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the VOICE for  
registered nurses,  
nurse practitioners  
and nursing students  
in Ontario

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Health system transformation webinar series  
**Decriminalization of simple drug  
possession: Saving lives now!**

Monday, Oct. 17, 2022

# Land Acknowledgement

- RNAO is located on Huron Wendat, Haudenosaunee, and the Mississaugas of the Credit, Treaty 13.
- Dish With One Spoon Wampum Belt Covenant, (agreement between the Iroquois Confederacy and the Ojibwe and allied nations)
- This land is still the home to many First Nations, Inuit and Métis peoples from across Turtle Island.
- Land acknowledgments are an act of reconciliation and we must all do our part.



<https://native-land.ca/>

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**This session is  
being recorded**

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# Decriminalization of simple drug possession: Saving lives now!

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AGENDA	SPEAKERS
Welcome	Susan McNeill, associate director, RNAO
Overview of the issues: <ul style="list-style-type: none"><li>• overdose crisis and toxic drug supply</li><li>• rationale behind decriminalization and harm reduction</li></ul>	Matthew Kellway, director, nursing and health policy, RNAO
Panel discussion	<b>Cori Chapman:</b> retired nurse, mother, grandmother and great-grandmother <b>Kathy Moreland,</b> RN, active member of MOMS STOP THE HARM <b>Sandra Ka Hon Chu,</b> lawyer and co-executive director of the HIV Legal Network <b>Marysia (Mish) Waraksa,</b> NP and clinical lead for the Parkdale Queen West Safer Opioids Supply Program <b>Émilie Frenette,</b> primary health care NP and supervisor of Toronto Public Health's injectable opioid agonist therapy program
Questions and Answers	Sabrina Merali, manager, mental health and addiction program, RNAO
RNAO's <a href="#">#DecriminalizeNow</a> campaign	Matthew Kellway
Closure	Susan McNeill

# Panel discussion: Decriminalization of simple drug possession: Saving lives now!

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**Cori Chapman**  
Retired nurse,  
mother,  
grandmother and  
great-grandmother



**Kathy Moreland**  
Registered nurse,  
Active member of  
MOMS STOP THE  
HARM



**Sandra Ka Hon  
Chu**  
Lawyer and co-  
executive director of  
the HIV Legal  
Network



**Marysia (Mish)  
Waraksa**  
NP and clinical lead  
for the Parkdale  
Queen West Safer  
Opioids Supply  
Program

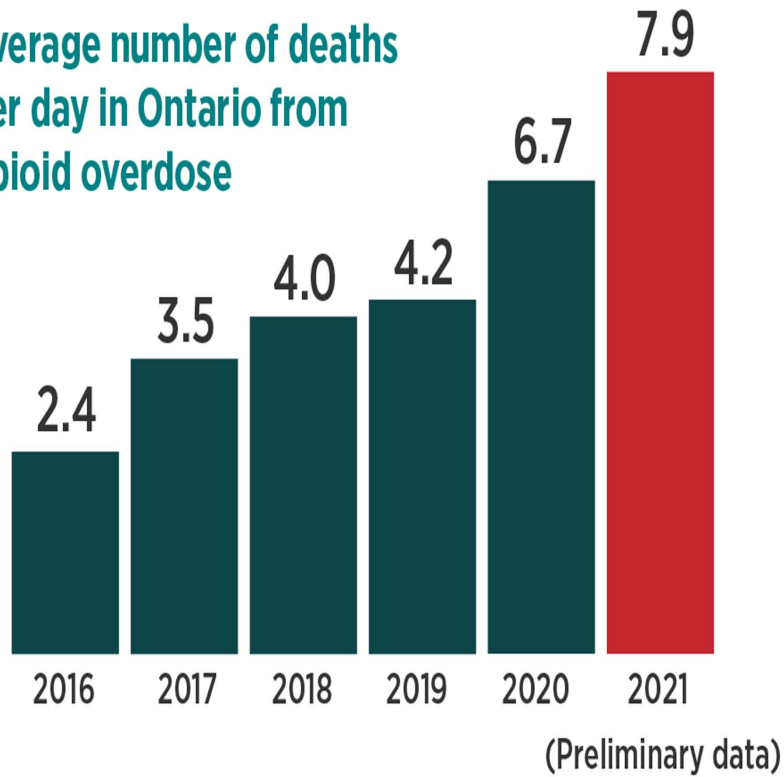


**Émilie Frenette**  
Primary health care  
nurse practitioner  
and supervisor of  
Toronto Public  
Health's injectable  
opioid agonist  
therapy program

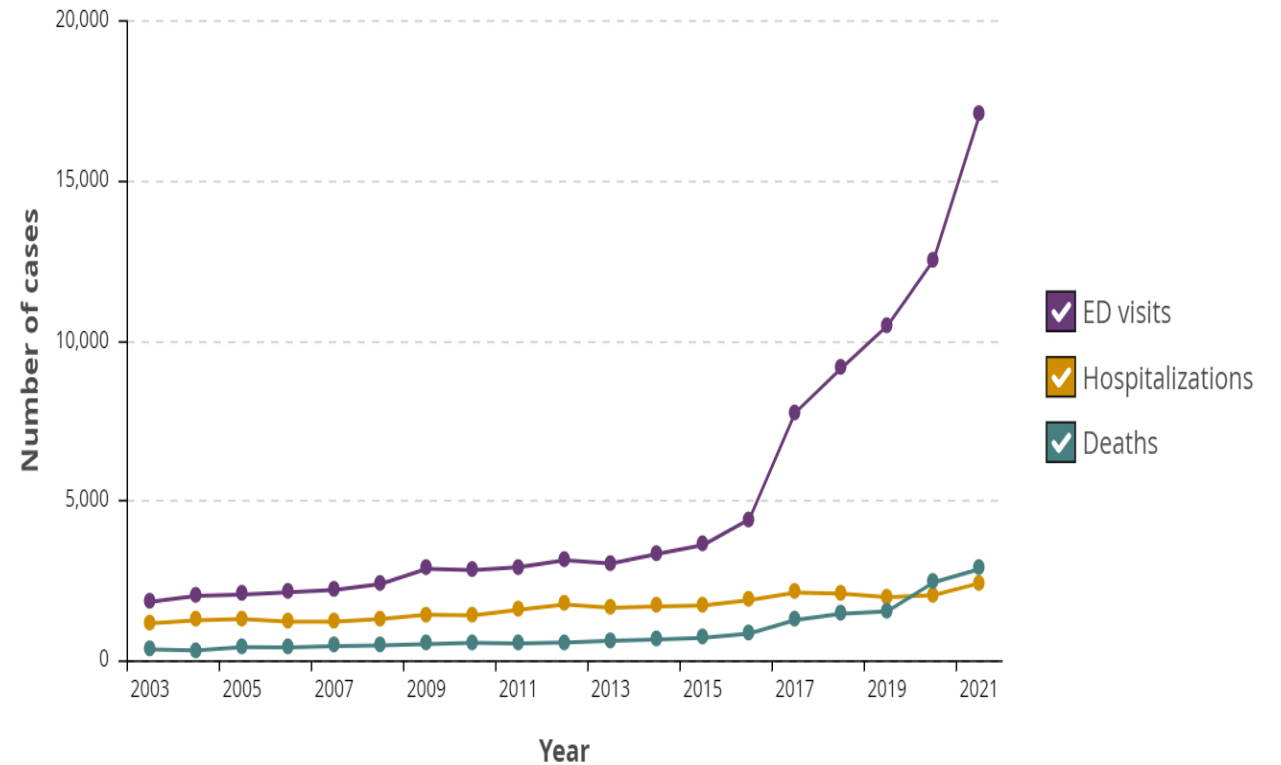
# Opioid Crisis in Ontario

The following data is from Public Health Ontario

Average number of deaths per day in Ontario from opioid overdose



Cases of opioid-related morbidity and mortality, Ontario, 2003 - 2021

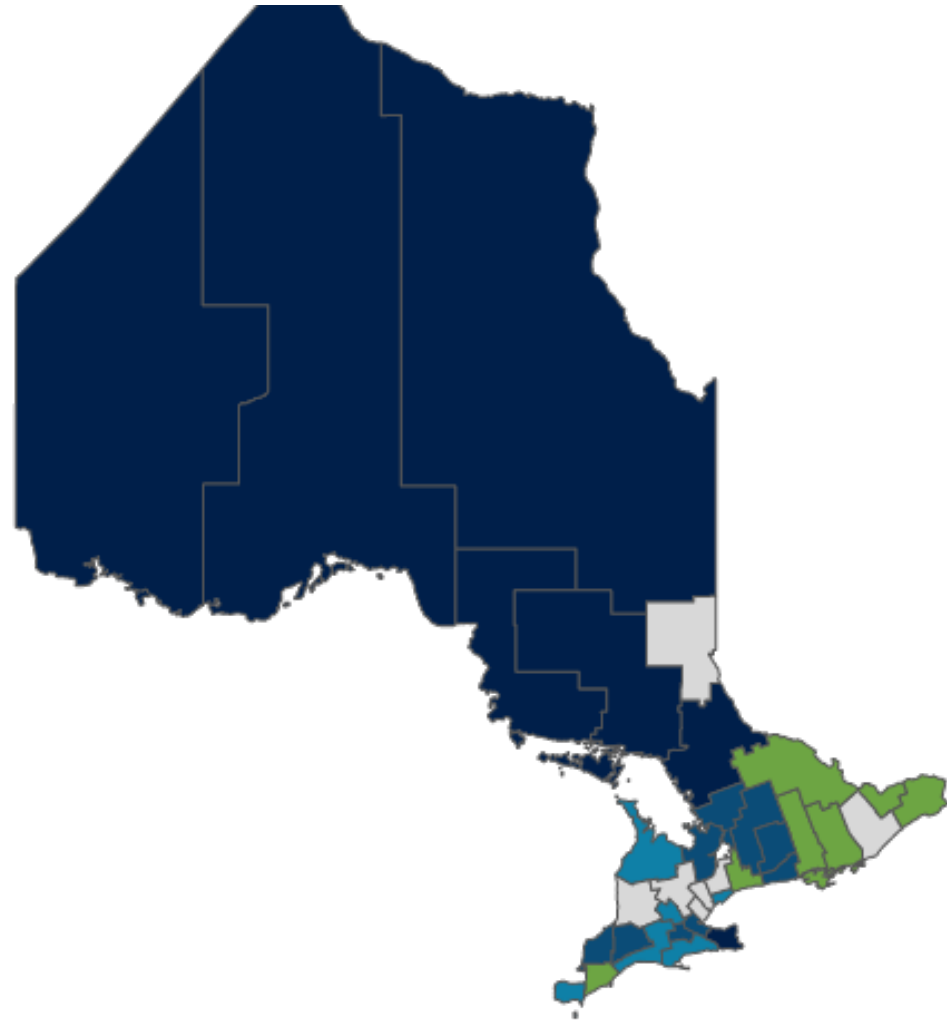
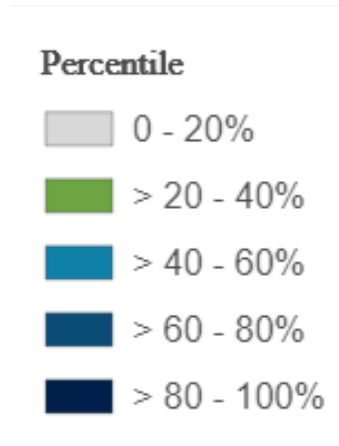


# Opioid Crisis in Ontario

Year	Deaths	ED Visits	Hospitalizations
2022 *preliminary confirmed and suspect opioid overdose deaths January to June 2022	1270	Not available	Not available
2021 *preliminary	2880	17073	2439
2020	2461	12527	2064
2019	1559	10478	1995

- 2021 data is still considered preliminary; 2022 data is only partially available
- There has been a **85 per cent increase** in opioid overdose deaths in Ontario from 2019 to 2021.

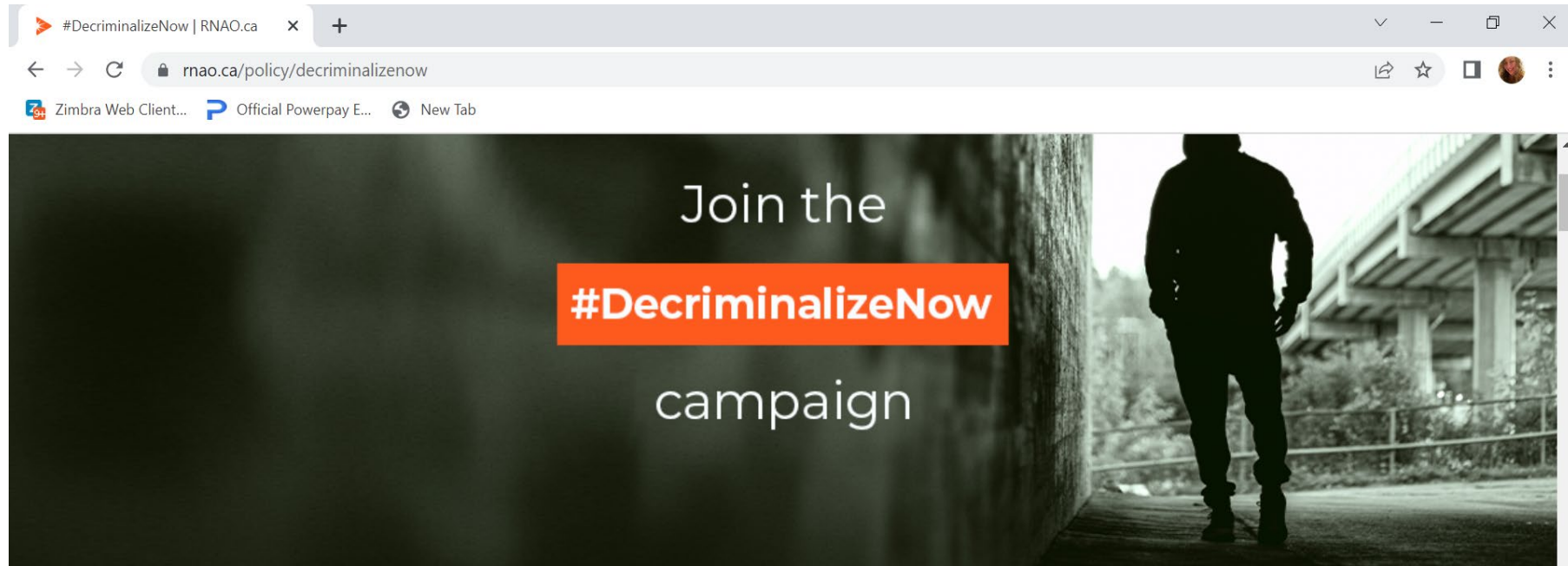
# PHO: Rates of opioid-related deaths, all ages, all sexes, Ontario, 2021





# RNAO's Decriminalization Campaign

<https://rnao.ca/policy/decriminalizenow>



Policy & political action

## #DecriminalizeNow

On this page: [The issue: The overdose crisis](#) | [The pledge: Find your mayoral candidates](#) | [FAQs](#) | [Share on social media](#) | [Other resources](#)

The criminalization of simple drug possession in cities across Ontario is costing lives.

On Oct. 2, RNAO wrote to several candidates in 21 municipalities asking them to sign a pledge to support decriminalizing simple drug possession in Ontario.

# Brad Chapman

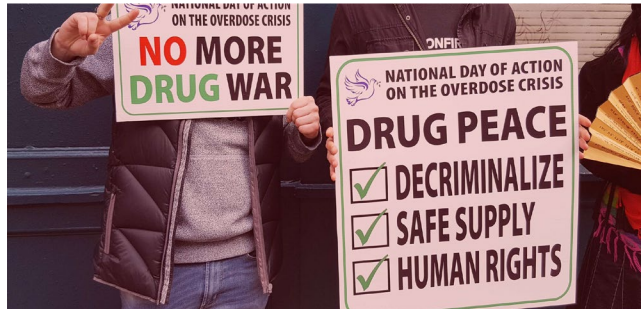


# Austin Layte



# *A Drug Policy Crisis: The case for decriminalization*

Sandra Ka Hon Chu, HIV Legal Network  
October 2022  
RNAO



## What does the *Controlled Drugs and Substances Act* prohibit?

### **Possession of substance**

4 (1) Except as authorized under the regulations, no person shall possess a substance included in Schedule I, II or III.

### **Trafficking in substance**

5 (1) No person shall traffic in a substance included in Schedule I, II, III, IV or V or in any substance represented or held out by that person to be such a substance.

(2) No person shall, for the purpose of trafficking, possess a substance included in Schedule I, II, III, IV or V.

## Setting the Scene: Criminalization across Canada

- After the *Cannabis Act* was passed in 2018, between 2019 to 2021 police in Canada made almost **200,000** arrests for drug offences; close to half of those were for simple drug possession.
- In **2021 alone**, there were 61,798 drug arrests in Canada, of which 27,454 (44%) were for simple possession.

## Black & Indigenous communities disproportionately charged, prosecuted, incarcerated for drug offences

- Data from Toronto police shows 15,000+ people arrested for simple drug possession from 2015-2020; Black people comprise less than 10% of city population & account for 35% of arrested (*FOI request, 2021*)
- **Black and Indigenous people dramatically overrepresented in drug charges** by VPD: Black people accounted for 6.4% of trafficking & possession charges since 2014 & 1% of city's population; Indigenous people faced 18% of trafficking & possession charges, but just 2.2% of city's population (*FOI request, 2020*).
- 20% of Black federal prisoners incarcerated for drug offence (*Office of the Correctional Investigator*).
- In 2017, **54% of Black women in federal prisons were serving sentences for drug offences.** Federally sentenced women 2× more likely to serve sentence for drug offences as male counterparts, while Indigenous and Black women more likely than white women to be in prison for that reason (*OCI*).

## Setting the Scene: Health authorities across Canada

- Dr. Bonnie Henry, PHO of B.C.
- Dr. Patricia Daly, chief MoH, Vancouver Coastal Health
- Winnipeg Regional Health Authority
- Dr. David Colby, MoH of Chatham-Kent
- North Bay Parry Sound District Health Unit
- Mylene Drouin, director, Montreal public health department
- Dr. Jennifer Russell, MoH of New Brunswick
- Dr. Eileen de Villa, MoH of Toronto
- **Dr. Theresa Tam**, Canada's Chief Public Health Officer: All approaches must be considered, including “**moving toward a societal discussion on decriminalization.**” (*August 2020*)





# Expert Task Force on Substance Use

## May 2021 Report 1: Recommendations on alternatives to criminal penalties for simple possession of controlled substances

- “unanimously recommends that Health Canada end criminal penalties related to simple possession and most also recommend that Health Canada end all coercive measures”
- bring drug control legislation under a single public health legal framework with regulatory structures that are specific to different types of substances
- thresholds for simple possession be based on presumption of innocence, and that they be set high enough to account for the purchasing and consumption habits of all people who use drugs
- criminal records from previous offences related to simple possession be fully expunged (automatic and cost-free)

## #DecrimDoneRight: a Civil Society Platform

Fully decriminalize all drug possession for personal use and all necessity trafficking. This requires:

- **a full repeal of section 4 of the CDSA** and the removal of criminal sanctions and all other penalties (administrative or otherwise) for simple drug possession
- amendments to section 5 of the *CDSA*, to **permit trafficking for subsistence, to support personal drug use costs, or to provide a safe supply.**
- **removal of sanctions / interventions** associated with simple drug possession or necessity trafficking:
  - administrative penalties, e.g. fines, “health assessments,” dissuasion commissions
  - confiscation of substances, paraphernalia or medical supplies
  - geographic, drug use, or personal contact restrictions or curfews
  - drug treatment courts as a coercive alternative to criminal sanction
  - other coerced or involuntary treatment or other health interventions

## How do we get there? *De facto* decriminalization

**Moratoria** on enforcement of drug laws:

- U.S. cities and states in context of COVID pandemic (e.g. Baltimore State Attorney, Brooklyn District Attorney).
- *Partial* decriminalization in most provinces with PPSC Directive or Bill C-5.
- Health Minister could issue nation-wide s. 56 federal exemption from s. 4 of CDSA, “in the public interest” (endorsed by Toronto Board of Health).
- Could also make *local* (e.g. municipal, provincial) request for s. 56 exemption from s. 4 of CDSA.

## PPSC Directive, August 2020

### 5.13 Prosecution of Possession of Controlled Substances Contrary to s. 4(1) of the CDSA

- PPSC responsible for prosecuting CDSA drug offences.
- Directs prosecutors to **focus on the “most serious cases” raising public safety concerns** for prosecution and to otherwise pursue “suitable alternative measures and diversion from the criminal justice system for simple possession cases.”
- Acknowledges that criminal sanctions, as a primary response, have “a limited effectiveness” as a deterrent and as a means of addressing public safety concerns when considering the “harmful effects of criminal records and short periods of incarceration.”

## Recent decriminalization statistics

“In the past 12 months, courts across Ontario have withdrawn or stayed 85 per cent of drug possession charges in the system before they ever reached trial, according to public data analyzed by CBC Toronto.

By comparison, 45 per cent of such charges were dropped in 2019, prior to the pandemic.”

### Drug possession charges dropped across Ontario at an unprecedented rate



More than 85% of charges dropped before trial in the past 12 months, a CBC analysis finds



Dexter McMillan · CBC News · Posted: Sep 07, 2021 4:00 AM ET | Last Updated: September 7



## Local requests for exemptions

### Vancouver

In Nov. 2020, Vancouver City Council adopted motion for Mayor to “request a federal exemption from CDSA to decriminalize personal possession of illicit substances within the City’s boundaries for medical purposes” and submitted its proposal in May 2021.



### B.C.

In Feb. 2021, Minister Malcolmson: “Are you willing to consider a Section 56 exemption to the *Controlled Drugs and Substances Act* for BC to decriminalize the possession of small amounts of controlled substances for personal use, as a way to reduce stigma as a barrier to treatment?” Proposal submitted to Health Canada in Nov. 2021. In June 2022, Health Canada announced B.C. received an exemption coming into effect Jan. 31, 2023 -Jan. 31, 2026, so adults are not subject to simple possession charges under cumulative threshold.



### Toronto

In June 2021, Toronto Board of Health directed Dr. de Villa to convene a working group to develop a “health and social equity-based alternative approach to drug decriminalization” for the City of Toronto. Exemption submitted in January 2022.



## “Diversion Bill”: Bill C-5

To address “the overincarceration rate of Indigenous peoples, as well as Black and marginalized Canadians,” Bill C-5 would **repeal mandatory minimum penalties for all drug offences**.

### Key Principles:

- problematic substance use “should be addressed primarily as a health and social issue”
- interventions should be founded on “evidence-based best practices and should aim to protect the health, dignity and human rights of individuals who use drugs”
- “criminal sanctions imposed in respect of the possession of drugs for personal use can increase the stigma associated with drug use and are not consistent with established public health evidence”

Requires officers to *consider* measures other than judicial proceedings to deal with individuals in alleged possession of drugs for personal use:

- “take no further action”;
- warning; or
- refer the individual to a “program, agency or other service provider”

## How do we get there? *De jure* decriminalization

**Courts** around the world have determined that laws prohibiting drug use/possession violate human rights:

- In 2015, **Mexico's** Supreme Court ruled that administrative ban on recreational cannabis consumption was unconstitutional and in June 2021, struck down laws prohibiting use of recreational cannabis.
- Courts in **Chile, Spain, Colombia** and **Argentina** have ruled that private use of drugs should not be subject to any state sanction.
- Last considered in **Canada** by Supreme Court in *R. v. Marmo-Levine* 2003 SCC 74: "Advancing the protection of [vulnerable individuals] through criminalization of the possession of marihuana is a policy choice that falls within the broad legislative scope conferred on Parliament. Equally, it is open to Parliament to decriminalize or otherwise modify any aspect of the marihuana laws that it no longer considers to be good public policy."

**Federal law reform, i.e. through a federal bill.**



CAPUD constitutional challenge (Aug 2021)



# Decriminalize Now!

It's time to decriminalize drugs now across  
Canada

CAPUD is suing Canada to remove criminal  
penalties on drug use

[#DrugDecrimCanada](#)



**Thank you**  
[schu@hivlegalnetwork.ca](mailto:schu@hivlegalnetwork.ca)

[www.HIVLegalNetwork.ca](http://www.HIVLegalNetwork.ca)



# DECRIMINALIZATION



# MISH WARAKSA

Nurse Practitioner, Clinical Lead,  
Parkdale Queen West Safer Opioid  
Supply Program



PARKDALE QUEEN WEST COMMUNITY HEALTH CENTRE

**SAFER OPIOID SUPPLY**



# SAFE SUPPLY

CONCEPT DOCUMENT

February 2019



Canadian Association of People who Use Drugs®

#SAFESUPPLY CONCEPT DOCUMENT

16 PAGES | TAKE AS NEEDED | USE TO PREVENT OVERDOSE DEATH | MADE IN CANADA

CAPUD.CA

## SAFER SUPPLY

“Safe supply refers to a legal and regulated supply of drugs with mind/body altering properties that traditionally have been accessible only through the illicit drug market”  
CAPUD, 2019

Source: [CAPUD, 2019](#)

# SAFER OPIOID SUPPLY

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## Goals of medicalized safer supply:

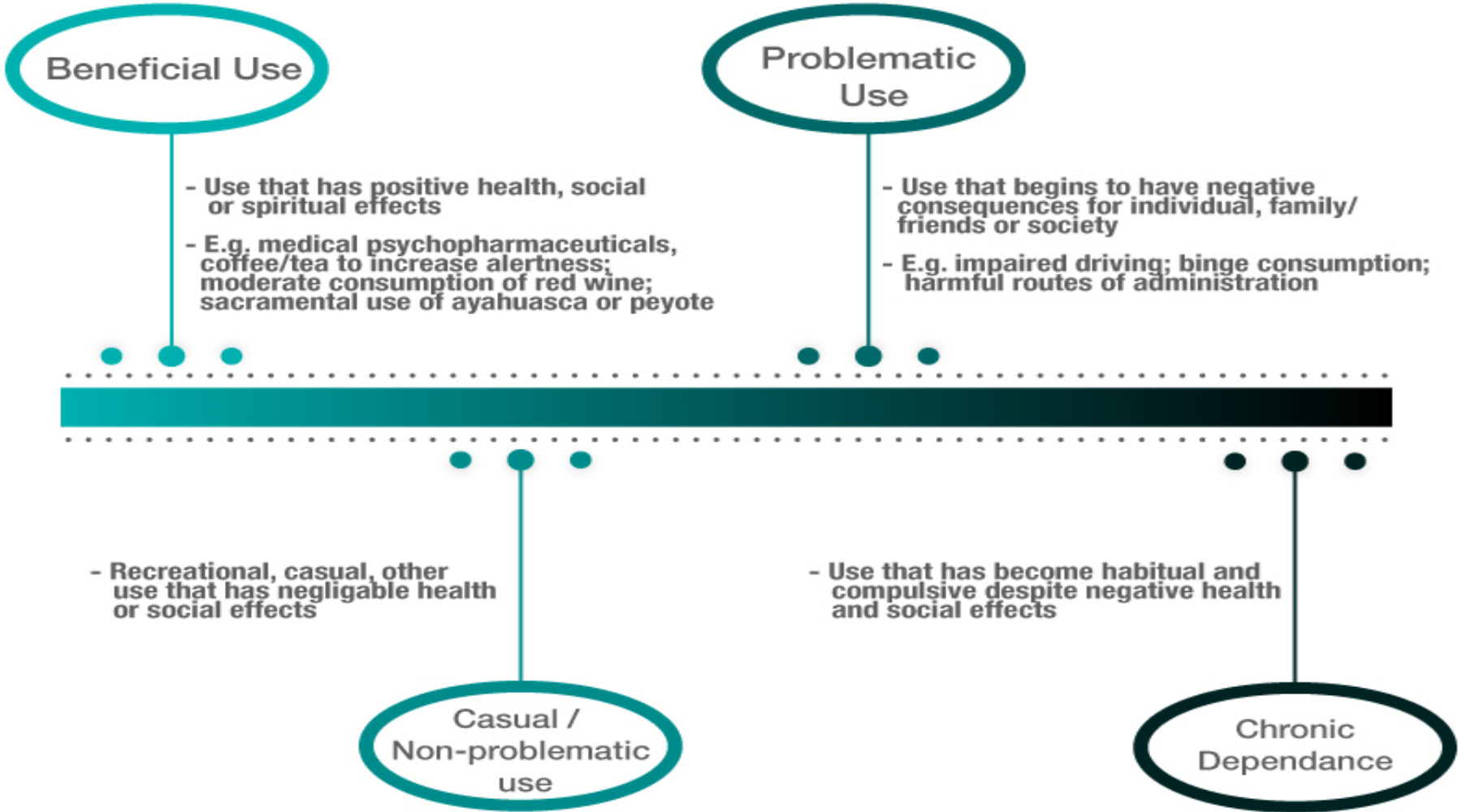
- To reduce the risk of overdose and overdose death by providing adults exposed to the contaminated illicit drug supply with low-barrier access to a safer drug supply
- To reduce harms associated with criminalized activities required to access drugs through the street market
- To increase access for people who face barriers to accessing traditional models of healthcare, harm reduction and social services

A top-down view of various pharmaceuticals including round tablets, oval capsules, and blister packs, all rendered in a monochromatic blue color scheme. The pills are scattered across the frame, with some larger tablets in the center and smaller ones towards the edges.

# DEPATHOLOGIZING SUBSTANCE USE

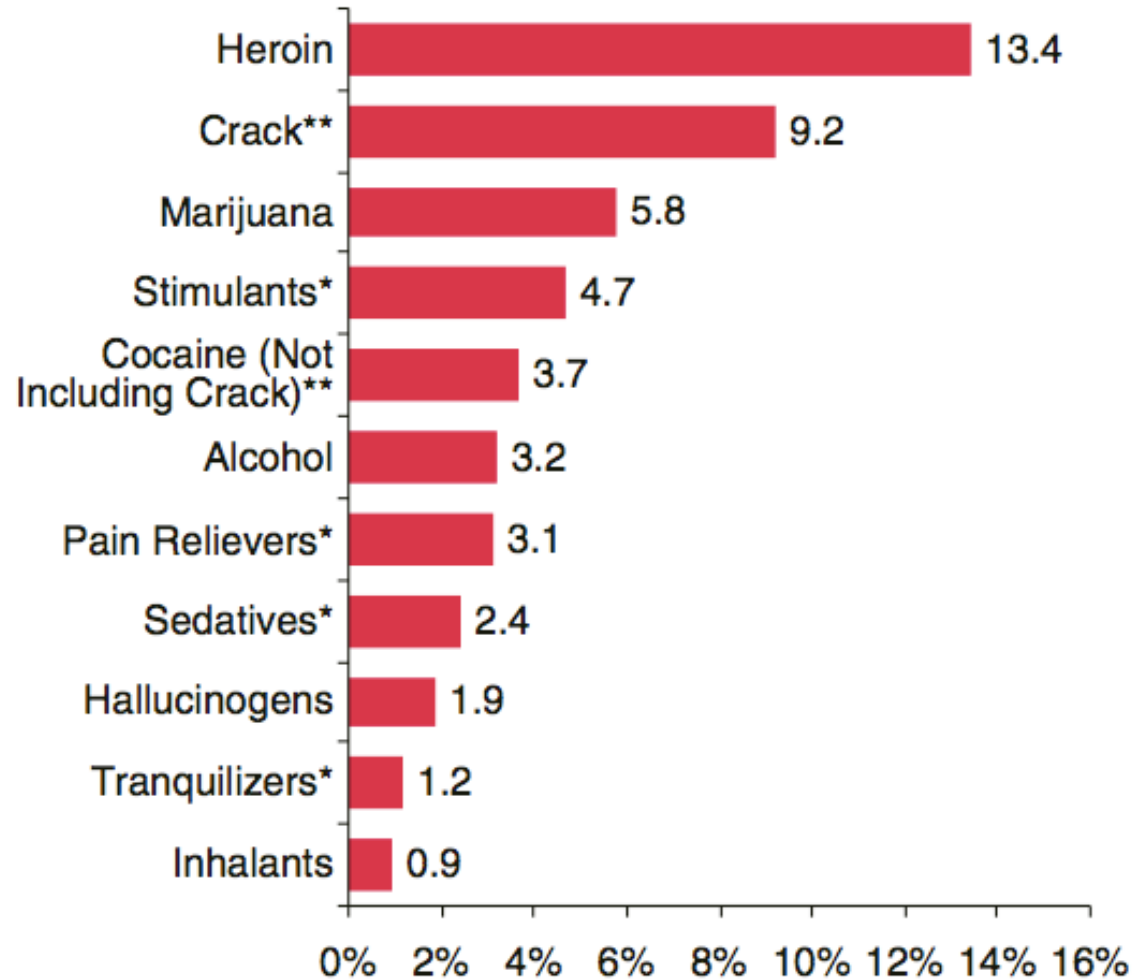


# Spectrum of Substance Use



Adapted from graphic presented in *A Public Health Approach to Drug Control in Canada*, Health Officers Council of British Columbia (2005).

**Figure 2. Percentages of Year-Before-Last Initiates Who Were Dependent on the Initiated Substance in the Past Year, by Substance: 2004-2006**



The background of the slide is a dark blue, monochromatic image of various pharmaceuticals. It features a wide variety of pills and capsules, including round tablets of different sizes, oval capsules, and some blister packs. The lighting is soft, creating subtle highlights and shadows on the surfaces of the drugs, which are scattered across the frame. The overall aesthetic is clean and professional, typical of a medical or academic presentation.

# HEALTH-RELATED HARMS OF CRIMINALIZATION

# DECRIMINALIZATION

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- Criminalization:
  - Promotes unsafe consumption
    - Using in isolation
    - Sharing injection supplies
- Stigmatization
  - structurally, socially, internally
  - Alienation from healthcare
  - Lack of appropriate resources (SCS, drug checking, treatment)

# OVERDOSE RISK AND INCARCERATION

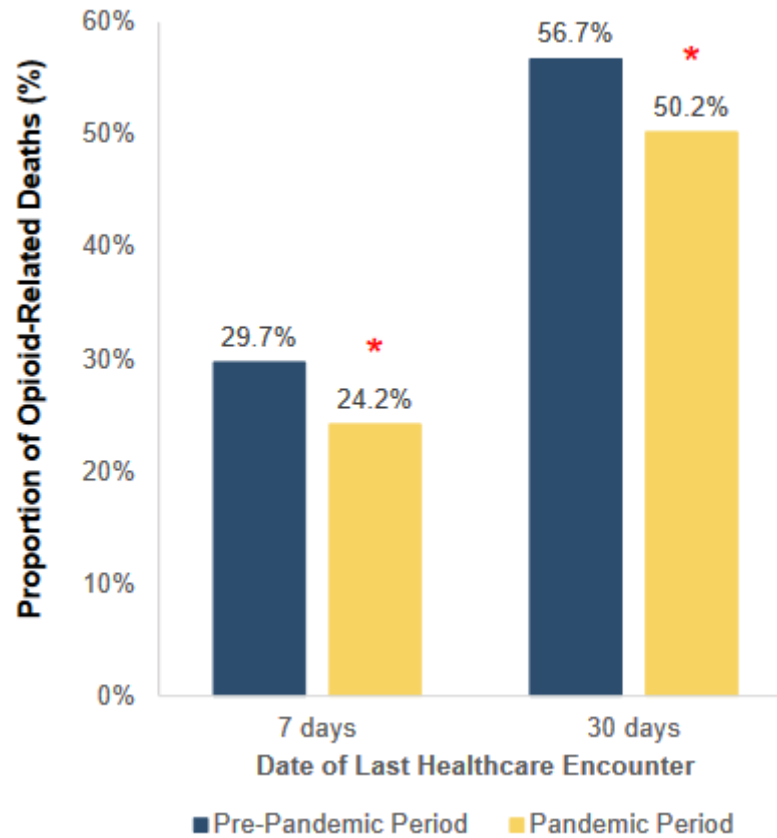
- 2016-2013 – 1 IN 10 Drug Toxicity Deaths occurred within one year of release from incarceration
  - 20% of these deaths occurred **within one week of release** (Groot et al., 2016)
- Almost 12 times more drug toxicity deaths occur in recently released prisoners than in the general population (Groot et al., 2016)
- **Incarceration directly linked to increase risk of death from drug toxicity**

# OVERDOSE RISK AND INCARCERATION

- Factors
  - Loss of tolerance during incarceration
  - Lack of access to treatment and harm reduction resources
    - Only 23% of correctional facility physicians report initiating OAT to people while incarcerated (Kouyoumdjian, 2018)
  - Post incarceration stressors

# OD DEATHS AND HEALTHCARE

Figure 10: Recent healthcare encounters prior to opioid-related death in Ontario



- Nearly 30% of people who died of opioid overdose March – Dec 2020 had healthcare contact in the last 7 days
- Missed opportunity for harm reduction?
- **Healthcare-related harms?**

# STIGMA & HEALTHCARE

- Alienation and discrimination from within the healthcare system
- **Increased risk of overdose in the period 1-2 weeks after hospital discharge (Keen et al., 2021)**
  - Risk higher than prior to accessing healthcare



# CARING FOR PWUD

- **Promoting culturally safe care for PWUD (McCall et al., 2019)**
  - Challenging nurses' beliefs and behaviours towards PWUD
- **Rapid access to withdrawal management – both OAT and short-acting opioids (Brother et al., 2021)**
  - Treating withdrawal with opioids does not “worsen” addiction
- **Abolishing abstinence-only policies in hospitals (Brothers et al., 2021)**
- **Incorporating harm reduction into acute care to support wellness during and after hospitalization (Brothers et al., 2021)**
  - Sterile injection equipment, supervised consumption, take-home naloxone

“AMA”

*Is the patient leaving against medical advice?*

*Or are they leaving due to inadequate  
healthcare?*

# DECRIMINALIZATION

- Abolishing stigma
- Reducing structural inequities in access to health and healthcare
- Decreasing exposure to period of high risk for drug toxicity

# Resources for Support

 If you are in crisis, please call your local distress line ([learn more](#)). If you are facing a mental health emergency, please call 911.

RNAO knows that people across Ontario are experiencing tremendous levels of physical and emotional stress at this time. Nurses who are struggling or feeling overwhelmed can reach out to any of the resources listed below. Most are also open to other health-care providers or members of the public.

1. [ConnexOntario](#) provides accurate and up-to-date mental health information 24/7 by telephone, chat and email.
2. [Wellness Together Canada](#) is a free and confidential mental health and substance use support available 24/7 by text or phone.
3. The Government of Ontario's [COVID-19 resources](#) page provides links to mental health, wellness and addiction supports for the general public.
4. **FOR NURSES ONLY:** [Nurses' Health Program](#) is a free, voluntary program for Ontario nurses designed to encourage them to seek treatment for substance use or mental health disorders.

WELLNESS TOGETHER  
**Canada**

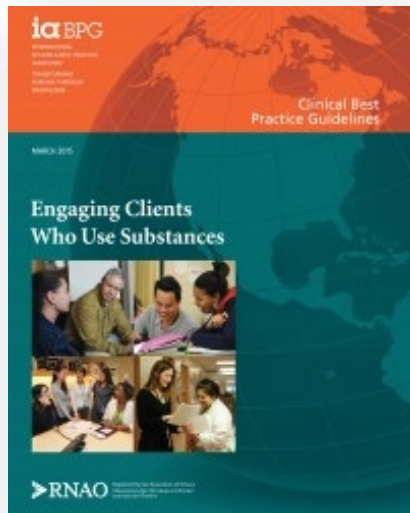
Mental Health and  
Substance Use Support



 **ConnexOntario**  
Discover Mental Health, Addiction and Problem Gambling Services

# RNAO Mental Health & Addiction

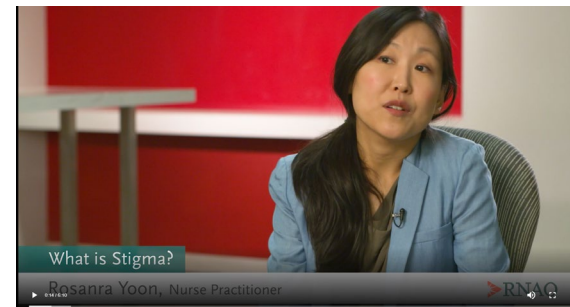
The goal of the Mental Health and Addiction program is to enhance **evidence-based care** and services related to **mental health and addiction** across all settings

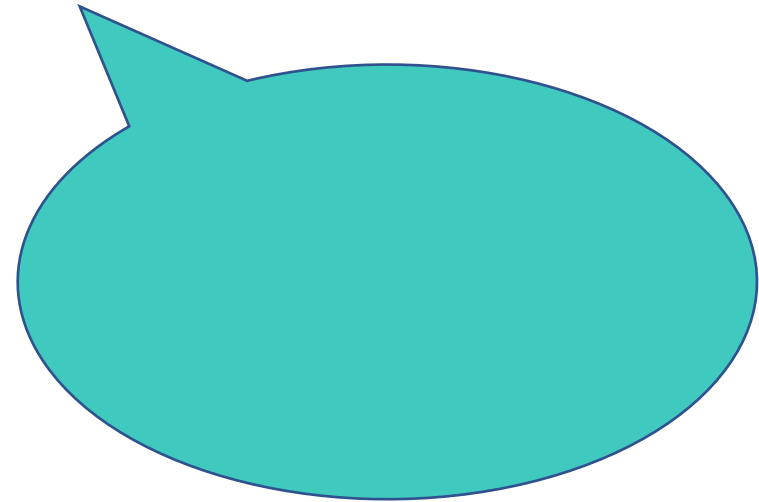
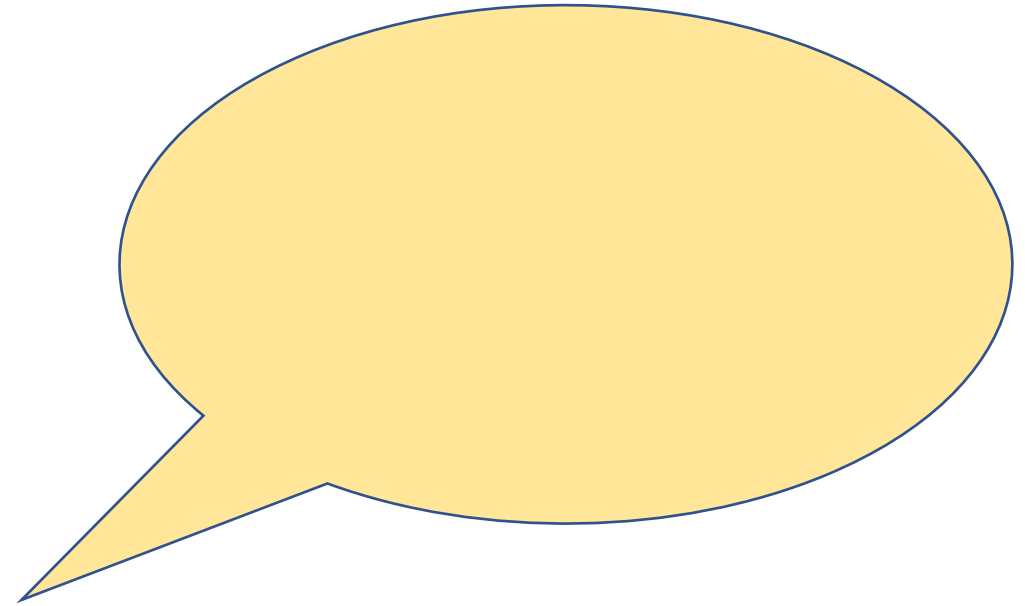
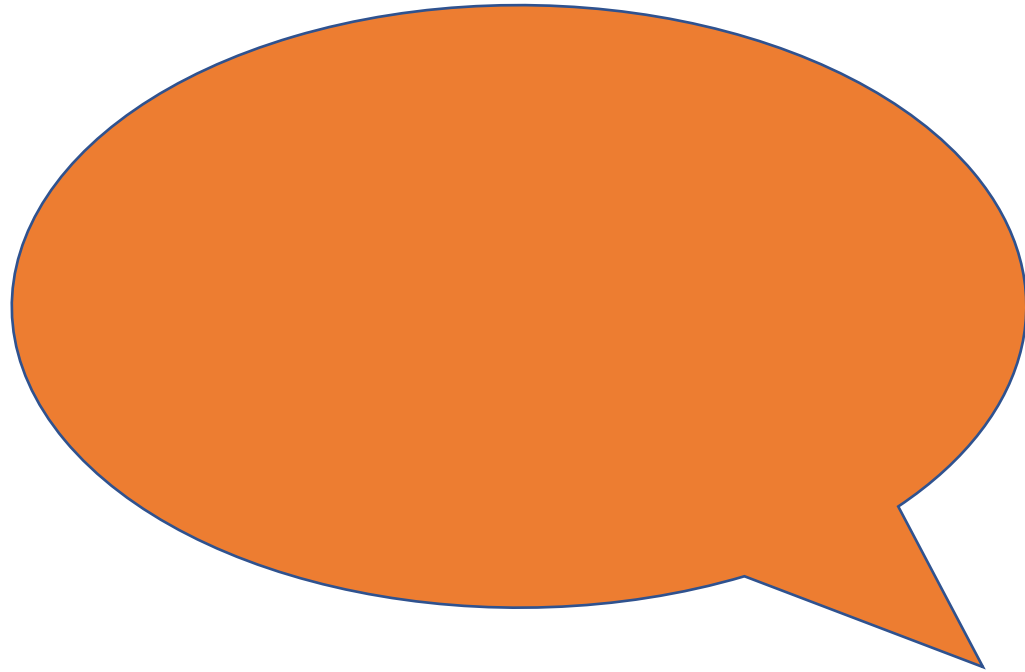


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**DISCUSSION  
Q&A**

Next webinar: Monday,  
Nov. 14, 2022, 2 to 4 p.m.



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