

Realizing a Barrier-Free British Columbia through Provincial Accessibility Legislation

Written Submission to the Ministry of Social Development and Poverty Reduction for the British Columbia Framework for Accessibility Legislation Engagement

Submitted on behalf of:



STROKE RECOVERY ASSOCIATION OF BRITISH COLUMBIA
AN AFFILIATE OF AFTER STROKE, A PROGRAM OF MARCH OF DIMES CANADA

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About March of Dimes Canada

March of Dimes Canada (MODC) is Canada's largest organization for people with physical disabilities, and offers a wide array of programs and services to Canadians with disabilities, their families and communities. MODC delivers services and supports under four core program areas:

AccessAbility® Services *improve personal mobility and community accessibility for people with disabilities.*

Community Engagement & Integration Services *enhance independence, community participation and quality of life for people with disabilities.*

Community Support Services *provide assistance to people with physical disabilities to enable them to live in their community and remain in their own homes for as long as possible.*

Employment Services *assist people with disabilities to obtain and retain a job.*

About Stroke Recovery Association of British Columbia

The Stroke Recovery Association of British Columbia (SRABC) provides services, education and advocacy to those affected by stroke throughout every stage of recovery. In Canada, stroke is a leading cause of disability with about 8,100 residents of British Columbia hospitalized annually due to a stroke¹. SRABC is an affiliate of After Stroke, a program of March of Dimes Canada and provides hospital to home services such as hospital visitation, community navigation and peer support programs, and acts as a resource for health care professionals and others concerned with the effect of stroke on individuals and their families. Programs offered by SRABC are delivered locally in thirty-three programs located in communities across the province.

While SRABC is a separate organization from March of Dimes Canada, the organizations are affiliated and collaborate to deliver programs and services to help stroke survivors, and their caregivers, reach individual goals for recovery and to reintegrate into their communities.

Background Information

March of Dimes Canada (MODC) has long been recognized as a national leader in accessibility, and has been involved in the development and implementation of the *Accessibility for Ontarians with Disabilities Act* (AODA) since its inception in 2005. More recently, MODC contributed to the development of Canada's national accessibility legislation which received Royal Assent in 2019, *An Act to ensure a Barrier-Free Canada*, also known as the Accessible Canada Act (ACA). MODC has also participated in consultations furthering the development and implementation of the *Accessibility for*

¹ Provincial Health Services Authority, Stroke Services BC Fact Sheet. Accessed November 2019.



Manitobans Act which was enacted in 2013 and *An Act Respecting Accessibility in Nova Scotia* which became law in 2017.

Approximately 25% of British Columbia (BC) residents aged 15 or older- 926,000 individuals- have a disability according to Statistics Canada². This number is expected to increase as the prevalence of disability increases with age, and British Columbia's population is growing older. Given British Columbia's demographic trends, accessibility legislation is necessary to ensure the identification, removal and prevention of barriers experienced by the growing number of people with disabilities. The development of British Columbia's accessibility legislation should build upon the strengths of accessibility legislation currently implemented in Ontario, Manitoba and nationally, however the legislation must be unique to British Columbia. For example, the Province of British Columbia's relationship with Indigenous people and the Province's recognition of Indigenous peoples' right to self-government must be taken into consideration in the development of this legislation.

The following recommendations build upon the *British Columbia Framework for Accessibility Legislation*, released September 29, 2019. We wish to acknowledge the work that has been and continues to be done by the AODA Alliance that has been used to inform this submission and encourage further review of the discussion paper, "*What should Canada's promised new national accessibility law include? A discussion paper*"³ published by the National Journal of Constitutional Law in 2018.

Recommendations

Recommendation 1: Accessibility legislation must set a deadline indicating when British Columbia will become barrier-free.

Timelines enable organizations, such as March of Dimes Canada, to ensure commitments are being made and that government and all regulated entities are being held accountable. Ensuring accessibility is not the responsibility of a single department, Ministry or entity, but requires all organizations, entities and individuals to adopt and implement a lens to remove and prevent barriers for people with disabilities on an active and ongoing basis. Given constantly shifting priorities a shared goal to achieve accessibility and/or to implement key requirements is necessary to ensure continued progress towards achieving accessibility.

Recommendation 2: Include centralized enforcement mechanisms in the legislation.

² Statistics Canada. Table 13-10-0374-01 Persons with and without disabilities aged 15 years and over, by age group and sex, Canada, provinces and territories

DOI: <https://doi.org/10.25318/1310037401-eng>

³ Lepofsky, D (2018). What should Canada's promised new national accessibility law include? A discussion paper, *National Journal of Constitutional Law*, Vol. 38, Iss. 1, (Mar 2018): 169-207. Retrieved from: <https://search.proquest.com/openview/a82c9964e7b0426d29c26f40e33305d6/1?pq-origsite=gscholar&cbl=46307>



Accessibility legislation must include enforcement mechanisms to ensure the timely and effective development and implementation of accessibility standards, and to require obligated organizations to comply with accessibility standards.

In order for the British Columbia Government to ensure that any future accessibility legislation is implemented and enforced as effectively as possible a centralized approach to standards development, oversight, and compliance should be taken. The AODA Alliance recommends enforcement be the responsibility of an arms-length public agency which includes a streamlined mechanism for the public to lodge complaints and seek enforcement⁴.

Recommendation 3: Ensure public money is never used to create or perpetuate existing accessibility barriers.

The British Columbia Government has a significant opportunity with its upcoming accessibility legislation to prevent the emergence of new barriers or perpetuate existing barriers by requiring that no public money be spent on projects that do not meet accessibility standards by developing legislation that places conditions on procurement, and contracts.

While it is important that legislation includes commitments to allow organizations to hold the government accountable to its commitments, the government also has the opportunity to hold its own partners, beyond government regulated entities, accountable by ensuring that the transfer or spending of public money is never used to create or perpetuate disability-related barriers.

Recommendation 4: Ensure the development and revision of accessibility standards and the making of regulations are done with the objective of achieving the highest level of accessibility

During the course of accessibility standard development the priority must be to achieve the highest level accessibility to ensure the government is meeting its obligations under the *Human Rights Code* (British Columbia) and the *Canadian Charter of Rights and Freedoms*. While compatibility with the *Accessible Canada Act* will be important to consider for simplicity, the priority of accessibility standard development and revision under British Columbia's accessibility legislation must be to achieve the highest level of accessibility. This not only will ensure that the legislation meets the British Columbia context, but that the standards best reflect the needs of people with disabilities.

⁴ Lepofsky, D (2018). What should Canada's promised new national accessibility law include? A discussion paper, *National Journal of Constitutional Law*, Vol. 38, Iss. 1, (Mar 2018): 169-207. Retrieved from: <https://search.proquest.com/openview/a82c9964e7b0426d29c26f40e33305d6/1?pq-origsite=gscholar&cbl=46307>

