use and how to mitigate them, should be widely disseminated.

*Recommendations:*

- 6) The federal government should ensure widespread dissemination of the lower-risk cannabis use guidelines, as well as versions adapted for particular subpopulations.
- 7) Evidence-informed education campaigns around cannabis should be led by Health Canada and developed free of industry involvement.

***Responsible supply chain***

An important goal of legalization is ensuring that people wishing to consume cannabis have access to a supply of quality-controlled product. Legal retailers have made good progress to date in capturing the market, with the share of consumption captured by legal cannabis increasing year over year.<sup>17</sup> Given that cannabis can be legally purchased online across the country, we are not aware of any area that has insufficient access to legal cannabis. On the contrary, some provinces and territories, especially those with private retail systems, have seen an increase in retail stores that can be expected to lead to more

consumption and more harm, including among youth.<sup>18 19</sup> While we recognize that this does not fall under the *Cannabis Act* and this review, it is a concerning trend.

*Recommendations:*

- 8) Though this does not fall under the *Cannabis Act*, we encourage provinces and territories with private retail systems to introduce limits on cannabis retail density and clustering and to regulate cannabis availability with public health as the main criterion.
- 9) The federal government should work with the provinces and territories to address illegal storefronts.

**Public safety**

Youth cannabis possession charges have declined since legalization,<sup>20</sup> reducing the social harms of criminalization and the burden on the justice system. However, the criminalization of cannabis disproportionately impacted racialized people and communities and these historical harms have not been addressed.<sup>21</sup> And while the federal government introduced a program to expedite pardons for personal possession convictions, the very low number of pardon applications accepted by the Parole Board of Canada suggests that the program is not working as intended.<sup>22</sup>

*Recommendations:*

- 10) The federal government should continue to address the over-policing and over-incarceration of racialized people and communities.
- 11) The federal government should expunge all convictions for personal possession of cannabis.

**Conclusion**

Many jurisdictions have legalized non-medical use of cannabis but Canada is unique in having done so mainly to protect public health. In the areas most relevant to public health, the *Cannabis Act* incorporated the recommendations for a public health approach made by the Task Force on Cannabis Legalization and Regulation.<sup>23</sup> It provides a strong model not only for the regulation of cannabis in other jurisdictions, but also for the regulation of other legal substances in Canada.

As the federal government reviews the *Cannabis Act*, we urge it to continue doing so through the lens of public health, with an emphasis on harm minimization, especially among youth. Doing so will lead to the conclusion that the harm minimization measures in this legislation must be maintained, protected, and enforced.

We would be pleased to meet with the committee to discuss these recommendations and the evidence underpinning them in more detail.

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## 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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The Canadian Institute for Substance Use Research (CISUR) is a network of individuals and groups dedicated to the study of substance use and addiction in support of community-wide efforts to promote health and reduce harm. Our research is used to inform a broad range of projects, reports, publications, and initiatives aimed at providing all people in Canada and beyond with access to happier, healthier lives, whether using substances or not.

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- <sup>1</sup> Department of Justice (Canada). (2022). Cannabis Act (S.C. 2018, c. 16). Retrieved from <https://laws-lois.justice.gc.ca/eng/acts/c-24.5/>
- <sup>2</sup> Health Canada. (2022). Taking stock of progress: cannabis legalization and regulation in Canada. Retrieved from <https://www.canada.ca/en/health-canada/programs/engaging-cannabis-legalization-regulation-canada-taking-stock-progress/document.html>
- <sup>3</sup> World Health Organization (2017). "Best buys" and other recommended interventions for the prevention and control of noncommunicable diseases. Updated appendix 3 of the global action plan for the prevention and control of noncommunicable diseases 2013-2020. Geneva, Switzerland: WHO.
- <sup>4</sup> Babor, T.F., Casswell, S., Graham, K., Huckle, T., ... & Sornpaisarn, B. (2022). *Drug policy and the public good* (3<sup>rd</sup> edition). Oxford, UK: Oxford University Press.
- <sup>5</sup> Jernigan, D., Noel, J. K., Landon, J., Thornton, N., & Lobstein, T. (2017). Alcohol marketing and youth alcohol consumption: A systematic review of longitudinal studies published since 2008. *Addiction*, 112(Suppl 1), 7–20.
- <sup>6</sup> Lovato, C., Watts, A., & Stead, L. F. (2011). Impact of tobacco advertising and promotion on increasing adolescent smoking behaviours. *Cochrane Database of Systematic Reviews*, 10, CD003439.
- <sup>7</sup> Centre for Addiction and Mental Health. (2014). *Cannabis Policy Framework*. Toronto, ON: CAMH. Retrieved from <https://www.camh.ca/-/media/files/pdfs---public-policy-submissions/camhcannabispolicyframework-pdf.pdf>
- <sup>8</sup> Haden, M., & Emerson, B. (2014). A vision for cannabis regulation: a public health approach based on lessons learned from the regulation of alcohol and tobacco. *Open Medicine*, 8(2), e73-80.
- <sup>9</sup> Institut national de santé publique du Québec. (2016). *Légalisation du cannabis à des fins non médicales : pour une régulation favorable à la santé publique*. Montréal, QC: INSPQ. Retrieved from [https://www.inspq.qc.ca/sites/default/files/publications/2193\\_legalisation\\_cannabis\\_fins\\_non\\_medicales.pdf](https://www.inspq.qc.ca/sites/default/files/publications/2193_legalisation_cannabis_fins_non_medicales.pdf)
- <sup>10</sup> Canadian Public Health Association. (2017). A public health approach to the legalization, regulation and restriction of access to cannabis: position statement. Retrieved from <https://www.cpha.ca/public-health-approach-legalization-regulation-and-restriction-access-cannabis>
- <sup>11</sup> Goodman, S., Rynard, V. L., Iraniparast, M., & Hammond, D. (2021). Influence of package colour, branding and health warnings on appeal and perceived harm of cannabis products among respondents in Canada and the US. *Preventive Medicine*, 153, 106788.
- <sup>12</sup> Babor et al., 2022; World Health Organization, 2017.
- <sup>13</sup> Rehm, J., Crépault, J.-F., Hasan, O.S.M., Lachenmeier, D. W., Room, R., & Sornpaisarn, B. (2019). Regulatory policies for alcohol, other psychoactive substances and addictive behaviours: the role of level of use and potency. *International Journal of Environmental Research and Public Health*, 16(19), 3749.
- <sup>14</sup> Health Canada. (2021). Canadian Cannabis Survey 2021: summary. Retrieved from <https://www.canada.ca/en/health-canada/services/drugs-medication/cannabis/research-data/canadian-cannabis-survey-2021-summary.html>
- <sup>15</sup> Myran, D. T., Tanuseputro, P., Auger, N., Konikoff, L., Talarico, R., & Finkelstein, Y. (2022). Edible cannabis legalization and unintentional poisonings in children. *The New England journal of medicine*, 387(8), 757–759.
- <sup>16</sup> Fischer, B., Robinson, T., Bullen, C., Curran, V., ... & Hall, W. (2022). Lower-Risk Cannabis Use Guidelines (LRCUG) for reducing health harms from non-medical cannabis use: a comprehensive evidence and recommendations update. *International Journal of Drug Policy*, 99, 103381.
- <sup>17</sup> Rotermann, M. (2021). Looking back from 2020, how cannabis use and related behaviours changed in Canada. In *Health Reports*. Retrieved from <https://doi.org/10.25318/82-003-x202100400001-eng>
- <sup>18</sup> Myran, D. T., Staykov, E., Cantor, N., Taljaard, M., ... & Tanuseputro, P. (2022). How has access to legal cannabis changed over time? An analysis of the cannabis retail market in Canada 2 years following the legalisation of recreational cannabis. *Drug and Alcohol Review*, 41(2), 377–385.
- <sup>19</sup> Rubin-Kahana, D. S., Crépault, J. F., Matheson, J., & Le Foll, B. (2022). The impact of cannabis legalization for recreational purposes on youth: a narrative review of the Canadian experience. *Frontiers in Psychiatry*, 13, 984485.
- <sup>20</sup> Owusu-Bempah, A., Wortley, S., Shlapak, R., & Lake, N. (2021). Impact of cannabis legalization on youth contact with the criminal justice system. Ottawa, ON. Retrieved from <https://www.ccsa.ca/sites/default/files/2021-11/CCSA-Impact-Cannabis-Legalization-Youth-Criminal-Justice-System-2021-en.pdf>
- <sup>21</sup> Owusu-Bempah, A., & Luscombe, A. (2021). Race, cannabis and the Canadian war on drugs: an examination of cannabis arrest data by race in five cities. *International Journal of Drug Policy*, 91, 102937.
- <sup>22</sup> Dyer, E. (2022). Biden's blanket pot pardon plan is better than Canada's approach, experts say. *CBC News*. Retrieved from <https://www.cbc.ca/news/politics/biden-cannabis-pardons-canada-trudeau-1.6612970>
- <sup>23</sup> Crépault, J.-F., & Jesseman, R. (2022). *Regulating the legal cannabis market: how is Canada doing?* Toronto, ON: Centre for Addiction and Mental Health. Retrieved from <https://www.camh.ca/-/media/files/pdfs---public-policy-submissions/cannabis-regulation-report-april-2022-pdf.pdf>