Zoning out methadone and rising opioid-related deaths in Ontario: Reforms and municipal government actions

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ABSTRACT

In this commentary, we argue that the use of amendments to bylaws by Ontario cities and municipalities to restrict where and how methadone maintenance treatment (MMT) clinics and pharmacies operate may run counter to efforts to prevent record high rates of opioid-related overdoses. As the province of Ontario seeks to reform the opioid treatment system, it is crucial to understand the structural (e.g., stigma) and treatment system organization factors that drive the actions of municipalities such as those described above. Changes that exacerbate these factors may lead to increased use of bylaws to curtail access at a time when efforts are underway to reduce alarming rates of opioid-related overdose.

KEY WORDS: Drug overdose; opiate substitution treatment; bylaws

La traduction du résumé se trouve à la fin de l'article.

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Since the mid 1990s, varied problems related to opioid use, its treatment, and community and government responses have arisen in Ontario and elsewhere in North America. A study by Gomes and colleagues showed that the rate of opioid-related deaths in Ontario rose from 127 deaths in 1991 to 550 in 2010.¹ The Canadian Centre for Substance Abuse reported that between 2011 and 2013, a fentanyl-implicated death occurred in Ontario about every three to four days.² Since the mid-1990s in Ontario, the opioid substitution treatment (OST) system, which includes methadone maintenance treatment (MMT), changed dramatically and access greatly improved. However, a recent report suggests that far too many people in Ontario may be receiving MMT.³ Concerns about opioid-related deaths and the OST system led the Ontario Ministry of Health to convene a new task force to examine reforms to this system.⁴ In this commentary, we argue that the use of municipal bylaws to zone out MMT clinics and pharmacies may undermine reforms.

MUNICIPAL BYLAWS AND MMT

As the numbers of people on MMT and of opioid overdoses have risen, an increasing number of municipalities in Ontario have sought to regulate the location of MMT practices and thereby restrict access to MMT. Exclusionary zoning practices seek to “zone out” particular services and businesses and the patients/clients they serve. Amendments to existing bylaws and the introduction of Interim Control Bylaws are used as long- and short-term measures to restrict MMT clinics. Five Ontario cities – London, Windsor, Quinte West, Belleville and Woodstock – have introduced or amended by-laws to distinguish MMT clinics and methadone-dispensing pharmacies from other medical services and as entities with distinct land use planning impacts (e.g., high patient volume leading to off-site line-ups, gathering and loitering outside the facility, illegal parking on adjacent properties, garbage and littering issues, public order issues, trafficking of methadone and narcotics

and prostitution activities in the vicinity of a clinic, and improper disposal of drug paraphernalia).⁵

As demonstrated with media reports below, the purpose of distinguishing MMT clinics and pharmacies from other medical services is to allow cities and municipalities to place additional restrictions and/or new requirements on these newly defined entities. For example, after redefining MMT clinics and pharmacies in London, ON, new requirements were placed on MMT clinics, such as additional parking spaces, security cameras, additional fencing, and maximum number of methadone doses dispensed per day.⁶ Particularly concerning is that during the time period when London was amending bylaws, the effect of which could lead to reduced access to MMT, the number of overdose deaths ($n = 41$) in 2012 attributable to prescription opioids was more than two times higher than the provincial (Ontario) rate.⁷

Amendments are also used to introduce new restrictions on locations where MMT clinics and dispensing pharmacies can open. Often, mandatory distances away from schools and other public venues are defined with regard to where MMT clinics and pharmacies can be situated.⁸ For example, in May 2011, the City of Windsor Council voted to change zoning bylaws to regulate how close MMT clinics could be to “sensitive land uses”, such as schools.⁸ The new regulations also stipulated that rezoning applications for any new addiction treatment centre would require public input.⁸ Despite reports that amendments occurred after complaints from neighbours about MMT clinics,

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local police noticed little negative impact of the MMT clinics on neighbourhoods.⁹

Not all amendments and new bylaws have been implemented as planned. For example, in London, the plan to mandate the use of security cameras at MMT clinics serving 40 patients or more was criticized by the College of Physicians and Surgeons of Ontario as a major intrusion on privacy¹⁰ and was eventually voted down by London City Council.¹¹

London, Quinte West and Tillsonburg have also used amendments to municipal bylaws to introduce regulations for new MMT clinics and pharmacies. For example, in May 2011, the City of Quinte West Council approved an interim control bylaw that prohibited establishing new MMT clinics and dispensaries for one year anywhere within Trenton, ON, one of its city wards.¹² At that time, there were no MMT clinics in any of the Quinte West city wards, including Trenton, and those on methadone travelled to either Peterborough or Belleville for treatment.¹² In Tillsonburg, an interim bylaw was passed in May 2012 to control the opening of MMT clinics while Council reviewed various Ontario municipalities' experiences with MMT clinics and dispensaries and completed a planning study on regulating this issue. At the time the bylaw was adopted, there were no MMT clinics operating in Tillsonburg.¹³

Finally, some city councils have amended existing bylaws to consider any application for opening of a MMT clinic or a harm reduction program on a case-by-case basis without pre-defining a set of requirements that must be met. For example, in July 2012, the City of Belleville Planning Advisory Committee approved zoning bylaw amendments to define drug rehabilitation centres, methadone clinics and methadone dispensaries. Any new clinic or dispensary would first need to apply for site-specific zoning approval, the criteria upon which the merit of each would be judged were not defined in the bylaw.¹⁴

Most notably, none of these bylaw amendments and interim controls include an evaluation component to determine whether the measures led to the desired or any undesired effects, including for example, reducing perceived public nuisance, impeding access to opioid substitution treatment (OST) and/or increasing or decreasing overdose deaths. Media in these cities consistently report that concerns about public nuisance and crime, and stigmatizing attitudes toward people who receive MMT, drive these bylaw changes, including in communities without MMT clinics or dispensaries.¹⁰⁻¹² These bylaws are designed to zone out MMT clinics and pharmacies and the clients they serve and are in opposition to the province's efforts to increase access to MMT and other forms of OST.

CONCLUSION

In Canada, the authority to provide health care, including OST, rests with the provincial governments, whereas municipalities have powers to regulate land use within their jurisdiction. Municipalities may exceed their authority when they use bylaws to restrict access to a health service including MMT. The Government of Ontario has been silent with respect to these municipal actions. Only the Ontario Human Rights Commission and the College of Physicians and Surgeons of Ontario have criticized and challenged these measures. Failure by the Ontario provincial government to challenge these municipal actions may constitute discrimination

against people with addictions, who are protected by the Canadian Human Rights Code.¹⁵ As the province of Ontario seeks to reform the opioid treatment system, it is crucial to understand the structural (e.g., stigma) and treatment system organization factors that drive the actions of municipalities, such as those described above. Changes that exacerbate these factors may lead to increased use of bylaws to curtail access at a time when efforts are underway to reduce alarming rates of opioid-related overdose.

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RÉSUMÉ

Dans ce commentaire, nous faisons valoir que l'utilisation par les villes et municipalités de l'Ontario de modifications à leurs règlements administratifs afin de limiter les lieux et les modes d'exploitation des

pharmacies et des cliniques de traitement de maintien à la méthadone (TMM) peut aller à l'encontre des efforts de prévention des taux record de surdoses liées aux opioïdes. Comme la province de l'Ontario cherche à réformer son système de traitement des opioïdes, il est essentiel de comprendre les facteurs structurels (p. ex., la stigmatisation) et les facteurs liés à l'organisation du système de traitement qui poussent les municipalités à adopter des mesures comme celles décrites ci-dessus.

Les modifications qui exacerbent ces facteurs peuvent entraîner un recours accru aux règlements administratifs pour restreindre l'accès, alors que l'on déploie des efforts pour réduire les taux alarmants de surdoses liées aux opioïdes.

MOTS CLÉS : mauvais usage des médicaments prescrits; traitement de substitution aux opiacés; statuts