

January 24, 2018

Vermont Opioid Coordination Council  
Vermont Department of Health  
108 Cherry Street  
Burlington, VT 05402

Dear Council members,

The Senate Committee on Judiciary recently took testimony on S.107, An act relating to limiting drug-related criminal liability and civil forfeiture actions against persons associated with an approved safer drug consumption program. The legislation proposes removing specific criminal and civil penalties for clients and staff of an approved safe consumption facility, but does not establish or fund such facilities. (*See attached S.107*) After considering the legislation, we are looking to the Council for a more in-depth review of the research and data to aid us in determining whether such legislation would be a useful tool in reducing the multiple harms associated with drug use and in increasing the opportunity for more people to access treatment.

The Committee heard from several witnesses, including Chittenden State's Attorney Sarah George, Commissioner of Public Safety Thomas Anderson, Sarah Evans of the Open Society Foundation, Grace Keller of the Howard Center's Safe Recovery Support and Education Program, UVM physician Patricia Fisher, and Theresa Vezina of Vermont Cares.

In November 2017, a commission created by Ms. George and composed of public health professionals, medical professionals, and law enforcement for the purpose of examining the various issues associated with safe consumption facilities released a report recommending the implementation of safe consumption sites in Chittenden County and around the State. (*See attached "A Public Health & Safety Analysis in Support of Supervised Injection Facilities."*)

The report stated that research data show that such facilities reduce overdose deaths, reduce transmission of infectious diseases and other health problems associated with intravenous drug use, provide an opportunity for treatment for long-term drug users, improve public safety by reducing public injecting of drugs and reducing discarded syringes in public locations, do not encourage increased drug use or an increase in crime in the areas in which such facilities are located, and decrease costs to the health care system.

While most witnesses who appeared before the Committee supported the concept of S.107, many in the law enforcement community remain opposed to such programs. Mr. Anderson raised concerns such as whether the removal of penalties for such sites could be perceived as a State sanctioning of illegal drug use and send the wrong message to youths about the dangers of drugs, whether the bill could create a market for drug dealers because clients of such facilities would need to purchase their drugs on the streets, and whether such sites actually aid in reducing the number of people addicted to opioids. Mr. Anderson also raised the issue that while Vermont could provide immunity under State law for such facilities, the people associated with them

would be subject to possible enforcement action under the federal Controlled Substances Act. (See attached “Written Statement of Thomas D. Anderson to the Vermont Senate Judiciary Committee, S.107.”)

The Committee respectfully requests that the Council consider the various points of view that have been expressed in response to this legislation and delve into additional issues that may help inform us as we consider the best path forward. Issues and questions from the Committee include:

- Whether any other states or municipalities in the United States are considering similar legislation or policy and what their process and experience has been for such consideration.
- The efficacy and outcomes of safe consumption facilities operating in other jurisdictions around the world.
- The costs to local or State government if such a facility were operated in Vermont by an independent organization and whether such a facility can result in net savings with respect to a reduced need for health care, emergency services, and law enforcement.
- The appropriate methods and measures for determining the health-related and public safety outcomes for such a facility.
- Whether there are legal risks or liabilities to the State in approving, but not operating, such a facility.
- The potential public safety issues associated with such a facility as evidenced by experience in other jurisdictions and whether there is any evidence that safe consumption facilities in other jurisdictions have increased crime in those neighborhoods or created a new market for drugs.
- Whether local governments should have the ability to prohibit such a facility from locating in that community or whether restrictions should be limited to time, place, and manner.

The Senate Committee on Judiciary shares the Council’s objective in developing and supporting prevention, treatment, recovery, and law enforcement strategies to address our State’s opioid epidemic. However, we also want to continue our efforts at harm reduction, recognizing that there are thousands of Vermonters addicted to opioids and only a fraction of those people are currently in treatment. We must do everything we can to give those Vermonters a chance at recovery. Increased availability of Narcan, immunity from liability for reporting drug overdoses, needle exchange programs, and medicated-assisted treatment are all important aspects of a harm-reduction model that works hand-in-hand with prevention, treatment, recovery, and law enforcement strategies. We look forward to hearing from you regarding whether safe consumption facilities can be a part of saving lives here in Vermont.