

August 30, 2019

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Dear Rob Graham,

RE: Canada Gazette, Part 1, Volume 153, Number 25: Vaping Products Labelling and Packaging Regulations

As the Medical Officer of Health for the City of Ottawa Health Unit, I welcome the opportunity to provide feedback regarding the potential regulatory measures for vaping product labelling and child resistant packaging.

I am pleased that Health Canada is moving forward with additional regulation for vaping products. Vaping among youth in Canada continues to rise and corresponds to an increase in cigarette smoking¹. This research substantiates concerns that an underregulated vaping market will lead to increased smoking and threaten young generations with higher rates of preventable tobacco related illness and death². International differences in vaping and smoking are associated with product availability and differences in local regulation¹. As previously submitted in prior consultations, OPH recommends that all vaping products be subject to similar regulation as combustible cigarettes. Canada can better mitigate upward trends in vaping and smoking with updated regulation to protect and inform youth and adult consumers of vaping products.

As Medical Officer of Health for the City of Ottawa Health Unit, I am pleased to support the proposed regulations for vaping product labelling and child resistant packaging and to offer the following complementary recommendations.

Recommendation #1: Establish a national centralized point of contact for poison control, such as a toll-free Poison Helpline that connects callers to their nearest regional poison control centre and require that product labels provide the national telephone number (60(1)).

OPH fully supports the proposed regulation requiring nicotine containing vaping products be labeled with warnings regarding toxic ingestion. We further recommend that a national poison control telephone line be established and that the number be required on the label with the proposed instructions regarding poisoning (60(1)). A national line may be set up as a hub to automatically re-direct callers to appropriate local services. The Canadian Association of Poison Control Centres is well positioned to become the centralized point of contact³. However, limited funding and a lack of interprovincial cohesion in poison control are significant barriers to the establishment of a national line (personal communication, July 23rd, 2019). Nicotine vaping products pose a risk from poisoning and it is reasonable that a proportion of revenue from the sale of these products be directed to renew and support a national poison control initiative.

The current proposal does not require a number on the label and this omission could result in delayed and inequitable access to poison control when needed. Individual variation in access to services may correspond to relative socioeconomic advantage, such as: access to a mobile phone or other device used to search for a poison control number; access to mobile data or the internet⁴; health and technology literacy⁵; or access to family health services⁶. Community level access may differ because of: regional variation in poison control management³; accuracy of available information (e.g. ease of online search, visibility of telephone number); and phone or internet services (e.g. rural and remote connectivity problems)⁷. In Canada, the labelling of tobacco packaging with a quitline number resulted in more equitable access to cessation services⁸ and greater overall call volume⁹. To facilitate equitable access and minimize risk related to delayed access to poison control, it is recommended that a national poison control line be established to complete the proposed regulation.

Recommendation #2: Revise the wording of regulatory text 59(1) to promote proper disposal and safe storage of nicotine products rather than ‘use of entire contents’.

OPH supports the intention of proposed labelling to reduce the risk of toxic ingestion of nicotine products once removed from child resistant packaging but recommends the wording of 59(1) be changed to promote proper storage and disposal rather than ‘use’. Consumer Chemicals and Containers Regulations, 2001 (CCCR) was originally intended to set ‘requirements for chemical products’ and excluded ‘food’, ‘drugs’ and ‘tobacco’¹⁰. The CCCR may not appropriately account for hazardous products intended

for consumption, such as nicotine in vaping products. The proposed wording asks consumers to ‘use the entire contents’ which may undermine reduction efforts, encourage greater consumption than intended and put consumers at risk for poisoning. Furthermore, current regulation of nicotine is restricted only by high levels of toxicity (66mg/mL¹¹) and instances of poisoning from regular use of e-cigarettes are occurring in Canada¹². Lastly, whether or not the package is open, nicotine products should be kept out of the reach of children as regulated standards do not guarantee inaccessibility¹⁰ and these products are often colourful and enticing to children¹³.

We recommend the regulated language continue to warn consumers “**THIS CONTAINER IS NOT CHILD-RESISTANT ONCE OPENED**” but replace “use entire contents on opening” with “**CONTENTS CAN SERIOUSLY HARM A CHILD. ALWAYS KEEP OUT OF THE REACH OF CHILDREN¹⁴. AFTER USE, PROPERLY DISPOSE OF CONTAINER AND CONTENTS**”.

Recommendation #3: Implement further restrictions on the promotion, advertising and display of vaping products.

OPH supports further restriction of vaping product promotion proposed by Health Canada in early 2019¹⁵ and encourages implementation as soon as possible. Exposure to marketing increases youth vaping¹⁶. Increased youth vaping and corresponding increased youth smoking¹ pose a significant and long term risk to public health. Children and youth in Canada are exposed to online advertising, promotion and endorsement of vaping. In Ontario and other provinces, children and youth are also exposed to advertising and promotion in-stores. For example, promotion in Ontario may be overt advertising by signs at point-of-sale and at child eye-level in proximity to controlled or child-products, such as tobacco or candy¹⁷. Without further restrictions, children may associate vaping products with products they consume (e.g. candy), unnecessarily elevating the risk of use. National regulation is required as inconsistent provincial regulation puts children and youth across Canada at unequal risk for nicotine and smoking harms.

All online marketing should be required to comply with regulations restricting point of sale promotion and prohibition of health claims. E-cigarette sales and promotion sites are openly violating laws against unproven health or cessation claims¹⁸. E-cigarette warnings should be extended to all e-advertising and e-promotion as social media warnings do increase perception of health risks¹⁹. Vaping promotion directed towards or determined to be easily accessible to youth on websites, social media (e.g. Twitter, Instagram etc.) and other e-venues (e.g. videogames, ‘influencers’, blog posts and chats etc.) should be better restricted.

Recommendation #4: Require plain and standardized packaging on all vaping products.

Current regulation is silent on plain standardized packaging. Plain and standardized packaging would decrease the appeal of vaping to youth, non-smokers and to children¹³. Products with images, colours and appealing names or graphic logos are more likely to attract children²⁰. Limiting the appeal of hazardous products to children is standard, reasonable and extends to a variety of products, such as laundry detergent pods²¹. Standardization would also improve the saliency and enforcement of proposed health warning labels, otherwise a challenge given the wide variation in packaging²².

Tobacco companies, increasingly dominant in the vaping industry²³, have used package colour to circumvent regulations against falsely advertising reduced risk products²⁴. Consumers are susceptible to associations of colour, name²⁵, size and shape²⁶ of products with reduced harm. Perception of harm is a contributing factor in youth initiation and use of tobacco products²⁷. In the past, the use of packaging for promotion has been successful in undermining the effect of tobacco regulations on relative risk statements²⁸. Allowing colour packaging may undermine the effectiveness of warning label regulations given that vaping companies already use colour to indicate appealing flavours²⁹. It is recommended that proposed warning label regulation be strengthened by complementary standardized plain packaging requirements. The two features increase consumer awareness of risk, decrease appeal³⁰ and decrease the opportunity for companies to use packaging as a promotional tool³¹.

Recommendation #5: Prohibit the manufacture and sale of all flavoured vaping products appealing to children and youth.

Current regulation still permits vaping products to be flavored. Regulatory efforts to mitigate poisoning risk, such as child resistant packaging, would be more effective if the products were less appealing to children. Flavors, perceived by visual cues, aerosol scent and images on packaging, entice childhood curiosity and minimize recognition of danger²⁰.

Although adults using vape products report a preference for flavour, most would continue to use e-cigarettes even if tobacco were the only flavour available³². Flavour is also linked to more frequent vaping among adolescents but not adults³³. Furthermore, flavour may undermine the usefulness of vaping as a reduction tool as nicotine combined with sweet flavoring is associated with elevated 'liking' and response when compared with nicotine alone³⁴. Evidence suggests that restricting flavours in vaping products would be more beneficial in protecting children and mitigating youth use than it would be detrimental to harm reduction.

Health Canada cites the need to align with other nations to ease the burden of change or difference on Canadian industry. Prohibiting flavouring of vaping products would align with the direction of the Food and Drug Association (FDA) in the United States³⁵. The Government of Canada has prohibited the sale of all flavoured tobacco products and it is recommended that the prohibition on vaping product flavourings be aligned with that legislation.

Recommendation #6: Further restrict the allowable amount of nicotine in e-liquids and salts.

Proposed nicotine content labels, health warning labels and child resistant packaging will promote informed use and offer some protection from toxic nicotine ingestion. Amount of nicotine in vaping e-liquids or salts should be reduced to further protect against poisoning. E-cigarette devices can deliver nicotine at greater levels than combustible cigarettes, exceeding 50mg/ml³⁶. A recent Canadian retail survey found that most e-liquids (92%) contain up to 18 mg/ml of nicotine, while most nicotine salt formulations (68%) contain 18 to 42 mg/ml³⁷. The nicotine in vaping products permitted under current regulation may be more than five times the dose of nicotine deemed to be highly toxic to a child³⁸. Nicotine poisonings from e-liquids are becoming more frequent and are more severe than poisoning from cigarettes¹³. Best practices identified by Health Canada to prevent child poisoning combine child resistant packaging with restriction on the amount of toxic substance that may be consumed within a reasonable time¹¹. Child resistant packaging mitigates the risk of child ingestion but only restriction of nicotine can mitigate the severity of poisoning should a product be ingested.

In addition to accidental ingestion, youth and others are put at risk from high concentrations of nicotine for accidental poisoning by regular use¹² and by intentional swallowing or injection³⁹. The risk for accidental over consumption may be further elevated if the proposed instruction 'use entire contents on opening' (59(1)) is maintained. Further restricting nicotine would reduce the risk for accidental overconsumption or self-harm.

The pursuit of international alignment would be met by further regulation of nicotine content as the European Union has set restrictions for nicotine at 20mg/ml⁴⁰. It is recommended that Canada lower restrictions on nicotine concentration.

Recommendation #7: Develop prevention and awareness initiatives to increase public awareness about the risks associated with nicotine addiction and toxic consumption.

Warning label regulations appropriately target anyone purchasing vaping products. However, without accompanying and widely distributed prevention and awareness campaigns some consumers or potential consumers remain at risk. The reach of health warnings is a health equity issue and research shows that cigarette warning labels alone: do not support the equal dissemination of knowledge; are not a source for prevention prior to use; and may miss vulnerable persons or those accessing products from alternative sources (e.g. from family, friends or outside regulated markets)⁴¹.

Furthermore, while efforts to prohibit online campaigns of misinformation or illegal product promotion are needed they must be complemented by counter measures disseminating factual information⁴². Almost half (48%) of Ottawa students in Grades 9 to 12 believe that regular vaping presents only slight or no health risks⁴³. Information about the risks of nicotine addiction and toxic ingestion from vaping products should be made widely available to the public to promote informed and responsible use. For example, consumers should be made aware of tobacco company involvement in the vaping industry and the development of e-cigarettes to 'complement' rather than replace cigarettes⁴⁴. Despite potential for harm reduction, the public should be aware of the reality that vaping is correlated with increasing smoking prevalence in Canada¹.

Thank you again for this opportunity to provide comments and recommendations regarding the potential regulatory measures for vaping product labelling and packaging. Should you have any questions or wish to discuss the recommendations, please contact me at Vera.Etches@ottawa.ca or by telephone at 613-580-6744 ext. 23675.

Sincerely,

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Medical Officer of Health
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¹⁵ Government of Canada Department of Health. Canada Gazette, Part 1, Volume 153, Number 7 : GOVERNMENT NOTICES. Retrieved on July 15, 2019 from <http://gazette.gc.ca/rp-pr/p1/2019/2019-02-16/html/notice-avis-eng.html>

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