

CMA response:

HEALTH CANADA CONSULTATION ON PROPOSED VAPING PRODUCTS PROMOTION REGULATIONS

January 20, 2020

Since 1867, the Canadian Medical Association has been the national voice of Canada's medical profession. We work with physicians, residents and medical students on issues that matter to the profession and the health of Canadians. We advocate for policy and programs that drive meaningful change for physicians and their patients

The Canadian Medical Association (CMA) appreciates this opportunity to respond to the notice as published in the Canada Gazette, Part 1 for interested stakeholders to provide comments on Health Canada's proposed Vaping Products Promotion Regulations "that would (1) prohibit the promotion of vaping products and vaping product-related brand elements by means of advertising that is done in a manner that can be seen or heard by young persons, including the display of vaping products at points of sale where they can be seen by young persons; and (2) require that all vaping advertising convey a health warning about the health hazards of vaping product use."¹

Canada's physicians, who see the devastating effects of tobacco use every day in their practices, have been working for decades toward the goal of a smoke-free Canada. The CMA issued its first public warning concerning the hazards of tobacco in 1954 and has continued to advocate for the strongest possible measures to control its use.

The CMA has always, and will continue to support, strong, comprehensive tobacco control legislation, enacted and enforced by all levels of government. This includes electronic cigarettes (e-cigarettes). Our approach to tobacco and vaping products is grounded in public health policy. We believe it is incumbent on governments in Canada to continue working on comprehensive, coordinated and effective tobacco control strategies, including vaping products, to achieve the goal of reducing smoking prevalence.

Introduction

It is imperative that the regulations concerning the promotion of vaping products be tightened sooner rather than later. While the CMA views Health Canada's proposed regulations as a step in the right direction, they should only be considered as the start of extensive regulatory, policy and public health work required to effectively address the harms associated with vaping.

Vaping is not without risks. Evidence continues to grow about the hazards associated with the use of e-cigarettes, especially for youth and young adults. The emergence of e-cigarette, or vaping, product use-associated lung injury (EVALI) in the United States and to a lesser extent in Canada, illustrates the danger these products can pose. The Centers for Disease Control and Prevention (CDC) reported that as of January 7, 2020 that there were 2,602 cases of hospitalized EVALI or deaths (57 so far) reported by all 50 states, the District of Columbia, and 2 U.S. territories (Puerto Rico, and the U.S. Virgin Islands).² In an update published in the CDC's *Morbidity and Mortality Weekly Report*, "younger age was significantly associated with acquiring THC-containing and nicotine-containing products through informal sources."³ The report concludes with this warning: "Irrespective of the ongoing investigation, e-cigarette, or vaping, products should never be used by youths, young adults, or pregnant women."³ In Canada, as of January 7, 2020, 15 cases of severe pulmonary illness associated with vaping have been reported to the Public Health Agency of Canada.⁴

A recent public opinion survey conducted by the Angus Reid Institute (ARI) indicates that Canadians are growing more concerned about the safety of vaping as more information on the potential harms becomes available.⁵ The survey found that the number of people saying that vaping does more harm than good rose from 35% in 2018 to 62% in 2019.⁵ Further, 17% of parents with children under 19 said their child either vaped or had tried it; 92% of those parents considered vaping harmful.⁵ Significant to this discussion is the fact that 90% of respondents support "banning advertisements of vaping products in areas frequented by young people. This includes areas such as bus shelters or parks, and digital spaces like social media."⁵ As public unease continues to rise, the need for further tightening of regulations becomes vital.

Unfortunately, the federal government is still behind the curve when it comes to the proliferation of vaping and the vaping industry. Health Canada will have to step up surveillance and enforcement if tightening of the regulations is to be effective.

This brief will address the planned regulations as well as discuss important issues not covered such as nicotine levels and flavours. We have expressed concerns about these topics in previous consultations

and will be reiterating them here.

Promotion of Vaping Products

The CMA appreciates Health Canada's intent to tighten the regulations but this proposal is not sufficient, and we must reiterate our long-held position that the restrictions on the promotion of all vaping products and devices be the same as those for tobacco products.^{6,7} The proposed regulations provides the vaping industry with too much latitude in their promotion activities to ensure youth are protected. As we noted in our response to Health Canada's consultation on *The Impact of Vaping Products Advertising on Youth and Nonusers of Tobacco Products*, the advertisements that have been permitted to this point seem to have managed to find their way to youth, even if they are not directed at them, as has been asserted.^{7,8} We recommended vaping advertisements should not be permitted in any public places, broadcast media, and in publications of any type, with no exceptions. The CMA stands by that recommendation.⁷

The methods used by the vaping industry in the past succeeded in attracting more and more youth and young adults and it will no doubt continue efforts to find novel approaches for promoting their products, including the use of popular social media channels.^{9,10,11,12} Indeed, "JUUL's™ advertising imagery in its first 6 months on the market was patently youth oriented. For the next 2 ½ years it was more muted, but the company's advertising was widely distributed on social media channels frequented by youth, was amplified by hashtag extensions, and catalyzed by compensated influencers and affiliates."¹⁰

The vaping industry's efforts to circumvent marketing restrictions in other jurisdictions are evident in view of some recent developments. A US study outlines an e-cigarette marketing technique that involves the promotion of scholarships for students.¹³ The study found 21 entities (manufacturers, e-cigarette review websites, distributors) offering 40 scholarships, ranging in value from \$300 to \$5000 (US).¹³ Most of the scholarships required "an essay submission, with most listing prompts related to e-cigarettes or eliciting information about the benefits of vaping."¹³ The authors suggest "that prohibitions on e-cigarette scholarships to youth are also needed, as many of these scholarships require youth under the age of 18 years (for whom use of e-cigarettes are illegal) to write positive essays about vaping."¹³

Health Warnings

The CMA reiterates, yet again, its position that all health warnings for vaping products and devices should be similar to those presently required for tobacco packages in Canada.^{6,14} The need for such cautions is important in that we still do not understand fully the effects vaping can have on the human body.

Harms

More research is needed into the potential harms of using electronic cigarettes to understand the long-term effects users may face.^{15,16,17} The proposed health warnings are not strong enough in light of the research and knowledge that has emerged to date about the harms caused by e-cigarettes. For example, a recent US study highlighted the potential link between e-cigarette use and depression.¹⁸ It found "a significant cross-sectional association between e-cigarette use and depression, which highlights the need for prospective studies analyzing the longitudinal risk of depression with e-cigarette use."¹⁸ As the authors note, "the potential mental health consequences may have regulatory implications for novel tobacco products."¹⁸

Further, with respect to respiratory issues, a US study found that "use of e-cigarettes appears to be an independent risk factor for respiratory disease in addition to all combustible tobacco smoking."¹⁹ The authors also don't recommend the use of e-cigarettes as a smoking cessation tool because "for most smokers, using an e-cigarette is associated with lower odds of successfully quitting smoking."¹⁹

Nicotine Levels

Nicotine levels and flavours are not addressed in this consultation. However, the CMA considers these

issues to be vital in the effort to protect youth and young adults from the harms associated with e-cigarettes and will therefore provide comment in effort to speed movement toward resolving these problems.

The CMA remains very concerned about the rising levels of nicotine available through the vaping process.²⁰ They supply “high levels of nicotine with few of the deterrents that are inherent in other tobacco products. Traditional e-cigarette products use solutions with free-base nicotine formulations in which stronger nicotine concentrations can cause aversive user experiences.”²¹

Hammond et al noted in their 2019 study that “JUUL® uses benzoic acid and nicotine salt technology to deliver higher concentrations of nicotine than conventional e-cigarettes; indeed, the nicotine concentration in the standard version of JUUL® is more than 50 mg/mL, compared with typical levels of 3-24 mg/mL for other e-cigarettes.”⁹ The salts and flavours available to be used with these devices reduce the harshness and bitterness of the taste of the e-liquids with some of the competition delivering even higher levels of nicotine.²²

The CMA called on Health Canada to restrict the level of nicotine in vaping products to avoid youth (and adults) from developing a dependence.²⁰ Health Canada set the maximum level at 66 mg/ml while a European Union (EU) directive of 2014 indicates the level should not exceed 20 mg/ml.^{23,24} Nicotine, among other issues, “affects the developing brain by increasing the risk of addiction, mood disorders, lowered impulse control, and cognitive impairment.”^{25,26} Utilizing the EU level as an interim measure until more scientific research is available to determine an optimal level is acceptable.

Flavours

On December 5, 2019, the Government of Nova Scotia became the first province or territory to announce it would institute a ban on sale of flavoured e-cigarettes and juices, as of April 1, 2020.²⁷ The CMA recommends that flavours be banned to reduce the attractiveness of vaping to youth as much as possible; others share this sentiment.^{6,7,28} Flavours are strong factors in attracting youth, especially when coupled with assertions of lower harm.²⁹ Their success in doing so is evidenced by the rise in the rates of vaping among youth.^{9,30} A recent US study found that “perceiving flavored e-cigarettes as easier to use than unflavored e-cigarettes may lead to e-cigarette use progression among youth never tobacco users. Determining the factors (including e-cigarette marketing and specific e-cigarette flavors) that lead to perceived ease of using flavored e-cigarettes would inform efforts to prevent and curb youth e-cigarette use.”³¹ The CMA recommends that flavours be banned to reduce the attractiveness of vaping to youth as much as possible.

Recommendations

1. The CMA recommends that vaping advertisements should not be permitted in any public places, broadcast media, and in publications of any type, with no exceptions.
2. The CMA reiterates its position that all health warnings for vaping products and devices should be similar to those for tobacco packages.
3. The CMA believes that the European Union 2014 directive indicating the nicotine concentration not exceed 20 mg/ml should be adopted as an interim measure until more scientific research is available to determine an optimum level.
4. CMA recommends flavours be banned to reduce the attractiveness of vaping to youth as much as possible.

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