August 31, 2021

To: The Honourable Patty Hajdu
Minister of Health
House of Commons
Ottawa, Ontario K1A 0A6
Patty.Hajdu@parl.gc.ca
(Via email and print)

Kathryn Nowers
Director of Policy
Office of the Minister of Health
kathryn.nowers@canada.ca
(Via email only)

Jennifer Saxe
Director General
Health Canada, Controlled Substances and Cannabis Branch
Jennifer.saxe@Canada.ca
(Via email only)

Health Canada
Substance Use and Addictions Program
Address Locator 0900C2
Ottawa, Ontario K1A 0K9
hc.suap-puds.sc@canada.ca
(Via email and print

URGENT REQUEST: Section 56(l) exemption to the Controlled Drugs and Substances Act (CDSA) required to ensure the equitable application of public health protections to vulnerable Canadians.

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I - Introduction

As Minister Hadju said in her letter to Provincial and Territorial Ministers of Health on August 24, 2020, “the overdose crisis is one of the most significant public health crises in recent Canadian history [...] we need immediate action from all levels of government and health care practitioners to prevent further deaths from the contaminated illegal drug supply …”.[1] As drug users, we agree, and it is for this reason we are writing to request an exemption under s. 56(1) of the Controlled Drugs and Substances Act (CDSA) to allow the Drug User Liberation Front (DULF), via the Vancouver Area Network of Drug Users (VANDU), to operate a Safe Supply Fulfillment Centre and Cocaine, Heroin and Methamphetamine (CHM) Compassion Clubs in Vancouver, British Columbia.

DULF is an unincorporated, volunteer-operated coalition formed in May of 2020, spurred on by the record breaking months of overdose deaths in British Columbia (BC). DULF is composed primarily of people who use drugs (PWUD) and drug user groups, though the coalition also contains medical professionals, academics, and several advocacy groups. The mandate of our organization is to provide tangible solutions to the ongoing drug poisoning crisis, which has historically meant operating episodic CHM compassion clubs. The timing of this letter is such that it coincides with an ongoing DULF campaign for supporting immediate community-led safe supply, which includes actions taken on June 23, 2020, April 14, 2021, July 14, 2021, and August 31, 2021, where our coalition distributed CHM safe supply to people who use drugs in Vancouver.

This letter is written in partnership with VANDU, a well-established organization formed in 1998 to bring together groups of people who use drugs in Vancouver BC. VANDU is committed to increasing the capacity of people who use illicit drugs to live healthy and productive lives, and it promotes that goal by affirming and strengthening people who use illicit drugs to reduce harm both to themselves and their communities. Historically, VANDU has partnered with DULF to distribute CHM safer supply to people who use drugs in Vancouver, and we hope to continue to build out this partnership and protect those most at risk of overdose death in our communities--in part through the Safe Supply Fulfillment Centre and CHM Compassion Clubs.

Unfortunately, illicit drug toxicity remains the leading cause of unnatural death in BC, surpassing homicides, suicides, and motor vehicle collisions combined.[2] At the population level, BC’s life expectancy at birth for males has declined as a direct consequence of the drug toxicity crisis.[3, 4] The escalating number of drug toxicity deaths, increasing toxicity of the illicit drug supply and deepening inequities demonstrates a need to explore new and innovative ideas to stop the loss of life and stem the tide of grief and pain that comes in the wake of these deaths.

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[1] https://www.canada.ca/en/health-canada/services/substance-use/minister-letter-treatment-safer-supply.html

[2] B.C. Coroners Service. (2021). Illicit drug toxicity deaths in B.C., January 1, 2011 to May 31, 2021. Available at: https://www2.gov.bc.ca/assets/gov/birth-adoption-death-marriage-and-divorce/deaths/coroners-service/statistical/illicit-drug.pdf

[3] Statistics Canada. (2020) Life tables, 2016/2018. Available at: https://www150.statcan.gc.ca/n1/daily-quotidien/200128/dq200128a-eng.htm

[4] Ye X, Sutherland J, Henry B, Tyndall M, Kendall PRW. At-a-glance - Impact of drug overdose-related deaths on life expectancy at birth in British Columbia. Health Promot Chronic Dis Prev Can. 2018 Jun;38(6):248–51. https://doi.org/10.24095/hpcdp.38.6.05

We know that the illicit drug supply has become increasingly toxic; the BC Coroners Service reports that 86% of drug toxicity deaths in the last year are linked to fentanyl and 14% of cases show evidence of extreme fentanyl concentrations.[5]

PWUD, their friends, communities and families have been forced to helplessly watch as provincial and federal leaders continue to take miniscule steps towards the only real solution to overdose: safe supply. Further, existing safe supply models, including those in BC, have remained extremely small in scale and failed to retain large numbers of people, in particular those experiencing the greatest vulnerabilities. Moreover, physician-led models have failed to engage a sufficient number of individuals at risk of overdose to make a real difference during this devastating epidemic. At the same time a large and growing body of evidence has shown unequivocally that drug user-led programs are more appealing to those experiencing the greatest risk of drug-related harm, and such initiatives are uniquely effective in extending the reach and effectiveness of conventional public health interventions.[6,7,8,9] This is why DULF, VANDU, and our community partners are taking action first, and secondarily, are asking Health Canada for permission to step out of the zone of protest and into a sanctioned operation where we can save and change more lives.

Ultimately, we know that: the volatility of the illegal drug supply is killing people; our current prohibitionist framework does not work; when drug users are provided non-toxic drugs the death rate is vastly lower; given existing barriers to accessing safe drugs, people are turning back to risky street drugs; and continued criminalization of the drug trade continues to push the illicit drug supply towards increasingly potent, harmful and addictive drugs such as benzodiazepines and carfentanil.[10, 11] We know that a compassion club model would increase consumer power and protection, allowing PWUD to know what they are buying, thus preventing death from the unpredictable drug supply. Our approach is consistent with the recent

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[5] B.C. Coroners Service. (2021). Illicit drug toxicity deaths in B.C., January 1, 2011 to May 31, 2021. Available at: https://www2.gov.bc.ca/assets/gov/birth-adoption-death-marriage-and-divorce/deaths/coroners-service/statistical/illicit-drug.pdf

[6] Wood, E., Kerr, T., Spittal, P.M., Small, W., Tyndall, M.W., O'Shaughnessy, M.V., Schechter, M.T. (2003a). An external evaluation of a peer-run 'unsanctioned' syringe exchange program. Journal of Urban Health 80 (3): 455-464.

[7] Broadhead, R. S., Heckathorn, D. D., Weakliem, D. L., Anthony, D. L., Madray, H., Mills, R. J., et al. (1998). Harnessing peer networks as an instrument for AIDS prevention: results from a peer-driven intervention. Public Health Rep, 113 Suppl 1, 42-57.

[8] Grund, J. P., Blanken, P., Adriaans, N. F., Kaplan, C. D., Barendregt, C., & Meeuwsen, M. (1992). Reaching the unreached: targeting hidden IDU populations with clean needles via known user groups. J Psychoactive Drugs, 24(1), 41-47.

[9] McNeil, R., Small, W., Lampkin, H., Shannon, K., & Kerr, T. (2014). "People Knew They Could Come Here to Get Help": An Ethnographic Study of Assisted Injection Practices at a Peer-Run 'Unsanctioned' Supervised Drug Consumption Room in a Canadian Setting. AIDS and Behavior, 18(3), 473–485. https://doi.org/10.1007/s10461-013-0540-y

[10] British Columbia Centre on Substance Use. (2019). Heroin compassion clubs: A cooperative model to reduce opioid overdose deaths and disrupt organized crime's role in fentanyl, money laundering and housing unaffordability. Vancouver: BCCSU Available at: www.bccsu.ca/wp-content/uploads/2019/02/Report-Heroin-Compassion-Clubs.pdf

[11] Laing, M. K., Ti, L., Marmel, A., Tobias, S., Shapiro, A. M., Laing, R., Lysyshyn, M., & Socías, M. E. (2021). An outbreak of novel psychoactive substance benzodiazepines in the unregulated drug supply: Preliminary results from a community drug checking program using point-of-care and confirmatory methods. *International Journal of Drug Policy*, *93*, 103169. https://doi.org/10.1016/j.drugpo.2021.103169

recommendations of Health Canada's Expert Task Force report on Substance Use and should be implemented immediately as one key initiative to stem the loss of life due to overdose and help ensure the right to health and life. The DULF Fulfillment Center and Compassion Club model is saving lives right now, and will save more if we are permitted to continue our work with federal authorization.

II - Background: the Volatility of the Illegal Drug Supply is Killing People

Opioid overdoses are killing PWUD in unprecedented numbers, mainly because of the unpredictability of the content and potency of their drugs. This continues to be an urgent public health crisis as six British Columbians die every day, and it has been over five years since British Columbia's Provincial Health Officer declared a public health emergency due to rising rates of illicit drug toxicity deaths. With 16.6 per 100,000 population opioid-related fatalities between January and December 2020, Canada is experiencing the most severe public health crisis in the modern era, with the western provinces, and in particular BC, being most affected, as demonstrated by an opioid-related overdose death rate in 2020 of 32.4 per 100,000 population (i.e. two times higher than the national rate).[12] It is estimated that 70,000 potential years of life were lost due to illicit drug toxicity deaths in BC in 2020, with an average age at death of 43 years old.[13] Since 2016, a range of health sector programs and services have been implemented to reduce drug toxicity events, injuries, and deaths, including a small number of "safe supply" programs. Despite these efforts, the overdose death rate in BC has continued to worsen in 2021. From January 1, 2021, to May 31, 2021, the death rate was 39.3 per 100,000 population; putting 2021 on track to be the deadliest year yet.[14]

While BC experienced a decline in illicit drug toxicity death rates in 2019 (984 compared to 1,549 in 2018), drug toxicity events remained high in this same period. The downward trend in deaths was reversed in 2020, with the province experiencing a record high of 1,728 drug toxicity deaths that year—a 74% increase over 2019. This surge has continued into 2021, and as of May 31, 2021, there have been 851 illicit drug toxicity deaths – almost six drug toxicity deaths per day.[15] Paramedic-attended drug toxicity events have also climbed in 2020 and again in 2021, reaching an all-time high of 1,867 in April 2021.[16]

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[12] Public Health Agency of Canada (2021). Apparent Opioid and Stimulant Toxicity Deaths: Surveillance of Opioid- and Stimulant-Related Harms in Canada. Available at: https://health-infobase.canada.ca/src/doc/SRHD/UpdateDeathsJune2021.pdf

[13] BC Centre for Disease Control (2021). Dual Public Health Emergencies: Overdose in BC During COVID-19. Available at: http://www.bccdc.ca/resource-gallery/Documents/Statistics%20and%20Research/Statistics%20and%20Reports/Overdose/2021.04.16_Infographic_OD%20Dashboard.pdf

[14] B.C. Coroners Service. (2021). Illicit drug toxicity deaths in B.C., January 1, 2011 to May 31, 2021. Available at: https://www2.gov.bc.ca/assets/gov/birth-adoption-death-marriage-and-divorce/deaths/coroners-service/statistical/illicit-drug.pdf

[15] B.C. Coroners Service. (2021). Illicit drug toxicity deaths in B.C., January 1, 2011 to May 31, 2021. Available at: https://www2.gov.bc.ca/assets/gov/birth-adoption-death-marriage-and-divorce/deaths/coroners-service/statistical/illicit-drug.pdf

[16] BC Centre for Disease Control. (2021). Paramedic attended overdose events. Available at: http://www.bccdc.ca/health-professionals/data-reports/overdose-response-indicators#BCAS

Also concerning is the increasing contamination of drugs other than opioids, including cocaine and crystal methamphetamine, and the increasing role that these drugs have played in driving the current overdose crisis. The proportion of completed drug toxicity death investigations that identified the presence of methamphetamine increased from 14% in 2012 to 43% in 2020, and the proportion of completed investigations that identified opioids other than fentanyl and cocaine have steadily declined from 2012 to 2020. Cocaine was detected in 46% of drug toxicity deaths in 2020.[17]

The recent emergence of synthetic benzodiazepine (i.e., Etizolam) in the drug supply has further complicated efforts to reverse and prevent overdoses. According to BC Coroner's Service toxicology reports, benzodiazepines were detected in nearly 60% of suspected overdose deaths in May 2021, which is four times higher than the percentage reported ten months prior, in July 2020 (15%).[18] This data makes it clear that the drug supply has become increasingly toxic, and that this toxicity has become more widespread and complex, thus requiring a more immediate and vigorous response. Further, a recent and particularly concerning development in the Vancouver drug supply is the sharp increase in the variance of fentanyl concentration occurring shortly after the enactment of COVID-19 restrictions (Figure 1).[19] Evidence also suggests a correlation between average monthly fentanyl concentration and overdose deaths in Vancouver (Figure 2).[20, 21]

[17] B.C. Coroners Service. (2021). Illicit drug toxicity deaths in B.C., January 1, 2011 to May 31, 2021. Available at: https://www2.gov.bc.ca/assets/gov/birth-adoption-death-marriage-and-divorce/deaths/coroners-service/statistical/illicit-drug.pdf

[18] BC Coroners Service. (2021) Illicit Drug Toxicity: Type of Drug Data to May 31,2021. Ministry of Public Safety and Solicitor General. Available at: https://www2.gov.bc.ca/assets/gov/birth-adoption-death-marriage-and-divorce/deaths/coroners-service/statistical/illicit-drug-type.pdf

[19] BC Centre on Substance Use. (2021). Monthly median fentanyl concentration of drug checking samples overlaying the counts of illicit drug toxicity deaths in Vancouver, BC. [unpublished data; see Appendix A].

[20] BC Centre on Substance Use. (2021). Monthly median fentanyl concentration of drug checking samples overlaying the counts of illicit drug toxicity deaths in Vancouver, BC. [unpublished data; see Appendix A].

[21] Tobias, S., Grant, C., Laing, R., Arredondo, J., Lysyshyn, M., & Buxton, J. et al. (2021). Time-series Analysis of Fentanyl Concentration in the Unregulated Opioid Drug Supply in a Canadian Setting. *American Journal Of Epidemiology*. https://doi.org/10.1093/aje/kwab129

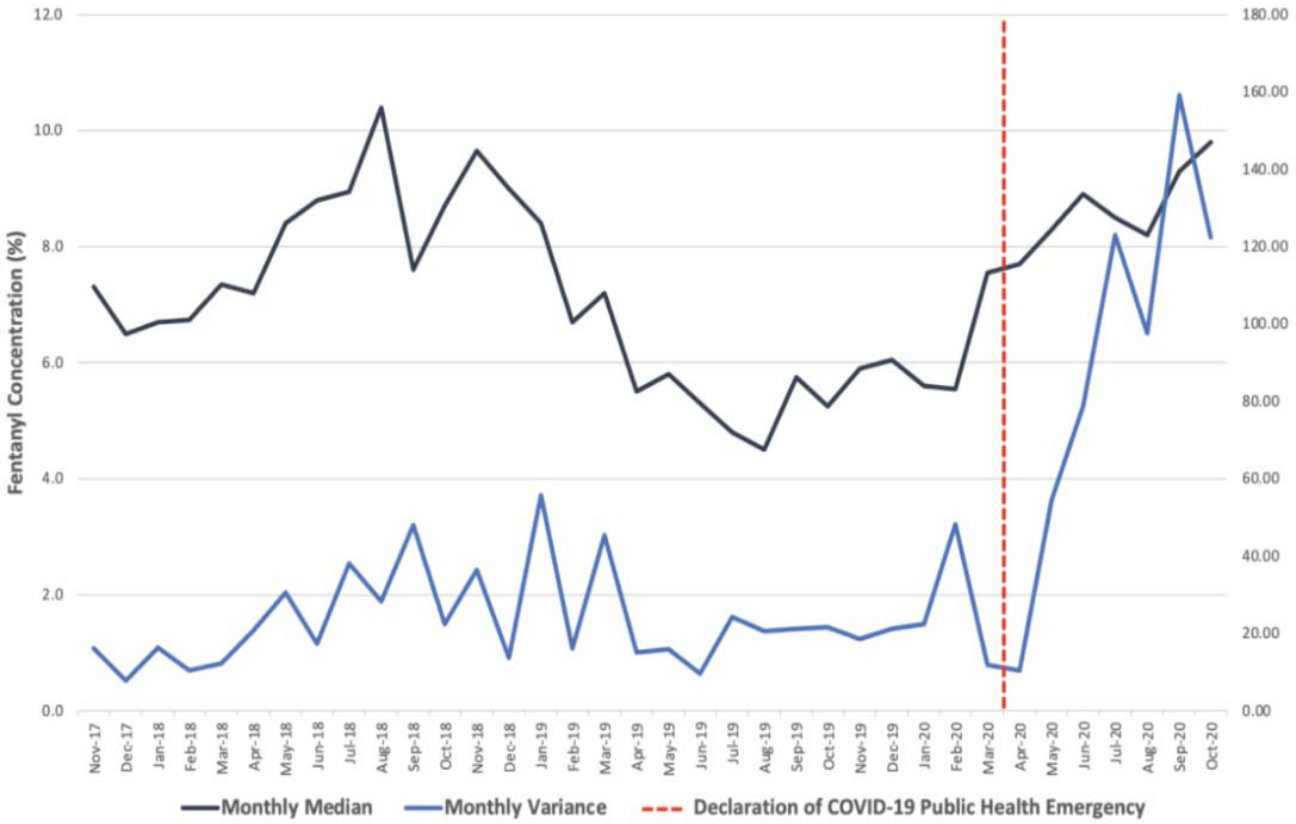

Figure 1: Monthly median fentanyl concentration and monthly variance of fentanyl concentration of fentanyl-positive opioid drug checking samples in Vancouver, BC.[22]

[22] BC Centre on Substance Use. (2021). BC Centre on Substance Use. (2021). Monthly median fentanyl concentration and monthly variance of fentanyl concentration of fentanyl-positive samples in Vancouver, BC.. [unpublished data; see Appendix B].

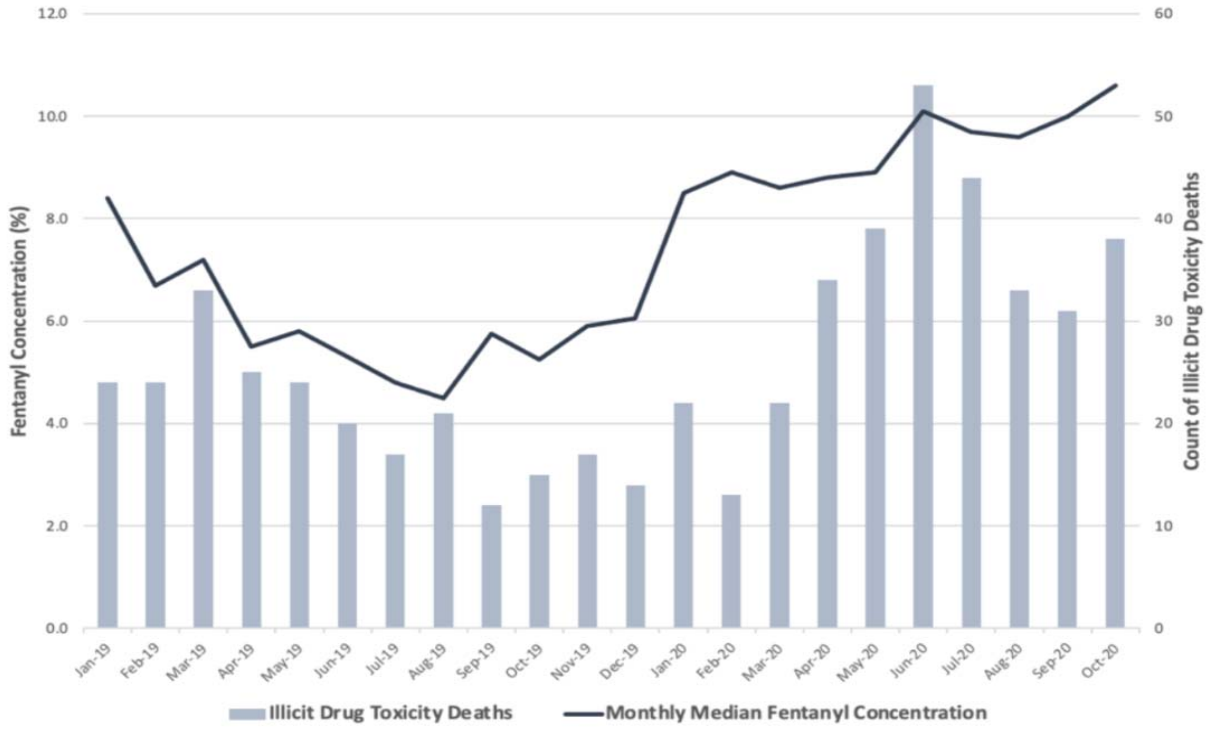

Figure 2: Monthly median fentanyl concentration of opioid drug checking samples overlaying the counts of illicit drug toxicity deaths in Vancouver, BC.[23]

In 2019, First Nations people in B.C. died due to drug poisonings at 3.9 times the rate of non-Indigenous people. In 2020, this increased to a rate of 5.3 times. While males represent almost 80% of all deaths, First Nations women, in particular, experience a higher risk from the toxic drug emergency, representing 32.2% of First Nations deaths in 2020, as compared to non-Indigenous women (16.6% of non-Indigenous deaths).[24]

In addition to high mortality rates, the drug toxicity crisis is leading to additional drug-related health and social impacts. These harms include the devastating impacts of grief and loss on family, friends and community. The continued number of deaths also has negative impacts on the mental health (i.e. burn-out and traumatic stress) of front-line workers and health professionals who see the impacts of illicit drug toxicity deaths and events daily. As well, anoxic brain injuries resulting from non-fatal illicit drug toxicity events, have contributed to morbidity and mortality, reduced individual quality of life, and resulted in significant costs to the health care

[23] BC Centre on Substance Use. (2021). Monthly median fentanyl concentration of drug checking samples overlaying the counts of illicit drug toxicity deaths in Vancouver, BC. [unpublished data; see Appendix A].
[24] First Nations Health Authority. (2021). First Nations in B.C. and the toxic drug crisis. Available at: www.fnha.ca/about/news-and-events/news/first-nations-toxic-drug-deaths-doubled-during-the-pandemic-in-2020

system.[25] The total health costs of opioid use alone in BC are estimated to exceed $90 million annually and the economic costs of lost productivity associated with opioid use are close to $1 billion annually.[26] Clearly, more must be done to provide consumer protection and thereby ensure the right to life and the security of the person among those people in Canada at risk of overdose.

Perhaps what emphasizes most the harms of the current unregulated supply are the voices of people who use drugs. Attached in Appendix C are nine signed statements from members of VANDU, all of whom sincerely express the need to provide an accessible alternative to the toxic street supply.[27] Further, in Appendix D is a sworn affidavit from community member Eris Nyx voicing the devastation she has witnessed from the current unregulated drug market.[28]

III – Providing Drug Users with Non-Toxic Drugs Vastly Lowers the Death Rate

In a recent 'Policy Direction' titled *Access to Prescribed Safe Supply in British Columbia* (July 15, 2021),[29] BC's Ministry of Mental Health and Addictions and Ministry of Health reviewed the deadly impact of the toxic illegal drug supply. This document concludes by endorsing an enabling framework that supports the provision of pharmaceutical grade alternatives to illicit drugs to people who are at risk of drug toxicity events and death. The goals of this policy are to reduce drug-related harms, including toxicity injuries and deaths, enhance connections to health and social supports, and improve overall health and wellness for people receiving these medications. The policy directive outlined is a shared responsibility of the Ministry of Mental Health and Addictions and the Ministry of Health, and is part of a commitment by the government to establish prescribed alternatives to toxic drugs as one tool in a *comprehensive package of essential health sector interventions* that guide the response to the overdose public health emergency. This package also includes take-home naloxone, overdose prevention services, acute overdose risk case management, and treatment and recovery, including low barrier access to the full spectrum of treatment services such as opioid agonist treatment (OAT). [30] The combined impact of these services is believed to have averted close to 6,000 drug toxicity death events between 2015 and 2019.[31]

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[25] BC Centre for Disease Control. (2020). Neurological injury following overdose: Preliminary descriptive results from the provincial overdose cohort. Available at: http://www.bccdc.ca/Health-Professionals-Site/Documents/Harm-Reduction-Reports/Neurological%20Injury_ODC_2020_01_03.pdf

[26] Canadian Substance Use Costs and Harms Scientific Working Group. (2020). British Columbia substance use costs and harms (2015–2017). (Prepared by the Canadian Institute for Substance Use Research and the Canadian Centre on Substance Use and Addiction.) Ottawa, Ont.: Canadian Centre on Substance Use and Addiction.

[27] VANDU Sworn Statements. (Appendix C)

[28] Affidavit of Eris Nyx. (Appendix D)

[29] https://www2.gov.bc.ca/assets/gov/overdose-awareness/prescribed_safer_supply_in_bc.pdf

[30] BC Overdose Emergency Response Centre (2017). Overdose emergency response centre: Terms of reference. Available at: www2.gov.bc.ca/assets/gov/overdose-awareness/terms_of_reference_nov_30_final.pdf

[31] BC Centre for Disease Control. (2019). B.C. deaths averted summary: British Columbia report. Unpublished data. See: Irvine, M., et al. (2019). Modelling the combined impact of interventions in averting deaths during synthetic-opioid overdose epidemic. Addiction, 114, 9, pp. 1602-1613.

Ultimately, we know that when drug users are provided non-toxic drugs, the death rate is vastly lower. Access to a safe supply of drugs (i.e. non-toxic and predictable in potency) saves lives. As Minister Hadju said in her August 24, 2020 letter, providing a safer alternative to the toxic street supply reduces reliance on street drugs and overdose deaths. The benefits of providing substitutes to illicit drug supply has been seen in the case of stimulant use, where prescription stimulant programs have been found to substantially reduce use of cocaine obtained via street-based sources.[32] Further, high-quality evidence derived from a recent systematic review of heroin prescription programs demonstrates reductions in mortality in the limited number of individuals able to access this form of intervention.[33] As well, experience from existing safe supply programs has demonstrated the potential of this life-saving approach. A safe supply program operating at London InterCommunity Health Centre has had a 90% retention rate over four years and not a single death among the 118 individuals participating in this program has occurred.[34] Evaluations of a low-barrier program that provides supervised consumption and drug checking services, as well as injectable liquid and tablet hydromorphone in Vancouver, have found that the program is reducing use of street drugs and overdose risk, with no deaths recorded over 128,944 visits.[35, 36] However, the provision of injectable liquid hydromorphone was limited to 10 individuals, while another 59 received tablet hydromorphone. While such findings demonstrate the promise of safe supply approaches, they also reveal the ongoing issues related to the inadequate coverage of existing programs. However, this evidence aside, and given the rapidly increasing contamination of the drug supply, it's common sense – providing an alternative to contaminated drugs will save lives. This is why Health Canada is funding safe supply projects across the country and why you, Minister, are urging Provinces and Territories to "look at your sphere of influence and work to remove barriers to implementing a safer supply".

As shown below, a recent report from Health Canada's Expert Task Force on Substance Use highlighted the importance of immediately implementing a diverse array of safe supply models in partnership with people who use drugs:

> *Recommendation: Include as an urgent priority of the CDSS developing, implementing, and evaluating a comprehensive emergency response strategy to scale up access to*

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[32] Tardelli VS, Bisaga A, Arcadepani FB, Gerra G, Levin FR, Fidalgo TM. Prescription psychostimulants for the treatment of stimulant use disorder: a systematic review and meta-analysis. Psychopharmacology. 2020 Aug;237(8):2233–55.

[33] Strang, J., Groshkova, T., Uchtenhagen, A., van den Brink, W., Haasen, C., Schechter, M. T., Lintzeris, N., Bell, J., Pirona, A., Oviedo-Joekes, E., Simon, R., & Metrebian, N. (2015). Heroin on trial: Systematic review and meta-analysis of randomised trials of diamorphine-prescribing as treatment for refractory heroin addiction. *British Journal of Psychiatry*, *207*(1), 5–14. https://doi.org/10.1192/bjp.bp.114.149195

[34] Felicella, G., Bonn, M., Johnson, C., Sereda, A. (2020) COVID-19, Substance USe, and Safer Supply: Interim Clinical Guidance to Reduce Risk of Infection and Overdose [Webinar] Available at: https://www.bccsu.ca/wp-content/uploads/2020/04/Webinar-Safer-Supply-pt-2.pdf and https://www.bccsu.ca/wp-content/uploads/2020/04/Webinar-Safer-Supply-pt-1.pdf

[35] Olding, M., Ivsins, A., Mayer, S., Betsos, A., Boyd, J., Sutherland, C., Culbertson, C., Kerr, T., & McNeil, R. (2020). A Low-Barrier and Comprehensive Community-Based Harm-Reduction Site in Vancouver, Canada. *American Journal of Public Health*, *110*(6), 833–835. https://doi.org/10.2105/AJPH.2020.305612

[36] Olding, M., Ivsins, A., Mayer, S., Betsos, A., Boyd, J., Sutherland, C., Culbertson, C., Kerr, T., & McNeil, R. (2020). A Low-Barrier and Comprehensive Community-Based Harm-Reduction Site in Vancouver, Canada. *American Journal of Public Health*, *110*(6), 833–835. https://doi.org/10.2105/AJPH.2020.305612

safer alternatives to the toxic illegal drug market in partnership with people with lived and living experience and the organizations that represent them.[37] *(Health Canada, Task Force on Substance Use, 2021)*

IV - Barriers to Accessing Safe Drugs Cause People to Turn Back to Risky Street Drugs

Existing barriers to accessing safe drugs have led many people back to risky street drugs. In particular, a medicalized model means that (a) only users who meet the criteria for admission to the program are able to access those safe drugs, and (b) even among that group, the barriers will mean that many of them will turn to risky drugs instead or continue to use them in addition to accessing drugs provided via safe supply programs. These limitations are being voiced by people who use drugs[38] and frontline workers[39] and are reflected in scientific literature.

An evaluation of a safe supply program in Vancouver found that, although the program was producing benefits, various barriers to program access limited uptake. Barriers included limited operating hours, wait times, and receiving the generic formulation of hydromorphone.[40] We have heard from an increasing number of people that existing safe supply programs simply do not provide drugs that people want or experience as an acceptable replacement for street drugs.[41, 42] In particular, the overreliance on the provision of hydromorphone tablets has been found to be problematic. Further, there is growing debate about the value of prescriber-led models that prioritize treatment and limiting diversion of prescribed medications. Calls for a more public health-based approach to safe supply are being made, and there is growing recognition that a greater diversity of program models is needed. This too is reflected in recent recommendations focused on safe supply from the Health Canada Expert Task Force on Substance Use:

- *Develop new pathways for outreach, screening, and drug distribution, and work to implement them. Services including all pathways to support optimum health must be visible and readily available for those seeking these additional supports.*

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[37] Health Canada. Expert Task Force on Substance Use. (2021). *Recommendations on the Federal Government's Drug Policy as Articulated in a Draft Canadian Drugs and Substances Strategy (CDSS).* Available at: https://www.canada.ca/en/health-canada/corporate/about-health-canada/public-engagement/external-advisory-bodies/expert-task-force-substance-use/reports/report-2-2021.html#a3

[38] VANDU Sworn Statements. (Appendix C)

[39] Affidavit of Eris Nyx. (Appendix D)

[40] Ivsins, A., Boyd, J., Mayer, S., Collins, A., Sutherland, C., Kerr, T., & McNeil, R. (2021). "It's Helped Me a Lot, Just Like to Stay Alive": A Qualitative Analysis of Outcomes of a Novel Hydromorphone Tablet Distribution Program in Vancouver, Canada. Journal of Urban Health, 98(1), 59–69. https://doi.org/10.1007/s11524-020-00489-9

[41] British Columbia Centre on Substance Use. (2019). Heroin compassion clubs: A cooperative model to reduce opioid overdose deaths and disrupt organized crime's role in fentanyl, money laundering and housing unaffordability. Vancouver: BCCSU Available at: www.bccsu.ca/wp-content/uploads/2019/02/Report-Heroin-Compassion-Clubs.pdf

[42] Ivsins, A., Boyd, J., Mayer, S., Collins, A., Sutherland, C., Kerr, T., & McNeil, R. (2020). Barriers and facilitators to a novel low-barrier hydromorphone distribution program in Vancouver, Canada: A qualitative study. Drug and Alcohol Dependence, 216, 108202. https://doi.org/10.1016/j.drugalcdep.2020.108202

- *Initiate a process to engage people with lived and living expertise in using criminalized substances and harm reduction to substantively collaborate on all aspects of the emergency safer supply strategy.*

At the end of the day, the more accessible the supply of safe drugs is, the more users will access those drugs and the more lives will be saved. As mentioned above, interventions led by PWUD are **evidence-based interventions**. Low-threshold harm reduction interventions led by drug users themselves have been shown in the scientific literature to be more acceptable than conventional health services among drug users most at risk of drug-related harm, and consequently more effective in reaching this population.[43] In doing so, peer-led interventions of this kind significantly extend the reach and effectiveness of existing programs that are not peer-led, and should be regarded as an essential component of the response to the overdose crisis. Given the limited reach and coverage of existing safe supply programs, the ever-escalating overdose crisis, as well as the recommendations of Health Canada's own Expert Task Force on Substance Use, it is clear that efforts must now be made to support safe supply interventions led by those with lived and living experience of substance.

V- Prohibition Doesn't Work

We know that people use illegal drugs for many reasons, including relief from pain and psychological trauma, as well as addiction. The reality is that they use them despite the criminalization and despite, even, the enormous risk the current toxicity of the drug supply presents. The recent spike in overdose deaths is preventable, but this requires a shift in our thinking towards drug policy. As with the prohibition of alcohol, the current Canadian drug policy regime has had three effects on the illicit market, namely: (1) organized crime has increased its reach and strength; (2) the potency of drugs has increased; and (3) drugs have become more dangerous to their users. Further, a large body of evidence shows that enforcement activities within drug markets have the effect of pushing people away from services to avoid arrest and into more isolated settings, where the risk of overdose is greatest.[44,45,46] Presently, the majority of overdose deaths taking place in BC occur among those using drugs alone within private residences.[47] Such impacts are consistent with the conclusions of The Lancet Commision on

[43] Callon, C., Charles, G., Alexander, R., Small, W., & Kerr, T. (2013). 'On the same level': Facilitators' experiences running a drug user-led safer injecting education campaign. Harm Reduction Journal, 10(1), 4. https://doi.org/10.1186/1477-7517-10-4

[44] Wood, E. (2004). Displacement of Canada's largest public illicit drug market in response to a police crackdown. Canadian Medical Association Journal, 170(10), 1551–1556. https://doi.org/10.1503/cmaj.1031928

[45] Kerr, T., Small, W., & Wood, E. (2005). The public health and social impacts of drug market enforcement: A review of the evidence. International Journal of Drug Policy, 16(4), 210–220. https://doi.org/10.1016/j.drugpo.2005.04.005

[46] Small, W., Kerr, T., Charette, J., Schechter, M. T., & Spittal, P. M. (2006). Impacts of intensified police activity on injection drug users: Evidence from an ethnographic investigation. International Journal of Drug Policy, 17(2), 85–95. https://doi.org/10.1016/j.drugpo.2005.12.005

[47] B.C. Coroners Service. (2021). Illicit drug toxicity deaths in B.C., January 1, 2011 to May 31, 2021. Available at: https://www2.gov.bc.ca/assets/gov/birth-adoption-death-marriage-and-divorce/deaths/coroners-service/statistical/illicit-drug.pdf

Drug Policy, which noted that prohibitionist drug policy is not only ineffective - it has caused immense preventable harm.[48]

VI - The DULF Fulfillment Center and Compassion Club Model is Saving Lives Right Now and Will Save More if We are Permitted to Continue our Work

Understanding that the toxicity of the illegal supply of drugs is killing people, that prohibition doesn't work, that the provision of a safe supply saves lives, and that current models of medicalized safe supply are too high-barrier for most drug users, innovative public health policy and programs must be created. We believe that DULF and VANDU have a credible and tested plan for providing safe drugs for no profit and with the exclusive aim of protecting lives.

This model, called the DULF Fulfillment Center and Compassion Club model, is a market and consumer protection intervention wherein street drugs are tested, and then returned to the market in packaging that states the drugs' contents. To this end, this model requires an institution to act as the main point of contact to source substances from reliable vendors on darknet markets, bearing in mind that if a pharmaceutical or licit means to obtain substances for compassion clubs were to become available, this would be the preferable route. However, in the current legislative environment people are still required to access their substances through the black market, which is dangerous, exploitative, and unpredictable for individuals. We believe that allowing PWUD to form buying cooperatives through DULF allows them more power to demand and receive the substances they want at more reasonable prices and quality. Further, by leveraging the power of darknet markets, DULF removes many of the well-documented dangers of purchasing substances on the street.

To this point, Dr. Mark Lysyshyn, Deputy Chief Medical Health Officer of Vancouver Coastal Health, has provided a letter of support outlining the potential benefits of this model.[49] Further, as demonstrated by written statements by people who use drugs[50] and a sworn affidavit,[51] people who have already accessed safe supply from the compassion club model have experienced significant benefit and safety from these programs.

VII - The DULF Fulfillment Centre and Compassion Club Model

The DULF Fulfillment Centre model is a market and consumer protection intervention that takes existing illicit drugs, tests them, labels them, and reintroduces them into the market without profiting on their reintroduction.

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[48] Csete, J., Kamarulzaman, A., Kazatchkine, M., Altice, F., Balicki, M., Buxton, J., Cepeda, J., Comfort, M., Goosby, E., Goulão, J., Hart, C., Kerr, T., Lajous, A. M., Lewis, S., Martin, N., Mejía, D., Camacho, A., Mathieson, D., Obot, I., … Beyrer, C. (2016). Public health and international drug policy. The Lancet, 387(10026), 1427–1480. https://doi.org/10.1016/S0140-6736(16)00619-X

[49] Vancouver Coastal Health Letter of Support (Appendix E)

[50] VANDU Sworn Statements. (Appendix C)

[51] Affidavit of Eris Nyx. (Appendix D)

A - Obtaining the Substances

The preferable method to obtain substances for compassion clubs is to purchase pharmaceutical-grade cocaine, heroin and methamphetamine from a properly licensed and regulated producer. This method is not possible under the current regulatory framework, however. In the absence of permissions to obtain substances in this manner, a DULF fulfillment centre would search for and obtain substances in the illicit market through the darknet markets from vendors in Canada. Purchasing online has the benefit of reducing interactions and potential violence from buying in-person, and due to the nature of these darknet markets, vendors would remain anonymous.

B - Storage of the Substances

Once DULF receives the substances, the organization would immediately put the substances into a secure safe onsite and log the supply in an inventory record. This record would be subjected to a daily count to ensure there is no theft, loss or diversion. Further, records would also be kept on any dispensation including to compassion clubs or to club members.

C - Testing the Substances

Before labeling and packing the substances, DULF would implement a quality control process utilizing Fourier-transform infrared spectroscopy (FTIR) drug checking services and fentanyl and benzodiazepine immunoassay test strips. By testing the substances at a point higher up the chain of distribution, this model exponentially increases the effect of drug checking as a harm reduction service.

Currently, FTIR drug checking can provide information on mixture components above ~5% by weight, and roughly quantify components to within +/- 5%.[52] If this compassion club model were sanctioned, we could also explore means of accessing more reliable and sensitive testing equipment to improve the quality control mechanism.

D - Packaging the Substances

A key component to the harm reduction facilitated by compassion clubs is that people are provided with the information they need to make an informed choice to use the substance. Unlike when consumers purchase their drugs off the street, substances from the DULF compassion club would be labeled with the contents and percentage composition of the substance, as determined by FTIR. In a similar fashion to tobacco labeling, the packaging is also plain with warnings of the highly addictive nature of the substances and impairing effects, and with warnings to not operate any vehicles or machinery. Examples of DULF labeling are provided in Figure 3. Provided with resourcing or the ability to operate at-cost, the cooperative

[52] BC Centre on Substance Use. (2019). Drug Checking: Operational Technician Manual. Available at: https://www.bccsu.ca/wp-content/uploads/2019/03/BCCSU-Technician-Manual-March-2019.pdf

could employ tamper-resistant and anti-counterfeit packaging to increase the safety and reliability of the service.

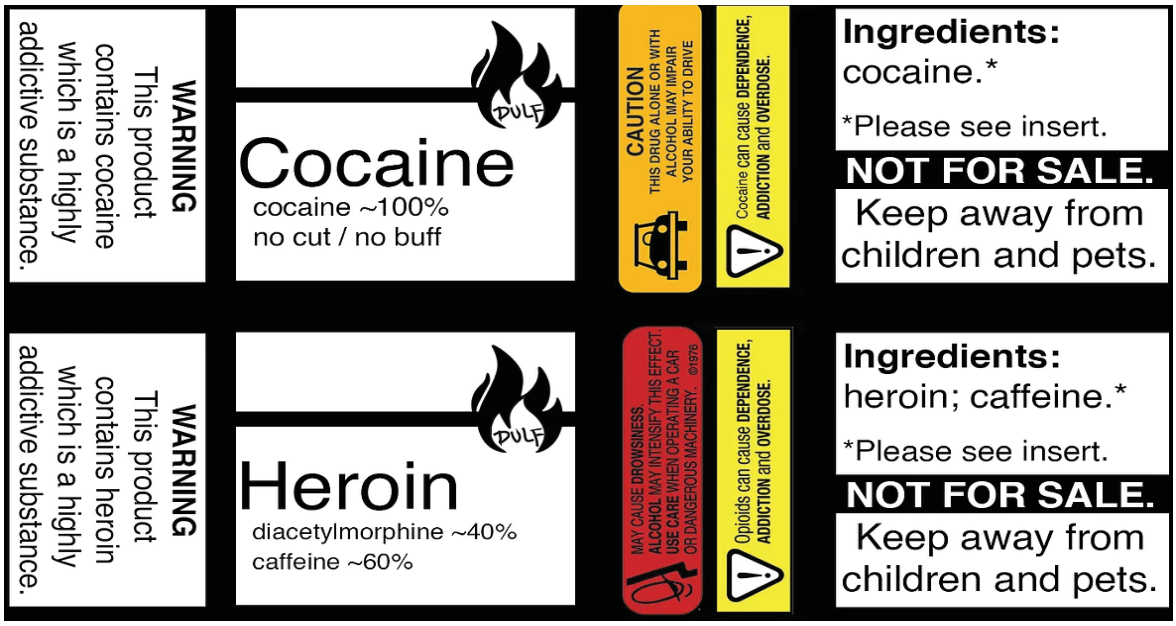

Figure 3*:* DULF packaging example with ingredients, quantity and warnings.

E - Distributing the Substances

To function at scale, DULF would create a high security fulfillment centre which would be charged with procuring, testing, labeling and packaging all the substances into units requested by the club participants. People would access the compassion clubs through their local drug user groups who would act as the main point of contact for PWUD looking to access the service. Substances would be sent out on an as needed basis to drug user groups to distribute to members.

In order for a drug user group to become a distributing compassion club through DULF they must comply with minimum safety and screening standards. These standards are:

1. Keeping an active membership list.
2. Ensuring secured and double-locked storage for all substances.
3. Keeping records for amounts of substances distributed and to which members.
4. Maintaining financial records and having accountability processes.

F - Member Screening and Support

Membership screening is to be conducted by a current member of the DULF Compassion Club and a staff member or volunteer. The primary purpose of the screening is to determine if an individual meets the minimum requirements for membership, which are that the person is over eighteen (18) and is currently using illicit drugs. In full operation, the screening

process will also be used to determine other needs that are not being met by club membership, such as assistance to navigate social support systems or accessing recovery/detox services; as such needs are identified the club could expand into offering such services.

G -Financing

The current nature of the illicit drug market is that market power rests with dealers and distributors rather than consumers, which allows exploitative pricing. A compassion club reliant on this market will either need to operate using donations or parallel revenue streams to subsidize the cost of substances to club membership. In order to achieve sustainability, the club may need to collect membership fees and payments for substances to maintain at-cost financing. However, with increased consumer purchasing power through the collective it is expected that costs will be drastically reduced and the financial harms of the war on drugs on PWUD will be drastically reduced.

Note: If cocaine, heroin and crystal meth were either able to be produced by DULF or provided through the existing pharmaceutical system the prices could significantly undercut market prices and provide more benefits to club members.

H - Individual and Community Impacts and Evaluation

In order to track safety and outcomes of substance use, DULF and VANDU will maintain records of all doses distributed and will regularly follow up with recipients to determine if the substances resulted in any harm, such as overdose.

Given that safe supply interventions have only recently begun to be implemented, and given that we are proposing a novel approach to safe supply programming, we believe it is important to undertake a rigorous evaluation of our efforts. We aim to work with support from local researchers to conduct a mixed-methods evaluation of the co-op program. The purpose of this study is to evaluate the effectiveness of this approach in meeting its primary objectives, including reducing overdose risk without generating unintended adverse impacts. This evaluation will involve the establishment of a prospective cohort study of co-op program participants (N = 100), which will include collection of baseline and semi-annual quantitative questionnaire data. Additionally, a subset of cohort participants will participate in in-depth qualitative interviews (N = 40) at baseline and at three to six months post program enrollment. If an exemption were to be granted, Thomas Kerr of the UBC Department of Medicine, Division of Social Medicine, has expressed interest in pursuing this evaluation. Given that safe supply programs, including co-op-based models, are currently being implemented or considered in a number of settings across Canada, this research will provide useful information to guide policy and practice development related to safe supply programming, and thereby inform the optimization of the overdose response.

VIII - Section 56(1) Exemption Needed for CHM Compassion Club

In order for VANDU to operate the CHM compassion club in a sanctioned manner, we require a Section 56 (I) exemption under the CDSA, allowing for the procurement, storage, and distribution of cocaine, methamphetamine, and heroin to compassion club members. It is necessary then that the exemption extends to all relevant provisions of the CDSA (i.e. possession, possession for the purposes of trafficking, trafficking, etc.) as well as accompanying regulations, as required. The exemption would be granted to the Vancouver Area Network of Drug Users, and would apply to the program itself, as well as all individuals who engage with it, including members, volunteers, and staff.

The exemption has obvious medical and scientific purposes given the current overdose crisis and the limited impact of existing interventions. However, we envision the exemption for the DULF Fulfillment Center as being chiefly in the public interest. For this reason, we are applying under the public interest branch of the section 56(1) provision.

The escalating rate of overdose is resulting in growing years of life lost (70,000 in BC in 2020), with most of these preventable deaths occurring among people under 50 years of age. This in turn generates considerable grief and suffering among family and friends of those lost, and continues to place a huge burden on first responders, other service providers, and community members who respond to overdoses. Burnout and trauma continue to take a huge toll on these groups, and put further strain on health and emergency services. Also routinely overlooked is the burden of morbidity resulting from non-fatal overdoses. Aside from the associated human suffering and disability (e.g., from anoxic brain injury), non-fatal overdoses burden health and emergency services, present a strain on resources, and drive up healthcare expenditures.

By displacing the illegal street-based market and thereby reducing engagement with it, our model has high potential to reduce individual and community harm. Beyond reducing overdose events, our model has the potential to reduce violence associated with drug markets and the reliance and expenditure associated with enforcement and incarceration, the latter of which is known to increase risk of overdose and infectious disease acquisition. Collectively, we believe these impacts will ensure that our program is highly cost-effective and likely cost-saving, particularly in light of recent estimates indicating that the total health costs of opioid use alone in B.C. are estimated to exceed $90 million annually and the economic costs of lost productivity associated with opioid use are close to $1 billion annually.[53]

IX - Conclusion

Canada continues to contend with the worst public health crisis of the modern era, with the province of British Columbia hardest hit. Despite the implementation and scale-up of

[53] Canadian Substance Use Costs and Harms Scientific Working Group. (2020). British Columbia substance use costs and harms (2015–2017). (Prepared by the Canadian Institute for Substance Use Research and the Canadian Centre on Substance Use and Addiction.) Ottawa, Ont.: Canadian Centre on Substance Use and Addiction. Available at: https://csuch.ca/publications/CSUCH-Canadian-Substance-Use-Costs-Harms-Report-2020-en.pdf

overdose prevention efforts, this epidemic has only worsened in recent years. This has been due primarily to ever-increasing contamination of the drug supply. This has prompted many groups, including Health Canada's own Task Force on Substance Use, to recommend the implementation of an array of safe supply programs. While a number of such programs have now been implemented, experience and evidence has consistently revealed various barriers to engagement, and as a result, these programs have failed to reach a substantial number of those at risk of overdose, and therefore have yet to make a significant impact on reducing overdose injuries and deaths. This has led many to call for novel models that move away from prescriber-based approaches to safe supply provision.

The benefits of peer-led interventions in reducing risk among those most vulnerable has been shown in an ever-growing number of scientific works. There is no academic debate about the merits of such approaches, and as a result, health authorities across the country are making peer-led interventions a mainstay in the suite of programs offered to PWUD. However, at this time there are no sanctioned peer-led safe supply programs, which is unacceptable given the known benefits of peer-led programs, the escalating overdose epidemic, and the increasing calls for novel approaches to safe supply that involve people with lived and living experience – including those made by Health Canada's own Task Force on Substance Use.

We have clearly demonstrated the feasibility of the DULF Fulfillment Centre model, which for the reasons stated above is clearly in the public's interest and has high potential to help ensure the Section 7 Charter right to life and security of the person.[54] For these reasons we are requesting a Section 56 Exemption in order to proceed with a sanctioned model. Given the ever-escalating rate of preventable death due to overdose, there is a clear need for new and bold action. We are prepared to undertake such action through our Fulfilment Centre and hope that you will support our efforts and provide the necessary federal exemptions needed to operate our program in a sanctioned manner. Lives depend on it.

X - Request for an urgent decision or emergency temporary decision

Given the intensity of the current toxic drug supply crisis, a decision in respect of this Section 56 Exemption application is needed on an urgent basis. **We respectfully request a decision by October 15, 2021 at the latest**. Lives continue to be lost due to lack of access to a safe drug supply; this is a matter that requires your urgent attention.

We welcome engagement with you and your colleagues in respect of this application, and we look forward to seeking to clarify any aspect of the application and to address any concerns, and to discussing potential modifications to the proposed approach you think may be helpful. Our concern is to save lives from the threat of the toxic drug supply and we welcome working with you to that end.

[54] For clarity, we intend that the evidence we have cited be considered part of this application, and to that end we have sought to provide full citations and hyperlinks for ease of reference. If it would assist you to have a file provided to you with all of the sources referenced, we would be pleased to do so.

Respectfully,

Brittany Graham
Executive Director,
Vancouver Area Network of Drug Users
Brittany@vandu.org

Eris Nyx
Co-founder,
Drug User Liberation Front
Erissassafrasnyx@gmail.com

Jeremy Kalicum
Co-founder,
Drug User Liberation Front
Jeremykalicum@gmail.com