

Corporate Report

NO: R118

COUNCIL DATE: May 26, 2003



REGULAR COUNCIL

TO: Mayor & Council DATE: May 21, 2003
FROM: City Solicitor FILE: 3900-20-14963
SUBJECT: Methadone Dispensing By-Law and Memoranda of Understanding with
Ministry of Health Services and the College of Pharmacists

RECOMMENDATION

1. That Council file By-law 14963 and give three readings to the By-law attached as Appendix "A". That Council enact the Methadone Dispensing By law attached as Appendix "A" to this report.
2. That Council approve the Memoranda of Understanding between the City and the Ministry of Health Services and the City and the College of Pharmacists which are attached as Appendix "B" and "C" respectively to this report.

PURPOSE

The purpose of this report is to recommend to Council that it enact a revised by-law regulating the dispensing of methadone in the City and approve the attached Memoranda of Understanding. The revised by-law attached as Appendix "A" to this report now has the support of the Ministry of Health Services, the College of Physicians and Surgeons and the College of Pharmacists.

BACKGROUND

Since my March 3, 2003 report to Council concerning City methadone treatment programs and their neighbourhood impacts and the introduction of By-law 14963 on March 5, 2003, representatives from the Ministry of Health Services, the College of Pharmacists and the College of Physicians and Surgeons, met with staff and members of Council on April 4, 2003. The concerns of these representatives focused primarily on personal privacy issues raised by police examination of medical records. The previous by law contained provisions that would have allowed the police to inspect and copy patient records directly at the pharmacy premises without a warrant.

Concerns were also voiced on whether local government had any jurisdictional role to play in regulating the dispensing of methadone and the professional conduct of pharmacists. On this point the City advised the health professions that it is responsible for law enforcement, and that there was no specific offence for dispensing methadone contrary to professional treatment guidelines. The by-law introduced on March 5, 2003 also received objections from the Information and Privacy Commissioner for British Columbia. The Commissioner was proposing to investigate

the by-law under section 42(1)(a) of the *Freedom of Information and Protection of Privacy Act*.

On April 10, 2003, the College of Pharmacists provided the City with proposals to address methadone related concerns in Surrey. On May 1, 2003 the City solicitor met with representatives of the Ministry of Health Services, College of Pharmacists and College of Physicians and Surgeons. At this meeting the framework for memoranda of understanding and a by-law acceptable to these parties was discussed.

DISCUSSION

As a result of staff meetings and discussions with the health professions a revised by-law was agreed to. The provisions respecting police examination of medical records without a warrant have been removed from the earlier by-law. The by law does, however, retain the offence of illegal dispensing of take-away doses or "carries" without the appropriate authorization by a physician who is specialized in the treatment of methadone patients. It also requires the pharmacist to ensure the prescription is consumed on the premises unless otherwise prescribed for a carry.

To address the privacy concerns of health professionals, and those matters of concern to the City, the Ministry of Health Services and the College of Pharmacists, have agreed upon the attached Memoranda of Understanding.

To help eliminate unauthorized take-away carries of methadone, the College of Physicians and Surgeons provided a confidential letter to me outlining their adherence to bi-annual focused audits of physicians to ensure they are only prescribing carries where warranted and that appropriate monitoring is taking place.

Pursuant to its Memoranda of Understanding the College of Pharmacists shall develop and undertake undercover operations at pharmacies and take appropriate action to notify the police and the City of these violations. The College will provide an annual reporting of its investigations. This procedure avoids the confidentiality concerns whereby police officers would directly access patient records without a warrant. This approach will allow the City police forces and the College to jointly investigate violations of the by law.

In addition, the College will provide the City with the quarterly statistical data that was previously required in the earlier March 2003 draft by law. This data will indicate the number of patients per pharmacy and the number and frequency of carries per patient. The number of patients at each pharmacy in the Lower Mainland receiving methadone treatment shall also be reported. The data will show the distribution of treatment facilities in relation to places of residence.

The Memoranda call for procedures to redirect patients to pharmacies in their own communities with the goal of achieving over time a maximum of thirty (30) caseloads to be treated by each pharmacy. While this goal is being achieved neither the Ministry nor the College of Pharmacists wish to compromise access to methadone maintenance treatment in Surrey. There will be some pharmacies exceeding the 30 patient caseload target until the redistribution of caseloads is complete.

Other Lower Mainland pharmacies not currently dispensing methadone shall be given training and shall be encouraged to provide treatment to ensure adequate caseload capacity in all communities.

The concept of redistribution of patients to pharmacies closer to their own homes is also being supported by the Ministry of Health Services as indicated in their Memorandum of Understanding attached to this report.

CONCLUSION

It is expected that close cooperation between the City, its police forces, Provincial health officials and the above noted health professionals will result in a deconcentration of methadone patients from the Whalley neighbourhood. This cooperation is also expected to help eliminate illegal carries and the trafficking of methadone. Staff will provide Council with regular updates on the progress in meeting the goals set out in the attached Memoranda and this report.

CRAIG MacFARLANE
City Solicitor

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