

Notice to all Law Enforcement & Government Actors

Re: Non-Enforcement Against 'Safe Supply' Health Services

Date of Notice: June 23, 2020

THIS IS A WARNING REGARDING THE CLOSURE OF HEALTH SERVICES AT THIS PROPERTY

Closing this health service without a Court Order may contravene the *Charter* and/or the BC *Human Rights Code*. We urge law enforcement actors to seek direction from the Courts before taking action against this critical health service.

The Facts: This pop-up health service has been created to provide a safer supply of drugs - as is necessary for the health and safety of people who use drugs and otherwise unavailable. The Province, The City of Vancouver, and the Vancouver Police Department have all called for safe supply.

BC is under dual public health emergencies: the opioid crisis (since April 2016) and the COVID-19 pandemic (since March 2020). Amid these states of emergency, the illicit drug market is fatally toxic and increasingly unstable. Access to a safe supply of drugs through formal channels is extremely limited, inadequate, and still urgently needed.

This pop-up health service intends to provide a safer alternative to the toxic street drug market. The substances it offers have been tested to allow greater quality control, product transparency, and consumer safety. The substances provided at this service are either unavailable or insufficiently provided within BC's current safe supply programming.

Accordingly: Closing this pop-up health service may violate the *Charter*.

Authorities who choose to close this life-saving health service and/or enforce laws or bylaws against site operators and patrons knowingly impede access to a safer supply of substances and relegate people who use drugs to a deadly street supply. The life-threatening harms that people who use drugs would face by having their access impeded to this service is grossly disproportionate to any benefit the government might derive from its objectives in barring access.

By discontinuing this service, authorities risk actions that Courts have found violate s. 7 of the *Charter* (the right to life, liberty, and security of the person), including:

- Interfering with healthcare access.¹
- Increasing the risk of death and disease for people who use drugs.²
- Preventing people from safeguarding their own health and safety.³

¹ *Canada (Attorney General) v PHS Community Services Society*, 2011 SCC 44 [*PHS*] at para 91.

² *PHS* at para 136.

³ *Canada (Attorney General) v Bedford*, 2013 SCC 72 at para 60.

Closing this health service may also run afoul of s. 15 of the *Charter*, which guarantees equality under the law and prohibits discrimination on the basis of addiction.⁴ Closing this health service and/or enforcing laws against site operators and patrons will disproportionately and adversely impact the health and safety of people who use drugs by denying their access to necessary but otherwise unavailable substances.

Furthermore: Closing this health service may violate the BC Human Rights Code.

It is illegal to discriminate against people on the basis of addiction, per BC human rights legislation.⁵ Closing this health service and/or enforcing laws against site operators and patrons discriminates against a protected class of persons, particularly as the substances on offer cannot be readily accessed through current channels.

THE PROVINCE, THE CITY OF VANCOUVER, AND THE VANCOUVER POLICE DEPARTMENT HAVE ALL CALLED FOR SAFE SUPPLY. THIS IS A COMMUNITY RESPONSE AIMED AT MEETING THIS CRITICAL NEED — WE URGE YOU NOT TO IMPEDE IT.

The Province of BC established Safe Supply Guidelines⁶ in 2020 due to drug market toxicity and high rates of overdose fatalities amid parallel public health emergencies. The substances available within this programming *do not include* heroin or cocaine. BC's Provincial Health Officer has moreover called for both the decriminalization of simple drug possession and immediate safe supply.⁷

The City of Vancouver has been a proponent of safe supply since 2018. Its 2019 *Safe Supply Statement* affirms that “Urgent action is required on multiple levels to prevent further deaths from drug poisoning. This includes advocating for a safe supply as well as supporting people in their chosen paths to wellness. We call upon health professionals, all levels of governments, and the public to join us in advocating for a safe supply of drugs, to protect and prevent further loss of our family members, friends, neighbours and loved ones.”⁸

The Vancouver Police Department has publicly stated that it does not enforce against simple drug possession. In 2019, it announced that it “support[s] safe supply and treatment on demand” and publicly called for a safe supply of drugs to reduce crime.⁹

We urge all law enforcement to adopt a policy of non-enforcement against this community response to the dire lack of safe supply – recognizing that this is at its core a public health issue, best resolved through community care not criminalization.

⁴ PHS at para 101.

⁵ *Human Rights Code*, RSBC 1996 c. 210. See also *Canada (Human Rights Commission) v Toronto-Dominion Bank*, [1998] 4 FC 205.

⁶ <https://www.bccsu.ca/wp-content/uploads/2020/04/Provincial-Webinars-Prescribers-Final.pdf>

⁷ <https://www2.gov.bc.ca/assets/gov/health/about-bc-s-health-care-system/office-of-the-provincial-health-officer/reports-publications/special-reports/stopping-the-harm-report.pdf> & <https://www.cbc.ca/news/canada/british-columbia/bonnie-henry-opioid-deaths-1.5009950>

⁸ <https://vancouver.ca/people-programs/safe-supply-statement.aspx>

⁹ <https://www.cbc.ca/news/canada/british-columbia/vpd-safe-drug-supply-reduce-crime-1.5291812>