



TO: Chair and Members of the Board of Health

FROM: Christopher Mackie, Medical Officer of Health

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## COMMENTS ON THE MINISTRY OF HEALTH AND LONG-TERM CARE'S PROPOSAL TO STRENGTHEN ONTARIO'S SMOKING AND VAPING LAWS

### **Recommendation**

*It is recommended that the Board of Health*

- 1. Endorse Report No. 024-16 re: "Comments on the Ministry of Health and Long-Term Care's Proposal to Strengthen Ontario's Smoking and Vaping Laws" and*
- 2. Direct Health Unit staff to submit Appendix B and corresponding references to the Regulatory Registry for Ministry of Health and Long-Term Care consideration.*

### **Key Points**

- In May 2015, the [Making Healthier Choices Act, 2015](#) (MHCA) received Royal Assent, strengthening the *Smoke-Free Ontario Act* by banning the sale of certain flavoured tobacco products, increasing the maximum fines for youth-related sales offences, and increasing smoking restrictions on hospital property.
- The [MHCA](#) also created new legislation, the [Electronic Cigarettes Act, 2015](#) (ECA), to regulate the sale, use, display, and promotion of e-cigarettes. On January 1, 2016, provisions in the *ECA* came into effect, prohibiting the sale or supply of e-cigarettes to people less than 19 years of age.
- The Ministry is proposing further legislative and regulatory amendments to strengthen smoking and e-cigarettes laws in Ontario, outlined in [Appendix A](#).
- The Middlesex-London Health Unit is in support of the proposed amendments with some suggested revisions, attached as [Appendix B](#), to enhance public protection. Ongoing, dedicated funding with inflationary increases is required from the Ministry to support this work.

### **Background**

The Ministry of Health and Long-Term Care is committed to improving the health and wellness of Ontarians. In May 2015, the [Making Healthier Choices Act, 2015](#) received Royal Assent, strengthening the *Smoke-Free Ontario Act* by banning the sale of certain flavoured tobacco products, increasing the maximum fines for youth-related sales offences, and increasing smoking restrictions on hospital property. These provisions came into effect January 1<sup>st</sup>, 2016. The [Act](#) also created new legislation - the [Electronic Cigarettes Act, 2015](#) (*ECA*) – to regulate the sale, use, display, and promotion of e-cigarettes. On January 1, 2016, particular sections of the *ECA* came into force, prohibiting the sale or supply of e-cigarettes to people less than 19 years of age.

The ministry is proposing further legislative and regulatory amendments that would strengthen smoking and e-cigarettes (vaping) laws in Ontario. In summary, the Ministry's proposed amendments, if approved would:

1. Expand the *Smoke-Free Ontario Act's* "no smoking rules" to apply to medical marijuana;
2. Prohibit the use of e-cigarettes – including the use of vaporizers to consume medical marijuana and testing in stores that sell e-cigarettes – in all enclosed public places, enclosed workplaces, and other specified outdoor areas;
3. Permit parents, guardians and caregivers to supply e-cigarettes to minors for medical marijuana purposes;
4. Expand the definition of "e-cigarette" to include "e-substance";
5. Expand the list of places where e-cigarettes are prohibited for sale;
6. Establish rules for the display and promotion of e-cigarettes at places where they are sold.

The Ministry proposal is outlined in greater detail in their public consultation paper, attached as [Appendix A](#).

### Opportunity for Public and Stakeholder Input

The Health Unit has a vested interest in ensuring that the proposal will meet local public health needs, will contribute to a strengthened provincial tobacco control strategy, and is enforceable by the Health Unit's Tobacco Enforcement Officers. The Health Unit's comments on the Ministry's proposal and suggested revisions Ministry's approach are attached as [Appendix B](#), and summarized as follows:

- The prohibition on the smoking or holding of lit tobacco should be expanded to include *the smoking or holding of lit marijuana*, and not limit the prohibition to medical marijuana only
- The prohibition on the smoking or holding of lit tobacco should be expanded to include smoking hookah or water pipe devices, regardless of whether or not the substance smoked contains tobacco
- The proposed approach to prohibit the use of e-cigarettes in places where smoking is prohibited, including the e-cigarette retail environment is applauded. The exemption for the use of e-cigarettes in theatrical stage productions should not be permitted, and the definition of "electronic cigarette" should be amended to remove the requirement that the device contain a power or heating source.
- Parents, guardians or caregivers that supply an e-cigarette to a minor to consume medical marijuana can only do so if the device is purchased from a pharmacy or directly from the authorized licensed producers of medical marijuana under the Marijuana for Medical Purposes Regulations.
- Tobacco products should not permitted to be sold at retailers that choose to operate under the display, promotion and handling exemption outlined in the Ministry's proposal. The promotion and marketing of e-cigarettes and e-substances should also be strictly prohibited at places of entertainment, including bars, restaurants, special events, casinos, concerts and racetracks.

Health Unit staff shared the Ministry's announcement, the consultation paper and information on how to submit comments on the legislation with community and municipal partners to solicit community input.

This report was prepared by Ms. Linda Stobo, Program Manager, Chronic Disease Prevention & Tobacco Control.



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This report addresses the Chronic Disease and Injuries Program Standards of the Ontario Public Health Standards #1, 3, 4, 6, 11, 12 and 13"