



## Illusion and Confusion: Ontario Superior Court, The Ministry of Health, and the *Community Care and Recovery Act (CCRA)*

**As interveners attending the CCRA challenge at Ontario Superior Court that concluded on Tuesday,** we aim here to provide insight and clarity about the future of supervised consumption services (SCS) in Ontario. The strong public interest, the language of the Act, statements made at Ontario Superior Court, and comments from the Act's designated approval authority - the Ontario Minister of Health - have understandably led to confusion.

### What To Know:

**In advance of a decision from the Ontario Superior Court about a) injunctive relief and b) Charter issues that could alter the current prohibitions contained within the CCRA:**

- Provincial agreements with Consumption and Treatment Services (CTS) sites located within 200m of a "designated premise" such as a school or childcare facility were terminated by Ontario in 2024, including those sites with agreements extending beyond April 1, 2025.
- Any SCS sites operating under a federal Urgent Public Health Needs Site (UPHNS) designation and receiving municipal support such as funding will close by April 1, regardless of where they are located.
- Any SCS sites operating under a federal UPHNS designation without municipal support and located within 200m of a designated premise must close by April 1.
- Any entity (e.g. a charity) except a municipality may apply or re-apply for a federal UPHNS site. The CCRA prohibits, without the Minister's approval, any municipal support, including bylaws and supportive resolutions, on UPHNS applications and operations.
- The Minister has been clear that no new consumption sites will be approved. Provincial approval is not required for UPHNS sites without municipal support.
- Should a designated premise open within 200m of a consumption service, the consumption service must close within 30 days, effectively eliminating opportunities for stable funding opportunities and operational certainty - and raising questions for Health Canada's appetite to approve UPHNS sites under those conditions
- It is unclear how UPHNS sites will be funded, and importantly, if Health Canada will entertain applications without sustainable funding and further, uncertainty of operations should a designated premise be established within the 200m buffer after approval for the UPHNS is granted.

### Practically speaking:

The approval authority - the Ontario Minister of Health - will not approve UPHNS sites that have municipal support. No new CTS sites will open, and moving an existing CTS outside of the 200m buffer is not an option. UPHNS consumption services that are municipally run or have municipal support are closing. UPHNS sites located within the 200m buffer are closing. In the future, a designated premise that opens within 200m of an existing consumption service will force the closure of a consumption service within 30 days. The federal exemption that could be granted for new or existing UPHNS sites is severely compromised by the CCRA given the difficulty of demonstrating sustainable funding, and stability of operations, required by Health Canada.

### **Inside and Outside, Before, During, and After Ontario Superior Court:**

The *Community Care and Recovery Act* (CCRA) was crafted by the Health Minister and government colleagues in 2024, who, despite being advised of extremely serious harms by internal advisors and counsel, rushed the CCRA through the Legislature in an atypical process just before Christmas.

At the CCRA's launch on November 18, Health Minister Sylvia Jones stated: "I want to be very clear, there will be no further safe injection sites in the province of Ontario under our government."

On Monday in Ontario Superior Court, Ontario's legal team maintained that the CCRA provides authentic options for re-locating existing consumption services threatened by the Act's 200m provision, or establishing new supervised consumption services. Ontario maintains the Act is essentially a 'zoning' matter aimed at protecting children. After applicants raised the Minister's November 18 statement in court, Ontario's legal team advised the judge to disregard statements from elected officials.

On Tuesday, a statement was provided by the Ministry of Health to journalist Jack Hauen of the Trillium: "Our government has been clear, we will not approve any new or relocating drug injection sites."

In essence, the Act offers Ontario residents, charities, and governments the illusion of allowing consumption services when in fact no provincial approvals would ever be granted to any municipally operated or supported consumption service anywhere in Ontario, under any circumstance, nor would provincial or municipal funding flow to new or relocated sites.

This effectively kills many CTS and UPHNS consumption services, and, likely, a significant albeit unknown number of Ontario residents who, like the individual applicants from Kitchener and Toronto, depend on these consumption services.

**The intent of the Provincial government, through the CCRA and the Health Minister's approval authority appears to be more about prohibiting proven interventions such as consumption and treatment services than "protecting children".** We note the support of several childcare centres: TNG Community Services - one of the applicants appealing to the court for relief - has successfully run a self-funded UPHNS consumption service co-located with a daycare facility for years. In Kitchener, the childcare centre across the street from the CTS worries about its closure. Peel region's UPHNS consumption service, successfully operating outside of the 200m buffer, in a municipal building with municipal funds allocated to November 2025, is being forced by the CCRA to cease operations.

We remain deeply disappointed by the architecture of the CCRA, a government that proceeded with full knowledge of the consequent harms, including deaths, and Ontario's position that the CCRA is just a simple "zoning" issue seeking to 'protect children' when in reality it is a deadly prohibition. This radical, fact-free approach is consistent with CTS applications previously submitted by desperate charities and municipalities across Ontario that idled at the Ministry of Health for years before being rejected in August. We remain disturbed by provincial frustration of public health benefit provisions contained in the federal *Controlled Drugs and Substances Act* S. 56 exemption that allow for UPHNS sites.

The CCRA and its many prohibitions on life-saving services compromise, not strengthen, both individual and community health and safety during what is, by any metric, a raging public health emergency of historical proportions. The Coroner data continues to reflect the absence of success in Ontario. The CCRA displays an absence of provincial interest in providing the evidence-informed interventions proven to improve everyone's health and safety.

May justice prevail.



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