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May 22, 2019

Karin Krostal/ Lisa Bhopalsingh
City of Nanaimo
Social Planner and Manager Community and Cultural Planning

Re: Nanaimo administrative request for letter outlining supervised consumption site application

Dear Karin and Lisa:

The City of Nanaimo planning department has requested additional information on the proposed zoning bylaw changes as it relates to the establishment of a supervised consumption site.

It is this office's position that the most appropriate solution is just the deletion of the current definition of a "Drug Addiction Treatment Facility". We remain concerned about explicitly identifying "supervised consumption service" in the bylaw, or the use of a clinical diagnosis that may be interpreted as limiting access by certain individuals to health services.

The deletion of the current definition clause could be paralleled with a more appropriate redefinition or improved language on "Medical/Dental Office" that would reflect any community-based health service provided by any health provider, other than overnight residential or hospital-based health services. As supervised consumption is a health service, this would be adequate for defining appropriate community locations.

There has been an illusion that if "supervised consumption site" is not explicitly incorporated into the zoning bylaw, then the site could be located, approved and operated while not considering local community perspectives. This is not accurate.

The federal *Controlled Substances Act* requires that any proposed facility must follow a defined process when applying for an exemption to S56 of the act. This process includes the federally legislated requirement for community consultation under S56.1 of the Act. The current supervised consumption site application requires information on the consultation process. This would include information on open houses, online communications, online surveys, websites, information meetings, community association meetings, door-to-door canvassing and flyers. Such tools have

Medical Health Officer

Located at: 3rd Floor 6475 Metral Drive | Nanaimo, BC V9T 2L9

Tel: 250.739.6304 | Fax: 250.755.3372

viha.ca

been used in the establishment of sites to date, and would be considered and expected in future applications. Health Canada also requires a “description of measures to address concerns that were raised” and “efforts made to engage with the community to inform them of the proposal and ensure that the voices of community members have been heard”. Such requirements are a strong expectation of the level of robust community engagement required in an application process. To date Health Canada has ensured that such steps are sufficiently addressed while recognizing that any site is likely to stimulate some objections and controversy.

Health Canada, like most regulatory agencies, allow for innovation and creativity by avoiding proscriptive processes. The application process is not designed to undermine principles which are laid out as requirements in S56.1 of the *Controlled Substances Act* one of which requires applicants to provide “expressions of community support or opposition” (S56.1 (2e)). In discussions for this opinion, Health Canada expressed that local government involvement has been provided for all current applications. No application is predetermined, and Health Canada expects detailed discussions of community engagement that have occurred and steps taken by the applicant to mitigate concerns. The location of a supervised consumption site is often associated with some controversy; however, the application would not be deemed complete if inadequate engagement had occurred. The lack of local government interaction would raise concerns that the application is incomplete.

A second level of assurance is provided as the application encourages a letter of support from the appropriate provincial minister. While this was a previous expectation, Ontario’s expressions of political non-support for this class of health services have resulted in changes to the process. That said, BC governments of different political colors have been involved in approvals for current BC supervised consumption sites, and seeking ministerial support and involvement would be considered appropriate. Currently neither the Ministry of Health nor the Ministry of Mental Health and Addictions have a required process; however, they have previously indicated that they would be unlikely to issue any support letter if local government engagement was lacking. Historically, some communities have opposed a class of health service that might result in an application receiving provincial support despite a lack of local government support. However, if a local government was not seen as implementing systematic, stigmatizing barriers to this health service, then the opinion of the local government regarding the location of a proposed supervised consumption site would be expected.

All current BC supervised consumption sites receive funding or support through Health Authorities, with all but one application having been sponsored directly by a Health Authority (the exception is the Dr. Peter Centre in Vancouver, which is the province’s “original” supervised site). Island Health has repeatedly expressed the value of partnerships – particularly, partnerships with local communities. It is improbable that Island Health, or an Island Health contracted agency, would proceed with a supervised consumption site in Nanaimo without engaging and partnering with city staff and council in the public consultation process or siting decisions. This was the case with the establishment of the Nanaimo overdose prevention site, and the first effort to develop an application for a Nanaimo supervised consumption site. At the moment, there is limited active pursuit of exemptions under S56.1 for supervised consumption services currently in the province given the relative effectiveness of overdose prevention sites. It is anticipated that the current

Nanaimo overdose prevention site will remain. However, this site is only established for the duration of the public health emergency. Given current rates of opioid use disorder in Nanaimo, longer-term planning is needed to consider appropriate overdose response services for Nanaimo.

These three levels of review – community consultation, provincial support and partnering with city staff and council – do not exist for other health services currently listed under the definition of a drug addiction treatment facility, including the provision of harm reduction supplies, needle exchange or substance use treatment such as a “methadone clinic.” Such health services should be appropriately located in a variety of settings throughout the city and aligned with the siting of other health services. With advances in treatment and service, a broadly disbursed distribution model that provides access to care close to where individuals live or work is encouraged and preferable. It should also include access to some form of supervised safer consumption. Many social and some health services benefit from approaches to neighborhood-area management. Community groups have repeatedly identified their concerns as being more about the impacts near a facility, rather than the services provided within a facility such as a supervised consumption site. Evaluation of Vancouver’s InSite facility demonstrated general neighborhood-area improvements over time (reduced litter, reduced sharps). Such changes are likely accompanied by a transition period that needs active management. There are learnings to be gained from prior experiences at other sites regarding better practices, and future siting would benefit from such knowledge. The format of ongoing neighborhood structures will be site specific and should be integral to the consultation process in a supervised consumption site application.

Given the rapidity of the pace of change, organizations and governments can only realistically provide assurances for a limited number of years. The opioid crisis was not foreseen and developed in just a few years. Advances in treatment approaches to opioid use disorders were also unanticipated – and these advances have benefited hundreds in the Nanaimo area in recent years, and reduced risk and demand for certain community-based services. Cannabis legalization was likely unanticipated when the definition of a “Drug Addiction Treatment Facility” was first formulated. Future modifications to the *Controlled Substances Act* cannot be projected; however they are unlikely to result in stricter controls, as these have not been successful in reducing the social and health impacts of current illicit substances. The challenges of the concurrent housing crisis were also unanticipated, and have too frequently been misinterpreted as a direct consequence of the opioid crisis. Crafting regulatory approaches in a rapidly changing environment should embrace foresight and avoid reactivity.

I would like to take this opportunity to reiterate the recommendations of the Medical Health Officer to Nanaimo City Council, made in February 2018. While progress towards some of these recommendations may have crept forward over the past 15 months, the recommendations remain just as pertinent. They are as follows:

- Council address the obstacle to substance use treatment found in the definition of a Drug Addiction Treatment Facility of the City of Nanaimo zoning bylaw 4500.
- Council support efforts to increase housing availability and options

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- Council revisit the recommendations of the Response to Health, Social and Safety Issues in the Downtown report to address those that would support recovery within the community.
- Council endorse the Nanaimo Overdose Prevention and Management Working Group as the Community Action Team
- Council support the community dialogue to promote prevention of substance use, reduce deaths, increase positive outcomes, reduce fear and stigma, and increase public safety and compassion

Yours in health



Paul Hasselback, MD, MSc, FRCPC
Medical Health Officer

PH/td

cc: Nanaimo Mayor Krog and Council
Jake Rudolph – CAO
Dale Lindsay – Director of Community Development