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Health Canada suit ignored well-being

Canadians could be forgiven for assuming that the role of Health Canada is to do what its name suggests — that is to protect the health of Canadians.

But yesterday, and for the past three weeks, a Calgary court heard chilling testimony and evidence of how Health Canada cared not one bit about the possible deaths or hospitalizations of Canadians due to its actions, and how it “abused the process” by “blindly” following soon-to-be outdated regulations to prosecute the makers of a nutritional supplement that has helped thousands of mentally ill people lead normal lives.

Yesterday, final submissions were made before Alberta Provincial Court Judge Gerald Meagher in the case of Health Canada criminally prosecuting Truehope Nutritional Support for not having a Drug Identification Number (DIN) for its nutritional supplement called Empowerplus, which is described as a “miracle” vitamin and mineral product by its more than 10,000 users who suffer from bipolar disorder, schizophrenia

and other serious mental health ailments.



Licia Corbella

Defence attorney Shawn Buckley first recapped how the makers of Empowerplus jumped through numerous hoops trying “every reasonable means” to comply with a regulation that did not fit the nutritional supplement industry.

In fact, Health Canada officials, testified that fully 90% of all so called “natural health products” did not comply with Health Canada regulations requiring a DIN number, not because they “thumbed their noses” at the regulations, but because compliance was impossible.

That’s why the law was changed on Jan. 1, 2004, to set up new regulations for natural health products. Nevertheless, Health Canada later that year retroactively charged Truehope with not having a DIN in 2003, even though that law no longer applied, a clear example of abuse of process, argued Buckley.

Buckley also gave numerous examples of Health Canada officials attempting to “sabotage” Truehope’s attempts to comply in other ways. He also said it was “highly sus-

picious” that Health Canada tried to hide information from the court, saying it was “undiscoverable” but when the judge ordered the material to be sent, hundreds of pages of the information in question was faxed to the court within the hour.

“It’s alarming to me that Health Canada would proceed knowing that their actions would cause deaths and hospitalizations. This is the kind of bureaucratic behaviour that would shock the community’s sense of fair play and decency,” said Buckley, particularly since the regulations would soon be changed and the minister of health at the time, Pierre Pettigrew, had made provisions to let the sale of Empowerplus to go on.

Health Canada charged the company anyway and seized the product at the border.

Buckley’s strongest argument came when he urged the court to imagine what would have happened if Tony Stephan and David Hardy, the founders of the company and product, had complied with Health Canada’s demand to stop providing the product.

Harvard psychiatrist Dr. Charles Popper testified that had the product not been made available there would “be suicides, hospitalizations, assaults and possible incarcerations.”

“Let’s say the defendants had stopped selling this product because of Health Canada and that there were deaths and there were hospitalizations,” said Buckley.

Stephan and Hardy would likely be before the courts on the much more serious charges of criminal negligence causing death, said Buckley, because the evidence is immense that suicides would occur if people didn’t have access to the product.

“There’s not a jury in Canada that would accept not having a DIN as an excuse for causing death and bodily harm. If that’s the case, then why would these proceedings go ahead?” asked Buckley, before a courtroom packed with dozens of users of the product who credit it with saving their lives.

Buckley argued that if Health Canada had evidence that a product was causing harm, then singling out Empowerplus would make sense. But the very opposite is true. Health Canada officials, specifically Sandra Jarvis and Miles Brosseau, had both anecdotal and scientific evidence that proved that withdrawing the product was harmful — even deadly.

Your tax dollars at work, folks.

licia.corbella@calgarysun.com