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**Protecting health choice:
Protecting life, liberty and security of the person**

The constitutional impact of Bill C-224
An Act to amend the Food and Drugs Act
(natural health products)

Brief to the House of Commons Standing Committee on Health

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Introduction

This brief endorses **Bill C-224** because it will better protect the right to life, liberty and security of the person (*Charter* section 7) and the right to equality (*Charter* section 15).

Bill C-224 would amend the *Food and Drugs Act* to restore the clear and very necessary distinction between low-risk “natural health products” (NHPs) such as Vitamin D and herbal remedies, and high-risk “therapeutic products” such as pharmaceutical drugs and medical devices. This Bill reverses harmful changes introduced in the *2023 Budget Implementation Act* (Bill C-47) that wrongfully reclassified NHPs as therapeutic products, thereby subjecting them to draconian enforcement powers, including fines of up to \$5 million per day.

Constitutional and civil liberties perspective

Section 7 – Life, liberty, and security of person

Section 7 of the *Canadian Charter of Rights and Freedoms* protects the rights to life, liberty, and security of the person. This includes the right of competent adults to make decisions about their own health and bodily integrity, free from disproportionate state interference.

The 2023 amendments in Bill C-47 engage *Charter* section 7 by subjecting NHPs, which Health Canada itself describes as “lower risk,”¹ to the same stringent enforcement regime designed for high-risk pharmaceuticals. Industry data shows that this reclassification has already triggered a significant consequence: one in five NHP brands are seriously considering exiting the Canadian market, and over 70 percent anticipate withdrawing products due to the threat of unmanageable compliance costs and severe penalties.²

Given that a dedicated regulatory framework for NHPs (the Natural Health Products Regulations and Natural Product Number licensing system) has operated safely since 2004,³ failing to pass Bill C-224 would result in an overbroad and disproportionate interference with *Charter* section 7 rights. Subjecting low-risk NHPs to the same heavy-handed regulations designed for high-risk pharmaceuticals has the effect of drastically reducing the access that Canadians now enjoy to beneficial products which pose little or no risk to anyone’s health. This imposition of draconian penalties, in a context where they are clearly not needed for public health and safety, does not accord with the principles of fundamental justice as required by *Charter* section 7.

¹ Health Canada, “Natural health product regulation in Canada: Overview” (2026).

² Canadian Health Food Association (CHFA), industry survey data cited in parliamentary debates and submissions regarding the impact of Bill C-47 on the natural health products sector (2023–2025).

³ Natural Health Products Regulations, SOR/2003-196 (came into force January 1, 2004).

Further, even if this new regime did comply with the principles of fundamental justice, it would still fail the minimal impairment test and the benefits-versus-harms test established by the Supreme Court of Canada in *R. v. Oakes* in relation to *Charter* section 1. The failure to pass Bill C-224 will create uncertainty, higher compliance costs, and large increases in retail prices, which in turn would restrict Canadians' meaningful access to low-risk preventive and wellness products. Imposing draconian penalties in relation to the use and sale of natural health products from which consumers experience benefits does not qualify as the minimal impairment of the *Charter* right to life, liberty and security of the person. The harm of restricting the personal choices of Canadians about how they look after their own health and how they care for their own bodies is not outweighed by discernable or identified benefits. Therefore, the *Oakes* requirement that a law's benefits must outweigh its harms is not met.

This interference is not merely theoretical. As Health Canada itself acknowledges, "People in Canada use these products every day, to care for themselves and their families."⁴

Bill C-224 restores an acceptable and rational risk-proportionate framework that is consistent with *Charter* section 7 rights.

Section 15 – Equality rights

Failing to pass Bill C-224 would also risk creating adverse effect discrimination under section 15 of the *Charter*: the impact of Bill C-47 will disproportionately harm certain groups that the federal government already considers "marginalized." Many Indigenous communities, for example, place high importance on access to traditional and culturally familiar natural remedies and healing practices, especially when conventional treatments feel insufficient or culturally inappropriate.⁵ The disproportionate barriers created by the 2023 changes – higher costs, reduced availability, and restricted access to these low-risk options – would likely have a greater negative impact on these groups.

This decreased access to low-risk NHPs is particularly relevant when, as Health Canada said in 2024, "Timely access to a primary health care provider is important, yet wait times have been increasing in Canada and they tend to be longer in more remote areas among Indigenous people."⁶

Furthermore, this outcome would be inconsistent with the Government of Canada's own commitments to "health equity,"⁷ cultural safety, and reconciliation, including Indigenous peoples' right to their traditional medicines under Article 24 of the *United Nations Declaration*

⁴ Health Canada, "Natural health product regulation in Canada: Overview" (2026).

⁵ Statistics Canada, "Health care access and experiences among Indigenous people," *The Daily*, November 4, 2024.

⁶ *Ibid*

⁷ Government of Canada, "Social determinants of health and health inequalities" (Public Health Agency of Canada, July 18, 2024).

*on the Rights of Indigenous Peoples Act*⁸ and Call to Action 22 of the Truth and Reconciliation Commission.⁹

Conclusion

Everyday wellness products like Vitamin D should not be regulated with the same tools reserved for (e.g.) high-risk cancer treatments. Not passing Bill C-224 will mean that Canadians will continue to be subjected to laws and an enforcement regime that violates *Charter* rights, specifically section 7 (due to a failure to minimally impair the infringed right) and section 15 (due to a disproportionate and negative outcome on minority communities).

Author

John Carpay, B.A., LL.B. is the President of the Justice Centre for Constitutional Freedoms, a registered charity founded in 2010. The Justice Centre defends the constitutional rights and freedoms of Canadians through litigation and education.

⁸ United Nations Declaration on the Rights of Indigenous Peoples, G.A. Res. 61/295, Article 24 (2007).

⁹ Truth and Reconciliation Commission of Canada, Calls to Action (2015), Call to Action 22.