

Health Canada responds to *MJBizDaily*

MJBizDaily submitted the following questions to Health Canada regarding the ongoing legislative review of the cannabis law.

Here are the Canadian government's answers, published in full:

Does the expert panel plan to scrutinize post-2018 cannabis-related record suspensions? If not: I understand that the scope of the review is to be contained to the Cannabis Act itself, generally, however given that the cannabis record suspensions are inseparable to ending cannabis prohibition - particularly for Black and Indigenous people of color who suffered disproportionately under prohibition - why wouldn't the panel review those outcomes of legalization?

The focus of the review is the administration and operation of the Cannabis Act. Since the Panel may encounter matters that fall beyond the purview of its mandate, such as the excise tax framework, pardons, drug-impaired driving and provincial/territorial retail sale models, etc., the Panel may offer observations and will take steps to refer such matters to the appropriate federal departments and agencies with the authorities to consider such matters.

The Expert Panel will focus on conducting a comprehensive review of all available data and the best available evidence, including findings from national population surveys administered by federal partners that collect information on behaviours, attitudes, and outcomes related to cannabis; administrative datasets that contain information on adverse events associated with cannabis (e.g., hospitalizations, emergency department visits, poisonings); and scholarly, peer-reviewed literature.

The Panel will also apply a Sex and Gender-Based Analysis Plus (SGBA+) lens in its review of the Act by taking steps to systematically integrate sex, gender and intersectional considerations in its work.

The review will also be informed by the perspectives and lived experiences of the public, Indigenous communities and organizations, and stakeholders.

For more details on the scope of the review, please consult the attached terms of reference for the Expert Panel.

The public literature released along with the launch of the panel says the panel is independent. My question is independent from whom or what? Does the panel or chair receive any kind of approval for meetings with stakeholders? From whom?

The Cannabis Act requires the Minister of Health to conduct a review of the legislation, its administration, and operation, three years after coming into force. However, given that the Government of Canada is committed to undertaking a credible, inclusive, and evidence-driven

process for the legislative review, an Expert Panel, independent from Health Canada, was selected to lead the review.

The Expert Panel functions as an independent advisory body in accordance with the Health Canada Policy on External Advisory Bodies (2022). As such, the Panel has a clear mandate to undertake an evidence-based review of the Act and provide independent, expert advice to both the Minister of Health and the Minister of Mental Health and Addictions on progress towards achieving the Act's objectives and on the impacts of cannabis and the Act on Indigenous Peoples and communities. Panel members are required to act in their individual capacity and not as representatives of any current or prior organizations.

As part of the Expert Panel's mandate, they continue to engage broadly with and seek input from the public, other orders of government, Indigenous communities and organizations, youth, marginalized and racialized communities, people who access cannabis for medical purposes, and experts in relevant fields, including but not limited to, public health, substance use, criminal justice, law enforcement and the cannabis industry to gather perspectives. The Expert Panel does not seek approval for any of its meetings or engagement activities.

The Panel's findings will help to identify priority areas to improve the functioning of the Act, and its report will be tabled by the Minister of Health in both Houses of Parliament at the end of the 18-month legislative review period, by March 22, 2024.

The email referenced above, the one by Andrea Budgell to Morris Rosenberg on Sept. 27, says the Terms of Reference file 09-23-22.docx is 'with the ministers for approval'. Which minister(s) and was it approved? If not, could you please share the version of that document (the internal Terms of Reference) that was ultimately approved?

Both the Honourable Jean-Yves Duclos, Minister of Health, and the Honourable Carolyn Bennett, Minister of Mental Health and Addictions have approved and signed the Terms of Reference for the Expert Panel on the Cannabis Act Legislative Review. For your reference, please find attached the approved and signed version of the terms of reference.

The Cannabis Act says the health minister must "cause" a review 3 years after the law comes into force. Why did the review not launch until almost 4 years after? Why was the review launched before any of the members, besides the chair, were named?

On September 22, 2022, the Minister of Health and the Minister of Mental Health and Addictions announced the launch of the legislative review of the Cannabis Act, and appointed an independent Expert Panel to lead the review.

The Cannabis Act requires a review of the legislation to start three years after coming into force but does not mandate the start date of the review to be on the three-year anniversary.

The Expert Panel is supported by a dedicated Secretariat, housed in Health Canada, and the Chair, Mr. Morris Rosenberg, works closely with the Secretariat to advance the planning for the work of the Panel. Given this specific role, it was important to name the Chair first to be

transparent as quickly as possible, as the vetting process continued for the rest of the Panel members. This allowed time for the Chair, working with the Secretariat, to support the orientation for the Expert Panel and plan for future engagements, prior to the other panelists commencing in their roles, as the vetting process continued. Following their appointment, Panel members initiated their public outreach and stakeholder engagement efforts that is to help inform their independent assessment of the Act.

The thorough selection and appointment of Panel members was essential to the success of the Panel. It consisted of an independent review of the candidates and conflict of interest vetting, which took time to complete. The Ministers took a number of factors into consideration when making their selection such as geography, expertise, and demographic representation, as well as:

- Experience as a senior executive in the public or private sector;
- Depth and breadth of experience in fields relevant to the Cannabis Act (i.e., drug policy; public health; public safety; criminal justice/ law enforcement; data/ statistical analysis; and, Indigenous expertise);
- Capacity to exercise objectivity/ impartiality in the assessment of topics relevant to the Cannabis Act;
- Experience serving as a member of a board or working in similar committee structures;
- Experience engaging with stakeholders and with Indigenous communities, including the ability to build consensus, manage conflicts and foster debate; and
- Demographic representation (i.e., gender, bilingualism, geographic location, employment equity group).

In accordance with the Health Canada Policy on External Advisory Bodies 2022, all members were required to disclose their affiliations and interests relevant to the mandate of the Expert Panel.

The contract for Mr. Rosenberg is valued at \$199,444.99, inclusive of "applicable tax." Was that the final financial arrangement? Why did Health Canada employ a "sole source contract" for Mr. Rosenberg? Were any other candidates considered?

The Ministers have carefully selected individuals deemed best fit to represent Canada's diversity, with significant public sector experience, expertise in public health and justice, and experience engaging with Indigenous communities and organizations.

To fulfill the range of duties required by the legislative review, and in line with the Health Canada Policy on External Advisory Bodies (2022), the Chair of the Expert Panel will be remunerated for his work.

Mr. Rosenberg is well positioned to serve as Chair given his expertise and experience in the fields of justice, public health, and public safety at the federal level, and an understanding of the relationship between the Government of Canada and Indigenous peoples. Remuneration is given in consideration of the extensive time commitment that will be required from the Chair over an 18-month period and the range of responsibilities he has been assigned.

All other Panel members will conduct the review on a voluntary basis. Panelists will be provided with a nominal monetary payment in recognition of their contribution following the interim and final reports. Panelists will also be reimbursed for expenses incurred on approved travel, such as trip costs and accommodation, according to the Treasury Board's Directive on Travel, Hospitality, Conference and Event Expenditures.

The file 09-23-22.docx Terms of Reference asked the panel to examine "the geographic distribution of retail outlets in communities across the country", but isn't that provincial authority and not necessarily under the Cannabis Act?

The Expert Panel will conduct its work in a manner that respects jurisdictional roles and responsibilities. While the regulation of cannabis is a shared responsibility among all orders of government, the focus of the legislative review is on aspects of the framework within areas of federal jurisdiction and of the Minister of Health, who is the Minister responsible for the Cannabis Act.

While provinces and territories are responsible for developing, implementing, and enforcing distribution and retail sale of cannabis for non-medical purposes, and have authority to put in place more stringent public health and safety measures (beyond the minimum standards set out in the Cannabis Act) within their jurisdictions, provincial and territorial governments, Indigenous governments and municipal governments play important and distinct roles in the implementation of the cannabis framework. These governments will be active players and have an important voice throughout the review process, and any feedback received on issues under their jurisdiction will be referred to as appropriate.