

**BRIEF**



**CANADIAN  
NURSES  
ASSOCIATION®**

**SUGGESTED AMENDMENTS TO THE TEXT OF BILL C-45:  
AN ACT RESPECTING CANNABIS AND TO AMEND THE  
CONTROLLED DRUGS AND SUBSTANCES ACT, THE  
CRIMINAL CODE AND OTHER ACTS**

**Brief Prepared for the Standing Committee on Social Affairs,  
Science and Technology**

**May 2018**



CNA is the national professional voice of over 139,000 registered nurses and nurse practitioners across Canada. CNA advances the practice and profession of nursing to improve health outcomes and strengthen Canada's publicly funded, not-for-profit health system.

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# Background

This brief on recommended changes to the November 27, 2017, draft of Bill C-45, An Act Respecting Cannabis and to Amend the Controlled Drugs and Substances Act, the Criminal Code and Other Acts (the Cannabis Act), is respectfully submitted by the Canadian Nurses Association (CNA), the national professional voice for more than 139,000 registered nurses and nurse practitioners in Canada.

CNA welcomes the federal government's work to table this challenging legislation, which will guide the legalization, regulation and restriction of access for non-medical cannabis. CNA supports the passing of Bill C-45 and believes that legalization is an excellent option for addressing the harms of cannabis. Legalization can support the regulation of quality, dose and potency while minimizing social harms and the costs of prohibition. In addition, legalization can improve access to related research into potential harms or medical benefits.

In reviewing the bill, CNA was pleased with the moderate, public health approach taken on the complex issue of cannabis legalization. In its current form, Bill C-45 promotes the removal of harms associated with a prohibition model while recognizing the need to protect vulnerable populations, including youth.

In preparation for the impending legalization of non-medical cannabis, CNA has participated in a number of initiatives:

- ▶ Contributing to the consultations of the federal task force on cannabis legalization and regulation. CNA provided recommendations on using a harm reduction approach with respect to (1) the legalization, regulation and restriction of access to cannabis, (2) the minimum age for legal purchase, (3) advertising and marketing restrictions to minimize the profile and attractiveness of products, (4) taxation and pricing, (5) limits on THC potency, (6) restrictions on cannabis products, (7) limitations on quantities for personal possession, and (8) controlling where cannabis can be sold.
- ▶ Developing a document to guide nurses on reducing harms associated with non-medical cannabis use, which has been disseminated through CNA networks and highlighted on social media.
- ▶ Conducting a national survey of nearly 1,000 nurses across Canada to assess the readiness for legalization, determine knowledge gaps and resource needs, and collect input on the sections of Bill C-45 that pertain to CNA's scope of work.
  - Results indicate that a majority favour the government's move toward legalization and that a focus should be on preventing access and associated



harms for young persons through a variety of mechanisms, including considerations around packaging, labelling, display, promotion and sale of cannabis and cannabis accessories.

- Just over 50% of nurses surveyed rated themselves as knowledgeable on the potential harms of non-medical cannabis use. Nurses identified specific knowledge gaps around the following areas: cannabis use during pregnancy, health risks associated with the various methods of cannabis consumption, the impact of cannabis use on the developing brain, the risk of addiction, and the risks associated with cannabis use and mental health.
  - A recent Nanos survey also revealed that more than nine in ten people in Canada support and expect nurses to be key sources of information about the risks and harms of recreational cannabis. Because nurses will clearly have a lead role in educating the public, CNA believes nurses must be involved in the design and delivery of federally funded public education campaigns.
- CNA presented recommendations on Bill C-45 to the House of Commons standing committee on health in a brief and an appearance (September 2017). Please note that these recommendations were also supported by the Canadian Indigenous Nurses Association (CINA) in their presentation to the Senate standing committee on Aboriginal Peoples.
- In CNA's 2018 pre-budget consultation document to the House of Commons standing committee on finance, we advocated for additional funding to support public and professional education (August 2017).
- In March 2018, CNA hosted a cannabis think tank in Ottawa. This Health Canada-funded interactive full-day dialogue allowed for a multi-disciplinary, collaborative, national, creative discussion. It was an opportunity to exchange information on nursing's educational needs related to the impending legalization of non-medical cannabis.
- The event expanded on findings from the CNA's national survey of nurses and explored options for how best to address knowledge gaps for nurses across the continuum of care. In addition, the event resulted in the generation of strategies and solutions to remove stigma around cannabis use, which nurses have identified as the primary barrier in engaging in conversations with clients/patients.

Following this background work, CNA has five recommendations for amending the proposed legislation.



# Recommendations

## 1. Regarding youth criminal penalties

Sections 8 (1) (c) and (2) (a) and (b) state that “for a young person [age 12-18] to possess cannabis of one or more classes of cannabis the total amount of which, as determined in accordance with Schedule 3, is equivalent to more than 5 g of dried cannabis. . . . is guilty of an indictable offence and is liable [and/or] is guilty of an offence punishable on summary conviction and is liable . . . to a youth sentence under the *Youth Criminal Justice Act*.”<sup>1</sup>

A criminal record “not only limits an individual’s ability to travel to certain countries (such as the U.S.), it leads to considerable social harms.”<sup>2</sup> Among youth, for instance, a criminal record can be a barrier to volunteer opportunities, often required by school curriculums, and is a factor in scholarship decisions. A criminal record can also diminish career opportunities and contribute to poverty and poorer health outcomes.<sup>3</sup> Legalizing cannabis while maintaining criminal penalties for youth can disproportionately disadvantage youth, potentially barring them from opportunities to equitably advance in and contribute to society. Given evidence that 21 per cent of 15- to 19-year-olds have used cannabis in past year,<sup>4</sup> such legislation could potentially impact a large number of youths.

CNA recommends that youth possession of cannabis not be subject to criminal penalties, that the government use restorative justice as the guiding principle for addressing youth possession and that such depenalization eliminate current or future repercussions for youth by removing the provision under section 8 (2) (a) and (b) of the Cannabis Act.

## 2. Regarding the promotion and sale of cannabis and cannabis accessories

### Promotion of cannabis and cannabis accessories

Section 17 (6) states that “subject to the regulations, a person may promote cannabis, a cannabis accessory or a service related to cannabis by displaying a brand element of cannabis, of a cannabis accessory or of a service related to cannabis on a thing that is not cannabis or a cannabis accessory, other than

- (a) a thing that is associated with young persons;

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<sup>1</sup> (Bill C-45, the Cannabis Act, 2017)

<sup>2</sup> (Canadian Nurses Association [CNA], 2017, p. 5)

<sup>3</sup> (Canadian Centre on Substance Use and Addiction, 2014)

<sup>4</sup> (Statistics Canada, 2017)



- (b) a thing that there are reasonable grounds to believe could be appealing to young persons; or
- (c) a thing that is associated with a way of life such as one that includes glamour, recreation, excitement, vitality, risk or daring.”

CNA recommends that section 17 (6) be revised to include the following subsections:

- (d) a thing that is related to operation of a motorized vehicle; and
- (e) a thing that contains or may be used in conjunction with other substances, including alcohol, tobacco or caffeine.

### **Sale of cannabis and cannabis accessories**

Section 69, related to provincially authorized selling, states that: “(1) A person may possess, sell or distribute cannabis if the person is authorized to sell cannabis under a provincial Act that contains the legislative measures referred to [below]:

- (a) they may sell only cannabis that has been produced by a person that is authorized under this Act to produce cannabis for commercial purposes;
- (b) they may not sell cannabis to young persons;
- (c) they are required to keep appropriate records respecting their activities in relation to cannabis that they possess for commercial purposes; and
- (d) they are required to take adequate measures to reduce the risk of cannabis that they possess for commercial purposes being diverted to an illicit market or activity.

International evidence<sup>5</sup> shows a correlation between density of retail outlets for alcohol and adverse health and social outcomes; namely, that increased harms occur in places with a high density of alcohol sales. This knowledge should be used to inform the regulation of cannabis distribution and to help understand the health and social harms that could occur when cannabis is sold in close proximity to alcohol. In planning such regulation, the government should consider the best available evidence in seeking to balance sufficient access (i.e., able to minimize the illicit market or illegal purchase) with excessive distribution that could negatively impact the health of individuals and groups, particularly vulnerable populations in high-density communities.

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<sup>5</sup> (Campbell et al., 2009; Popova, Giesbrecht, Bekmuradov, & Patra, 2009; Livingston, 2011)





Mixing cannabis with alcohol can “increase impairment exponentially and can also cause anxiety, nausea, vomiting or fainting.”<sup>6</sup> In addition, “the risk of motor vehicle collisions is further increased when cannabis is consumed together with alcohol (Hall, 2015).”<sup>7</sup> Selling cannabis and alcohol in the same place could expose some individuals to cannabis or alcohol who would not normally partake.

CNA recommends that amendments to Bill C-45 on regulating cannabis distribution include restrictions on hours or days of sale, outlet density and proximity to alcohol outlets, specifically prohibiting co-location with the sale of alcohol.

### **3. National cannabis tracking system**

Related to the establishment and maintenance of a cannabis tracking system, section 81 states that the minister may “establish and maintain a national cannabis tracking system to

- (a) enable the tracking of cannabis;
- (b) prevent cannabis from being diverted to an illicit market or activity; and
- (c) prevent illicit cannabis from being a source of supply of cannabis in the legal market.

CNA recommends that section 81 be revised to include the following subsection:

- (d) track sales of cannabis in relation to its proximity to the sale of alcohol.

### **4. Public health approach**

CNA strongly reinforces recommendations made to the federal task force on legalization, regulation and restriction of access to cannabis to learn from other jurisdictions, such as Colorado, and invest in significant public health and public education programs (including those related to cannabis use and driving) prior to legalization.

Each year, Canada spends more than a billion dollars to enforce cannabis possession laws, arresting about “60,000 Canadians for simple possession, [which is] nearly 3% of all arrests. . . . At least 500,000 Canadians carry a criminal record for this offense.”<sup>8</sup> Legalization should remove significant social harms and also remove costs associated with prohibition.

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<sup>6</sup> (CNA, 2017, p. 12)

<sup>7</sup> Ibid., p. 9.

<sup>8</sup> (Crépault, 2014, p. 6)



Therefore, CNA recommends that, once legalization is in place, the government use a portion of the savings from enforcement and/or tax revenue for investments that ensure positive health and social outcomes. Such investments should include tools, training and guidelines to support public education programs for cannabis harm reduction strategies, programs for substance use prevention and treatment, and research to better understand the harms of non-medical use as well as the potential benefits of medical use. Cost estimates for these measures can be derived from jurisdictions where cannabis has been legalized, from public education campaigns that have been launched, and from current federal government investments in public education related to tobacco use.

## **5. Medical cannabis exemption**

CNA supports the need to preserve access to cannabis for medical purposes based on the principles of access and equity. This includes access to appropriate products, access without undue financial burden, and access to care and clinical oversight for persons using medical cannabis. Without such clinical oversight, we are essentially leaving patients to self-medicate and “figure it out” on their own.

CNA believes the intent of sections 8 and 9 are to govern the use of non-medical cannabis. However, the impact of those provisions on users of medical cannabis has the very real potential of limiting access to a substance that could alleviate serious medical symptoms.

As per recommendations set forth to the standing committee on legal and constitutional affairs by the Canadian Nurses Protective Society,<sup>9</sup> sections 8 and 9 of Bill C-45, if accepted as written, impose limits on individual possession and distribution that can have significant negative impact on both a provider’s ability to authorize for amounts over 30 g and the patient’s ability to possess more than 30 g. The bill’s prohibition of possession by young persons, and the prohibition of provision and administration to persons under the age of 18 without clear exemption for cannabis for medical purposes, means that young people (12-17 years of age) would not be able to possess more than 5 g, or that health-care professionals, including nurses and nurse practitioners, may be in contravention of the law if they authorize or administer medical cannabis to persons under the age of 18.

Exempting medical cannabis from the application of sections 8 and 9 of Bill C-45 is necessary not only to preserve appropriate access within a separate medical

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<sup>9</sup> (Canadian Nurses Protective Society, 2018)



cannabis regime, it would also protect clinicians — including nurses and nurse practitioners — from liability.

CNA recommends exempting medical cannabis from the application of sections 8 and 9 of the act.



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