



# **BILL C-2: AN ACT TO AMEND THE CONTROLLED DRUGS AND SUBSTANCES ACT (RESPECT FOR COMMUNITIES ACT)**

Brief for the Standing Senate Committee on Legal and  
Constitutional Affairs

May 2015

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# BACKGROUND

This brief was prepared by the Canadian Nurses Association (CNA) for consideration by the Senate Standing Committee on Legal and Constitutional Affairs with regards to its study of Bill C-2, *An Act to amend the Controlled Drugs and Substances Act (Respect for Communities Act)*.

CNA has been vocal about its concerns with Bill C-2 (formerly Bill C-65) from the outset, making every effort to share its position<sup>1</sup> and its expertise on the issue. In April 2013, CNA sent a letter to Prime Minister Harper expressing concerns about the bill and urging its withdrawal. In November 2013, CNA submitted a brief to Parliament<sup>2</sup> that outlined evidence about the benefits of harm reduction programs, along with our issues with the bill and recommendations for change. Since these concerns and input have gone unheeded, CNA has prepared this brief to show the negative impact Bill C-2 will have, if passed in its current form, and to offer concrete ideas for change. It is our hope that the committee will seriously consider what we propose.

## ISSUE

Bill C-2 was introduced in response to the 2011 Supreme Court of Canada decision, *Canada (Attorney General) v. PHS Community Services Society*,<sup>3</sup> which acknowledged extensive evidence on the positive results of Vancouver's Insite (a supervised injection site) in reducing mortality and morbidity, including addiction (see Appendix A for a summary of the decision). Supervised injection sites are "an important strategic element in harm reduction. These services enable people to inject pre-obtained drugs safely, with sterile equipment under the supervision, in Canada, of registered nurses."<sup>4</sup> Indeed, the benefits of safe injection sites and their lack of negative impact are well documented in leading scientific periodicals, including the *New England Journal of Medicine*, *The Lancet* and the *British Medical Journal*, and are recognized internationally.<sup>5</sup>

However, despite the evidence and the direction given by the Supreme Court, Bill C-2 seeks to impose unnecessary and excessive barriers to establishing supervised injection facilities. What is the reason for this disconnect? Bill C-2 appears to be founded on

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<sup>1</sup> (Canadian Nurses Association [CNA], 2012)

<sup>2</sup> (CNA, 2013)

<sup>3</sup> (Supreme Court of Canada, 2011)

<sup>4</sup> (CNA, 2013, p. 3)

<sup>5</sup> (Carter & Ka Hon Chu, n.d.)



ideology rather than evidence,<sup>6</sup> since it views safe injection sites as enabling and normalizing drug use in communities rather than acknowledging them as a vital health service for vulnerable populations struggling with a health condition/illness.<sup>7</sup>

### Benefits of supervised injection services, according to research:

- ▶ Reduction of fatal and nonfatal overdoses
- ▶ Reduction of transmission of blood-borne viruses (HIV, HCV)
- ▶ Reduction of risk behaviours for the transmission of blood-borne viruses
- ▶ Increase of access to health and social services for hard-to-reach populations through connections with health-care professionals
- ▶ Reduction of public disorder, including reducing discarded needles, public injecting and open drug dealing
- ▶ Increased use of detox and addiction treatment services
- ▶ Cost-savings to health, social and correctional systems
- ▶ Do not contribute to increased crime in the area surrounding the service

(CNA, 2011, p. 35; 2013, p. 4)

## CONCERNS WITH BILL C-2

This section outlines the Bill C-2 provisions that concern CNA, which are mainly its amendments to section 56 of the *Controlled Drugs and Substances Act* (CDSA) that deal with exemption requirements for supervised injection sites.

### Concern 1. The treatment of exemptions under Bill C-2 is inaccurate

Bill C-2's treatment of exemptions for supervised injection sites appears to contradict the spirit and intent of the Supreme Court of Canada decision in *Insite*. Section 5 of the bill inserts a new 56.1(2) section into the CDSA that gives the minister the power to grant exemptions authorizing the operation of supervised injection sites.<sup>8</sup> However, section 56.1(5) of the bill specifies that the minister "may only grant an exemption for a medical purpose under subsection (2) to allow certain activities to take place at a supervised consumption site in *exceptional circumstances*" [emphasis added].

The bill's preamble also mentions "exceptional circumstances" regarding exemptions. Such wording suggests that what will be *denied* are exemptions for supervised injection sites. The addition of section 56.1(5) is a significant departure from the Supreme Court's

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<sup>6</sup> (Eggertson, 2015)

<sup>7</sup> (Jeffrey, 2015)

<sup>8</sup> (Butler & Phillips, 2013, p. 8)



requirement that exemptions “generally” be *granted* by the minister. Paragraph 152 of the court’s decision specifically points to a presumption that an exemption will be provided:<sup>9</sup>

[152] ... Where, as here, the evidence indicates that a supervised injection site will decrease the risk of death and disease, and there is little or no evidence that it will have a negative impact on public safety, the Minister should generally grant an exemption [emphasis added].

The effect of section 56.1(5) is to make the approval of supervised injection sites difficult.

## Concern 2. Bill C-2 does a poor job of balancing public health and public safety goals

Bill C-2’s narrow focus on public safety goes against the direction of the Supreme Court of Canada decision in *Insite*, since it says that, in deciding whether to grant a section 56 exemption for a supervised injection site, the minister must also consider the following factors:

56.1(5) The Minister may only grant an exemption for a medical purpose under subsection (2) to allow certain activities to take place at a supervised consumption site in exceptional circumstances *and after having considered the following principles:*

- (a) *illicit substances may have serious health effects;*
- (b) *adulterated controlled substances may pose health risks;*
- (c) *the risks of overdose are inherent to the use of certain illicit substances;*
- (d) *strict controls are required, given the inherent health risks associated with controlled substances that may alter mental processes;*
- (e) *organized crime profits from the use of illicit substances; and*
- (f) *criminal activity often results from the use of illicit substances [emphasis added].*

This clause encourages misinformation by portraying the services of supervised injection sites as “somehow harmful or dangerous, conflating [them] with the harms of illicit drug use and organized crime,” despite evidence that “*Insite* does not encourage drug use, it has not led to a reduction in treatment uptake, nor has it contributed to street disorder or drug related crime.”<sup>10</sup>

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<sup>9</sup> (Smith, n.d., p. 6)

<sup>10</sup> (Smith, n.d., pp. 6-7)



The wording in the bill's preamble has similar connotations:

Whereas the money that is used to purchase controlled substances that are obtained from illicit sources *often originates from criminal activity* such as theft, and that money, in turn, *often funds organized crime in our communities*;... [emphasis added]

Whereas the substances that are subject to the Act may pose serious risks to the health of individuals and those risks are exacerbated when those substances are unregulated, untested and obtained from illicit sources;...

Thus, the bill's focus on public safety is narrow, in contrast to the Supreme Court's requirement that the minister balance public safety with public health when considering applications for exemptions.<sup>11</sup> This balance is clearly stated in paragraph 152 of the court's decision:

[152] The dual purposes of the CDSA — public health and public safety — provide some guidance for the Minister. Where the Minister is considering an application for an exemption for a supervised injection facility, *he or she will aim to strike the appropriate balance between achieving the public health and public safety goals*... [emphasis added]

Furthermore, the bill does not acknowledge the well-established positive impacts supervised injection sites have, both on health and on a surrounding community.<sup>12</sup> In this way, it disregards what the Supreme Court of Canada so clearly articulated:

[para. 133] Insite saves lives. Its benefits have been proven. There has been no discernable negative impact on the public safety and health objectives of Canada during its eight years of operation. The effect of denying the services of Insite to the population it serves is grossly disproportionate to any benefit that Canada might derive from presenting a uniform stance on the possession of narcotics.

By its failure to balance public health and public safety goals, the bill again works to make the approval of supervised injection sites difficult.

### Concern 3. Requirements for exemptions under Bill C-2 are onerous

Bill C-2 creates *onerous and excessive requirements* for applicants by demanding they provide more than 25 types of evidence (items [a] to [z]) before an exemption is considered. This demand is onerous and excessive because the minister may *only* consider an application if it is accompanied by the numerous documents outlined in the new section 56.1(3),<sup>13</sup> summarized with comments, as follows:

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<sup>11</sup> Ibid., p. 6.

<sup>12</sup> (Canadian Medical Association [CMA], 2014, p. 6)

<sup>13</sup> (Butler & Phillips, 2013, p. 8)



- ▶ Demographic and scientific data
- ▶ Letters from representatives of local police and local and provincial governments
  - It is worth noting that these are letters of opinion. The bill does not specify that these opinions be backed by evidence.<sup>14</sup>
  - Also, since applications for exemptions cannot be considered unless these authorities provide such a letter of opinion, the exemption process might easily be frustrated, which essentially creates a “unilateral veto power” against the operation of a safe injection site.<sup>15</sup>
- ▶ Information about proposed staff
  - Some of the requested information is unrealistic, as it is not likely to be known when applications are being prepared. Examples include the name, title and resumé of senior and other proposed key staff, as noted in item (w).<sup>16</sup>
  - As well, some of the requested information would *preclude people who have recovered from addictions from working at a site* (even though they could offer valuable peer support), since the application must include police records that go back 10 years and show no convictions, as noted in item (x).<sup>17</sup>
- ▶ Descriptions of planned procedures at the site and reports from community consultations.<sup>18</sup>

In addition, these requirements apply to subsequent applications by existing sites like Insite, through 56.1(4). Yet, they must *also* provide the following:

- ▶ Data on variations, if any, in crime rates in the vicinity during the period of the first exemption
- ▶ Data, if any, on the site’s impact on individual or public health during the exemption<sup>19</sup>

*Significant resources and funding* may be needed to compile this evidence, placing a considerable *burden on applicants*. Furthermore, some data may only be accessible through the context of a research project.<sup>20</sup>

Additionally, this data may be affected not only by whether a supervised injection site is present, but by other influences too, such as poverty and support from law enforcement in a community.<sup>21</sup>

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<sup>14</sup> (Smith, n.d., p. 7)

<sup>15</sup> (Kazatchkine, Elliott, & MacPherson, 2014, p. 10)

<sup>16</sup> (Smith, n.d., p. 7)

<sup>17</sup> (Kendall, Daly, & Carsley, 2015)

<sup>18</sup> (Butler & Phillips, 2013, p. 8)

<sup>19</sup> *Ibid.*, p. 11

<sup>20</sup> (CMA, 2014, p. 6)

<sup>21</sup> *Ibid.*



Bill C-2 *does not offer guidance to the minister on how to impartially weigh the material* provided by an applicant.<sup>22</sup> Even if all the required evidence is made available, item (z) enables the minister to ask for additional information he/she considers relevant. But the bill does not specify the nature and quantity of this information.<sup>23</sup>

In the end, an applicant can never be certain *what* information would result in an exemption, or *when* an exemption would be granted.<sup>24</sup> *Once all the requirements are met, the minister still has the discretion* to decide whether a site can open, which under Bill C-2, as noted above, will only occur in exceptional circumstances.<sup>25</sup>

Bill C-2 also places “*undue emphasis on public opinion* [emphasis added], which might not be fully informed or experienced.”<sup>26</sup> Section 56.1(6) allows the minister to notify the public of an application for exemption, which would in turn give the public 90 days to provide the minister with comments. But the fact that the parameters of this consultation are not clearly set out raises questions. For example, which public comment will the minister deem relevant?<sup>27</sup> How would random feedback from the public assist the minister in finding the right balance between public health and public safety?<sup>28</sup> Could opposition by a single group prevent an exemption?<sup>29</sup> It has been suggested that,

by calling for comments from the general public, without any guarantee that such comments will be informed by evidence and understanding of the challenges associated with drug dependence, the Ministry will only create a legitimate platform for stigmatizing and discriminatory comments against people who use drugs. It is irresponsible to subject the life-saving health needs of a highly marginalized population to the whims of undefined “members of the public.”<sup>30</sup>

As CNA noted in its November 2013 brief to Parliament, “when public consultations are not well-conducted, voices of dissent based on ideology or NIMBYism (not in my backyard) could prevent appropriate evidence from being heard.”<sup>31</sup>

In essence, Bill C-2 appears to *unnecessarily expand the Supreme Court of Canada’s five guiding factors* (see Appendix A) that the minister must consider regarding exemption decisions into an exhaustive list of criteria that applicants must meet.<sup>32</sup> It is important to note that the court “did not rule that an application for an exemption could only be reviewed or an exemption granted if all five factors had been addressed

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<sup>22</sup> Ibid.

<sup>23</sup> (Smith, n.d., p. 7)

<sup>24</sup> Ibid.

<sup>25</sup> (CMA, 2014, p. 6)

<sup>26</sup> Ibid., p.5.

<sup>27</sup> (Smith, n.d., p. 7)

<sup>28</sup> (Kazatchkine, Elliott, & MacPherson, 2014, p. 10)

<sup>29</sup> (Kendall, Daly, & Carsley, 2015)

<sup>30</sup> (Kazatchkine, Elliott, & MacPherson, 2014, pp. 10-11)

<sup>31</sup> (CNA, 2013, p. 8)

<sup>32</sup> (Smith, n.d., p. 7)





and/or [satisfied]. . . . The Supreme Court simply said that *if* there is evidence about these five factors, then such evidence must be taken into consideration.”<sup>33</sup>

These five factors were initially intended to ensure that the minister’s decisions regarding exemptions would not be arbitrary or result in a grossly disproportionate harm by hindering people’s access to health services. However, Bill C-2 does precisely that. It *fails to provide enough protection against arbitrary decisions on exemptions*,<sup>34</sup> puts a significant burden on existing and new applicants (arguably disproportionate to what is required for other health services)<sup>35</sup> and makes it difficult to apply for and receive an exemption (or, in the case of Insite, renew an exemption). As a result, certain vulnerable people will not get the health care they so need.

Furthermore, Bill C-2 *does not support nursing practice*:

Bill C-2 fails to recognize that supervised injection sites allow registered nurses to provide care in a safe environment. When safe spaces are not available for people to connect with registered nurses, nurses have to go out in the community and provide care on the streets, in back alleys and/or housing facilities where people often stay in unsanitary and crowded conditions.<sup>36</sup>

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<sup>33</sup> (Kazatchkine, Elliott, & MacPherson, 2014, p. 8)

<sup>34</sup> *Ibid.*, p.10.

<sup>35</sup> (Public Health Physicians of Canada, 2013)

<sup>36</sup> (Canadian Association of Nurses in HIV/AIDS Care, 2014)



# RECOMMENDATIONS

The following recommendations highlight specific points in the bill where CNA proposes change. They pertain to the bill's preamble and to sections 56.1(3), (4), (5) and (6).

## Recommendation 1. On Bill C-2's treatment of exemptions and its balancing of public health and public safety goals

As previously noted, section 56.1(5), Bill C-2

- ▶ does not reflect the Supreme Court of Canada decision, that exemptions should generally be granted by the minister; and
- ▶ focuses too narrowly on public safety without acknowledging the benefits that supervised injection sites provide.

CNA recommends the following:

**A. Replace Bill C-2's section 56.1(5) with the suggested wording** below that removes reference to "exceptional circumstances" and strikes out clauses (a) to (f) to better reflect the Supreme Court of Canada's direction concerning what the minister must balance in deciding to grant an exemption.

Bill C-2	Supreme Court of Canada decision in <i>Insite</i>
s.56.1(5) The Minister may only grant an exemption for a medical purpose under subsection (2) to allow certain activities to take place at a supervised consumption site in exceptional circumstances and after having considered the following principles: (a) illicit substances may have serious health effects; (b) adulterated controlled substances may pose health risks; (c) the risks of overdose are inherent to the use of certain illicit substances;	Para. [152] The dual purposes of the CDSA — public health and public safety — provide some guidance for the Minister. Where the Minister is considering an application for an exemption for a supervised injection facility, he or she will aim to strike the appropriate balance between achieving the public health and public safety goals. Where, as here, the evidence indicates that a supervised injection site will decrease the risk of death and disease, and there is little or no evidence that it will have a negative impact on public safety, the Minister should generally grant an exemption.



Bill C-2	Supreme Court of Canada decision in <i>Insite</i>
<p>(d) strict controls are required, given the inherent health risks associated with controlled substances that may alter mental processes;</p> <p>(e) organized crime profits from the use of illicit substances; and</p> <p>(f) criminal activity often results from the use of illicit substances.</p>	

CNA's suggested wording:

In determining whether to grant an exemption for a medical purpose under subsection (2), the Minister must balance public health and public safety goals, including whether a supervised consumption site will decrease the risk of death and disease and any evidence of positive or negative impacts on public safety.

**B. Include a reference in section 56.1(5) regarding the duration of an exemption.**

This reference should set exemptions at five years to make application processes less onerous for existing supervised injection sites and reduce the need to gather required documents/evidence so frequently.

**C. Keep the first two paragraphs of the preamble and strike out the rest** to make it consistent with our proposed amendments for section 56.1(5), which removes the reference to "exceptional circumstances" and the primacy given to public safety over public health.

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## Bill C-2

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### Preamble

Whereas Parliament recognizes that the objectives of the Controlled Drugs and Substances Act ("the Act") are the protection of public health and the protection of public safety;

Whereas the Act and its regulations have a dual role of prohibiting certain activities associated with harmful substances and allowing access to those substances for legitimate medical, scientific and industrial purposes;

Whereas the diversion of controlled substances and precursors, as those terms are defined in the Act, which are frequently used in the production of illicit drugs, is a worldwide problem with significant impacts on Canada;

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## Bill C-2

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Whereas the money that is used to purchase controlled substances that are obtained from illicit sources often originates from criminal activity such as theft, and that money, in turn, often funds organized crime in our communities;

Whereas the substances that are subject to the Act may pose serious risks to the health of individuals and those risks are exacerbated when those substances are unregulated, untested and obtained from illicit sources;

Whereas the negative consequences associated with the use of illicit substances can have significant impacts on vulnerable subsets of the Canadian population;

And whereas an exemption from the application of the Act and its regulations for certain activities in relation to controlled substances that are obtained from illicit sources should only be granted in exceptional circumstances and after the applicant has addressed rigorous criteria;

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CNA's suggested wording:

Whereas Parliament recognizes that the objectives of the *Controlled Drugs and Substances Act* ("the Act") are the protection of public health and the protection of public safety;

Whereas the Act and its regulations have a dual role of prohibiting certain activities associated with harmful substances and allowing access to those substances for legitimate medical, scientific and industrial purposes;

### Recommendation 2. On requirements for exemptions under Bill C-2

In light of the spirit and intent of the Supreme Court decision in *Insite*, and the well-established evidence regarding the benefits of safe injection sites, the bill's more than 25 requirements ([a] to [z]) for submitting an exemption should be shortened to what is truly essential and meaningful. Amendments to sections 56.1(3), (4) and (6) of Bill C-2 should keep the following in mind:

- ▶ The bill needs to provide guidance to the minister on how to appropriately weigh requested application materials and offer greater clarity on what information would result in an exemption.
- ▶ Any requests for opinions (as in items [b], [c], [e], [g], [h] and [p]) should specify — whether they support or oppose a proposed supervised injection site — that they need to be justified by evidence.
- ▶ The bill requires a mechanism so that any delayed requests for opinions from authorities do not derail the exemption process. In terms of the value that is given



to differing opinions, “the bill does not indicate any weighting of views, or consensus building mechanisms to mitigate conflicting recommendations from difference sources.”<sup>37</sup>

- ▶ Requests for information that is unlikely to be known at the time of application should be removed (e.g., name, title, resumé noted in item [w]).
- ▶ Requirements that would preclude people who have recovered from addictions from working at a safe injection site should be removed (item [x]).
- ▶ The bill needs to place less emphasis on public opinion. Should this element be kept, it needs clearly defined parameters for public consultation and for how public input will be weighed.

Health experts have noted that, instead of the onerous requirements in Bill C-2, just a few elements are really needed to enable the minister to grant an exemption: “applications endorsed by local and provincial public health authorities, the municipality, local police, and the provincial health and justice ministers.”<sup>38</sup>

The B.C. Ministry of Health has already developed guidance<sup>39</sup> for agencies seeking to establish safe injection sites, which could be used instead of the lengthy requirements in Bill C-2. The guidance document outlines broad subject areas that the ministry recommends be addressed (right; also see Appendix B for details on each of these items) “based on best practices and lessons learned from the successes of [safe injection services] that already exist in B.C. and elsewhere.”<sup>40</sup> The ministry acknowledges that, since each safe injection service “will be different, each potential service will have to be modified for the specific context in which it is provided.”<sup>41</sup>

### **B.C. Ministry subject areas**

1. Local conditions describing need
2. Detailed description of the services
3. Demonstrated consistency with provincial harm reduction principles
4. Community support
5. Potential to promote public order and public safety
6. Tools for screening and informing clients
7. Staffing and regulatory structure
8. Integrated care and ancillary services
9. Measures to appropriately dispose of biohazards
10. Governance and sustainability
11. Monitoring and evaluation

<sup>37</sup> (CNA, n.d.)

<sup>38</sup> (Kendall, Daly, & Carsley, 2015)

<sup>39</sup> (B.C. Ministry of Health, 2012, p. 1)

<sup>40</sup> Ibid., p. 2.

<sup>41</sup> Ibid.



# CONCLUSION

As CNA has said, “a government truly committed to public health and safety would work to enhance access to prevention and treatment services — instead of building more barriers.”<sup>42</sup> As it stands, Bill C-2 makes it much more difficult for existing safe injection sites like Insite to stay open and works to prevent the establishment of new sites. Setting up obstacles for Canadians who are struggling daily with drug addictions, so that they find it more difficult to get the health care they need, is unhelpful and does nothing to improve communities.<sup>43</sup> It is CNA’s hope that the Committee seriously consider what we are proposing and create legislation that reflects the Supreme Court decision in the Insite case and is based on well-established evidence.

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<sup>42</sup> (CNA, 2015)

<sup>43</sup> (Jeffrey, 2015)



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# APPENDIX A

## SUMMARY OF THE LINK BETWEEN BILL C-2 AND THE SUPREME COURT OF CANADA DECISION IN *INSITE*

Bill C-2 (previously Bill-65) was introduced in response to the 2011 Supreme Court of Canada decision, *Canada (Attorney General) v. PHS Community Services Society*.

The case centered primarily on whether the minister of health had violated the constitutional rights of clients using Vancouver's supervised injection site, Insite, in choosing not to extend an exemption under section 56 of the *Controlled Drugs and Substances Act* (CDSA). A section 56 exemption creates "a zone of legal drug use as long as it is occurring for a medical purpose" (Pivot Legal Society, p.3). In effect, it provides protection to Insite's clients and staff from criminal prosecution for possession of illegal substances under the CDSA (Canadian HIV/AIDS Legal Network & Canadian Drug Policy Coalition, 2014).

The Supreme Court found that the minister of health's decision not to grant Insite an exemption under section 56 of the CDSA constituted a violation of the claimants' section 7 charter rights (the right to life, liberty and security of the person) and was not in accordance with the principles of fundamental justice.

The court noted that the minister's decision was "arbitrary," by undermining the CDSA's objectives of public health and safety, and "grossly disproportionate," as it created a risk of harm to Insite's clients by denying them lifesaving health services. Such a denial outweighed any possible benefit "that Canada might derive from presenting a uniform stance on possession of narcotics" (S.C.C., 2011, para. 133; Canadian HIV/AIDS Legal Network & Canadian Drug Policy Coalition, 2014, p.8). The court also said that exemptions under section 56 should generally be granted unless there was a discernable threat to public safety.

As a result of the court's ruling, decisions about future applications for exemptions to the CDSA, by Insite and other potential supervised injection sites, were left to the minister of health's discretion — with the requirement that the minister achieve an appropriate balance between the public health and public safety objectives. The ruling also stated that decisions on exemptions be based on five elements: "evidence, if any, [1] on the impact of such a facility on crime rates, [2] the local conditions indicating a need for such a supervised injection site, [3] the regulatory structure in place to support the facility, [4] the resources available to support its maintenance and [5] expressions of community support or opposition" (S.C.C., 2011, para. 153).

Thus, Bill C-2 seeks to specify the requirements that the minister must consider when determining whether to grant an exemption under the CDSA (Library of Parliament, 2013).



# APPENDIX B

March 2012

## GUIDANCE DOCUMENT SUPERVISED INJECTION SERVICES

### BACKGROUND

Problematic substance use is a significant public health and social issue. Injection drug use, in particular, is associated with risk of blood-borne pathogen transmission (such as HIV and hepatitis C), death from unintentional drug overdose, and public disorder. Scientific research on supervised injection services (SIS) at Insite, in Vancouver's Downtown Eastside, and elsewhere in the world has contributed to a better understanding of the harm reduction and health promotion benefits of SIS for people who inject drugs.

In September 2011, the Supreme Court of Canada concluded that Insite saved lives and improved the health of people who used the services provided there. The court reached this conclusion by examining the detailed arrangements governing Insite's operations and the evidence that the operation of supervised injection services did not increase the incidence of drug use or crime in the surrounding area. The Court also affirmed that the Province has the authority to establish and operate Insite in furtherance of the Province's constitutional powers to deliver health services; however, as a practical matter an exemption was required from the federal Minister of Health pursuant to Canada's *Controlled Drugs and Substances Act*. The Court ordered the federal Minister to grant Insite an exemption and encouraged the federal Minister to strike an appropriate balance between public health and safety in future exemption decisions.

### PURPOSE

Several provincial policy documents articulate how SIS can play a role in a comprehensive public health response to problematic substance use in British Columbia (BC), including:

- ▶ *Harm Reduction: A British Columbia Community Guide (2005)*;
- ▶ *Following the Evidence: Preventing Harms from Substance Use in BC (2006)*;
- ▶ *Prevention of Harms Associated with Substances (Model Core Program Paper, 2009)*; and
- ▶ *BC Harm Reduction Strategies and Services Policy (2011)*.

The province has identified a range of actions to reduce the health harms associated with problematic substance use in *Healthy Minds, Healthy People: A Ten-Year Plan to Address Mental Health and Substance Use in British Columbia (2010)*, including expanding the reach and range of harm reduction services, which includes SIS, where appropriate.

This document was developed by the Ministry of Health to provide guidance to health



authorities and organizations seeking to offer supervised injection services as part of a comprehensive health system response to non-medical injection and other potentially harmful substance use in BC. This document outlines the broad subject areas which the Ministry recommends should be addressed by agencies considering the establishment of SIS.

The subject areas are based on best practices and lessons learned from the successes of SIS that already exist in BC and elsewhere. However, since every SIS will be different, each potential service will have to be modified for the specific context in which it is provided.

The Ministry recommends that organizations seeking to provide SIS address the following:

## **1. LOCAL CONDITIONS DESCRIBING NEED**

The organization should include information relevant to the geographic region, neighbourhood or targeted patient and client population to be served by the SIS, such as:

- ▶ number and scope of other drug-related support services;
- ▶ number of injection drug-related deaths and hospitalizations in the region (e.g., overdose, endocarditis, abscesses);
- ▶ rates of communicable disease (e.g., HIV, hepatitis C);
- ▶ number of interactions between outreach health professionals (e.g., street nurses, Assertive Community Treatment team members) and people who engage in injection or other non-medical drug use;
- ▶ estimates of local rates of drug dependence or other problematic substance use; and
- ▶ clinical or patient-focused rationale to provide SIS, including if applicable, risk management for SIS as continuity of care.

## **2. DETAILED DESCRIPTION OF THE SERVICES**

The organization should describe what services will be provided, when and where they will be provided, including the following:

- ▶ how the services will be delivered (e.g., fixed site, outreach, residential care setting or other integrated care model);
- ▶ starting date and hours of operation;
- ▶ identification of where the services are to be provided and the geographical boundaries (if any) within which the services will operate;
- ▶ a description of the setting where the SIS delivery will take place;
- ▶ if an outreach or integrated care service model, description of the broader service protocols that will support SIS delivery;
- ▶ links and referral pathways to other substance use services, including withdrawal management, outpatient or residential services;



- ▶ appropriate physical/outreach infrastructure (e.g., accessible buildings/rooms/mobile vehicle/site) for providing SIS;
- ▶ nature of substance use supervision, and protocols for client safety, including response to overdoses and other adverse events; and
- ▶ contingency plans for continuity of services for clients whose health deteriorates and may require progressively more intensive levels of care, through to the most intense level (e.g., intensive care unit and/or palliative care).

### **3. DEMONSTRATED CONSISTENCY WITH PROVINCIAL HARM REDUCTION PRINCIPLES**

The organization should describe how the SIS to be provided is consistent with the principles described in *Harm Reduction: a British Columbia Community Guide* (2005) and *Following the Evidence: Preventing Harms from Substance Use in BC* (2006). Specifically, how the services:

- ▶ are part of a continuum of response to substance use and its related harms;
- ▶ are consistent with the principle of “low threshold”; and
- ▶ are culturally, demographically and gender appropriate.

### **4. COMMUNITY SUPPORT**

The organization should describe the efforts in place to secure the support of the community for the SIS, including support from:

- ▶ local medical health officers;
- ▶ local police departments;
- ▶ local government officials; and
- ▶ other potentially interested community groups and individuals.

### **5. POTENTIAL TO PROMOTE PUBLIC ORDER AND PUBLIC SAFETY**

The organization should describe the potential impact of the SIS on public safety, including (where available through health or law enforcement research and statistics) estimates of:

- ▶ public disorder and crime;
- ▶ public injection; and
- ▶ inappropriately discarded injection or other drug-related litter.

### **6. TOOLS FOR SCREENING AND INFORMING CLIENTS**

The organization should describe how forms and related written tools (e.g., user agreements and consent forms) would be used to document:

- ▶ clients’ understanding of the risks of non-medical substance use;



- ▶ clients' understanding and agreement to abide by expectations, rules and protocols for using the SIS (e.g., "Codes of Conduct");
- ▶ that any data collection from clients for monitoring, evaluation or research purposes is done with appropriate ethical considerations and client consent; and
- ▶ that younger clients are engaged using age-appropriate screening and support protocols.

## **7. STAFFING AND REGULATORY STRUCTURE**

The organization should describe the amount and type of staff involved in providing the SIS, including their respective roles and responsibilities, workplace safety protocols, policies and any procedures regarding the following:

- ▶ minimum staffing levels, skill-sets, competencies and training required to carry out SIS;
- ▶ clear guidance to involved professionals regarding scope of practice, competence from appropriate professional regulatory authorities (e.g., College of Physicians and Surgeons of BC, College of Registered Nurses of BC, College of Registered Psychiatric Nurses of BC, College of Licensed Practical Nurses of BC );
- ▶ adherence to relevant legislation as applicable, (e.g., Health Professions Act, Hospital Act, Community Care and Assisted Living Act, Public Health Act, etc.);
- ▶ any scope of practice or regulatory decisions that affect SIS service delivery;
- ▶ compliance with Occupational Health and Safety policies and procedures and emergency and/or disaster (e.g., fire, bomb threat, earthquake) preparedness and response; and
- ▶ health and safety for clients and staff (e.g., non-violent crisis intervention, needle stick injuries).

## **8. INTEGRATED CARE AND ANCILLARY SERVICES**

The organization should include a detailed description of the how the SIS will:

- ▶ provide injection-related first aid (wound and abscess care);
- ▶ provide pre- and post-injection onsite education and counselling on harm reduction and health promotion;
- ▶ distribute and recover harm reduction supplies;
- ▶ have established sound health emergency protocols (e.g., CPR, anaphylaxis, intervention for respiratory arrest);
- ▶ provide additional health services (e.g., immunization, STI screening, HIV testing);
- ▶ where a proposed SIS is in an integrated setting (e.g., drop-in, day, residential and/or acute care), provide assessment and referral of clients to primary health care, mental health care, withdrawal management, outpatient or residential services, and other relevant service providers;
- ▶ where a proposed SIS is not in an integrated setting (e.g., mobile van, outreach), provide assessment and referral of clients to physical or chronic illness treatment or management,



mental health care, withdrawal management, outpatient or residential services, and other relevant service providers; and

- ▶ if applicable, provide delivery of residential care in ancillary facilities.

## **9. MEASURES TO APPROPRIATELY DISPOSE OF BIOHAZARDS**

The organization should include a detailed description of all procedures and measures in place to appropriately dispose of biohazards, including controlled substances or their residues, and the associated risk to health, safety and security of staff members and the local community. This may include procedures for:

- ▶ disposing of used syringes, needles and other drug administration or injection equipment;
- ▶ accounting for harm reduction supplies distributed, returned and disposed of;
- ▶ ensuring proper training and ongoing education of staff in handling harm reduction supplies, controlled substances, and potentially biologically contaminated paraphernalia;
- ▶ preventing loss and theft of controlled substances; and
- ▶ record-keeping respecting the above.

## **10. GOVERNANCE AND SUSTAINABILITY**

The organization should include a general description of the services provided under support and regulatory supervision of a health authority or subsidiary contracted agencies and the respective roles and responsibilities of each and should include a general description of financial resources by funding source (health authorities or other health system entities such as contracted agencies) in place to establish and maintain SIS.

## **11. MONITORING AND EVALUATION**

The organization should describe the service monitoring and evaluation plan to ensure quality control of service delivery and, when necessary, policy and practice improvements to SIS.

*Health authorities or their partner organizations that are considering establishing SIS and have questions or would like clarification regarding these guidelines are encouraged to contact:*

Communicable Disease Prevention,  
Harm Reduction and Mental Health Promotion Branch  
Ministry of Health  
4-2 1515 Blanshard Street  
Victoria, British Columbia V8W 3C8

