

October 25, 2019

Re: Updates to the Hookah By-law

Dear Members of the Board of Health,

In November 2015, Toronto City Council, on the recommendation of the Board of Health, took action to address the public health risk of hookah-use by prohibiting its use in business establishments that are licensed by the City of Toronto.

The prohibition came into force on April 1, 2016. However, the City delayed its enforcement pending the outcome of a legal challenge by some hookah establishment owners. On July 1, 2017, the Ontario Superior Court of Justice upheld the City's hookah-use prohibition and enforcement began.

Preliminary data and analysis from Toronto Public Health (TPH) suggests that the current approach to address the public health risk of hookah-use is not meeting Council's intention.

Toronto Public Health estimates that there are approximately 44 establishments in the City that continue to allow patrons to use hookah. This includes 24 establishments that have or are required to have a City of Toronto business license and are thus, in contravention of the City's hookah-use prohibition. These non-compliant premises continue to operate despite multiple charges, penalties, and in some cases, temporary closing orders. Since July 2017, TPH has conducted 287 inspections that have resulted in 102 convictions. A number of charges remain before the courts.

In addition, at least 20 establishments are operating without a City of Toronto business license. These businesses are not technically violating the City's hookah-use prohibition because they are not licensed by the City. This regulatory gap enables the continuation of the public health risk from hookah-use, which is contradictory to City Council's intentions on this issue. Existing enforcement powers under the Smoke-Free Ontario Act are not well suited to address the public health risk from hookah-use.

In light of the issues highlighted above, I am recommending that the Medical Officer of Health revisit the City's current approach to addressing the public health risk from hookah-use.

Recommendation:

- 1) That the Board of Health request that the Medical Officer of Health, in consultation with the General Manager of Municipal Licensing and Standards and other City divisions and stakeholders as needed, report in spring 2020 on:
 - a) The effectiveness of the City's current approach to address the public health risk from hookah-use by prohibiting its use in establishments licensed by the City of Toronto; and
 - b) Recommendations to close regulatory gaps that continue to present a public health risk from hookah-use in establishments including consideration of revisions to the current by-law.

Respectfully submitted,

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