

January 19th, 2020

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Appendix A to Report No. 011-20

RE: SUBMISSION TO HEALTH CANADA ON THE PROPOSED VAPING PRODUCTS PROMOTION REGULATIONS (VPPR)

Dear Mathew Cook;

The Middlesex-London Health Unit shares Health Canada's concerns regarding the increase in vapour product use by young people in Canada and commends Health Canada for its commitment to work with provincial and territorial partners to enhance national collaborative and cooperative efforts to reduce youth vaping.

In Ontario, local Public Health Units play an important role in working with parents, schools, community and social service agencies, and municipalities to prevent youth, young adults, and non-tobacco users from using vaping products, and to promote compliance and ensure enforce the provisions outlined under the *Smoke-Free Ontario Act, 2017*. The enactment of the proposed *Vaping Products Promotion Regulations (VPPR)*, published in the Canada Gazette, Part I on December 21, 2019 would be an important step forward to help reverse the increase in youth initiation of vaping in Canada. The Middlesex-London Health Unit welcomes the opportunity to provide comments on how to strengthen the proposed *Vaping Products Promotion Regulations*. Our submission is attached for your consideration.

While the proposed regulations along with the recommended improvements we have suggested will help to prevent youth, young adults and non-smokers from the initiation of vapour product use, additional regulatory, legislative and policy changes are needed to effectively curb the rapidly growing epidemic of youth vaping. The Middlesex-London Health Unit looks forward to continuing to work in partnership with our federal public health partners to address this emerging public health issue of significant concern. For more information or to discuss further, please do not hesitate to contact me or Linda Stobo, Program Manager for Chronic Disease Prevention and Tobacco Control at (519) 663-5317 ext. 2388.

Sincerely,



Christopher Mackie, MD, MHSc, CCFP, FRCPC
Medical Officer of Health / CEO

January 19th, 2020

Comments on the Proposed *Vaping Products Promotion Regulations*

The Middlesex-London Health Unit (MLHU) applauds Health Canada's efforts to prevent the initiation of vaping by youth, young adults, and non-smokers and welcomes the opportunity to provide feedback on the proposed *Vaping Products Promotion Regulations*.

Overall, the regulations, once implemented, will help to reduce youth vaping and will be a significant advancement to the status quo; however, the timeliness of enactment is imperative. Data from the 2018-19 Canadian Student Tobacco Alcohol and Drugs survey (CSTADS) shows that 20% of Canadian students (approximately 418,000) had used an e-cigarette (with or without nicotine) in the past 30 days. Students that reported vaping (with or without nicotine) in the past 30 days are vaping regularly, with approximately 40% reporting daily or almost daily use (Health Canada, 2019). The measures outlined in the proposed regulations will help to reverse the increase in youth initiation of vaping in Canada and should be adopted as soon as possible.

At the same time, there is an opportunity to make improvements to the regulations.

Prohibiting Advertising and Display of Vaping Products to Youth

There has been a sharp increase in youth vaping over the past three years. A recent study, led by Professor David Hammond from the University of Waterloo found that vaping among youth aged 16 to 19 increased by 74% between 2017 and 2018 (Hammond, D., Reid, J.L, Rynard, V.L, et al., 2019). The CSTADS survey indicates that e-cigarette prevalence rates have doubled among students, from 10% in 2016-17 to 20% in 2018-19 (Health Canada, 2019). The volume of advertising and product promotion is likely contributing to the uptick in vaping among Canadian youth. Research has shown that vaping is associated with smoking initiation among youth and young adult populations and that advertising and promotion of tobacco products to young people has led to increasing uptake of smoking (Margolis, K.A, Donaldson E.A., Portnoy, D.B., et al., 2018). Research published in *Pediatrics* in June 2019 found that the marketing of vapour products at retail stores predicts youth and young adult vapour product initiation, and that exposure to product advertisements on television is also associated with the initiation of vapour product use by young adults (Loukas, A., Paddock, E., Xiaoyin, L., et al., 2019). Youth and young adults are uniquely susceptible to marketing due to hormonal effects during brain development and the blurred lines between entertainment and advertising with digital advertisements (Heart and Stroke Foundation, 2019).

Brands such as JUUL utilize vapour product advertisements that convey fun, trendy and attractive lifestyles which appeal particularly to youth and young adults. A 2019 national Leger poll found that 86% of Canadians believe that the government should apply the same advertising restrictions to vapour products with nicotine as it does to tobacco products to help curb increasing youth consumption of nicotine vaping products (Leger, 2019). Due to the enactment of recent legislation in Ontario, vaping advertisements and promotional materials are no longer permitted at tobacco and vapour product retail outlets where people under the age of 19 years have access; however, youth will continue to be exposed to vapour product advertising in many public spaces, including online and on social media platforms, without the support of the proposed Health Canada regulations.

Vaping products should be brought under the same advertising and promotion control regime as tobacco. Advertising at places such as post-secondary campuses, recreational facilities, special events or places of entertainment, restaurants, public transit facilities, broadcast media, within print publications and online should be prohibited given the potential for youth exposure. In addition, all restrictions on visual advertising, promotional exhibits, signage, and product display at point of sale that exist for tobacco products should also be applied to vaping products.

As proposed, the *VPPR* would allow vapour product promotion on signs and by audio and video media if these advertisements are in age-restricted venues. Other forms of marketing, such as promotional parties or special events, are

not specifically named as prohibited activities within the regulations. Tobacco industry promotional activities that were permitted historically, including sponsored events and interactive audio-visual exhibits, demonstrate the need for strict regulations that prohibit all forms of advertising and marketing for vaping products, except for signs in adult-only venues and publications sent to named, consenting adults. Young adult non-smokers should be protected from vapour product advertising given the blurred lines between entertainment and advertising, and the industry's history of downplaying the potential health harms associated with vapour product use.

Emerging data suggests that vapour products may be safer than combustible tobacco products; however, this data is not yet conclusive and regardless, they are not harmless. A precautionary approach is required. There is conclusive evidence that non-tobacco users should not start using vapour products due to the increase in exposure to nicotine, particulate matter, heavy metals and other toxic chemicals; this is especially true for young people because of the damage nicotine can have on the developing brain (NASEM, 2018; England, L.J., Bunnell, R.E., Pechacek, T.F, et al., 2015). Strict regulations on advertising are essential to ensure we circumvent the creation of a new generation of young people addicted to nicotine. Since all forms of advertising can make vaping products socially desirable and acceptable, we urge Health Canada to employ strict measures to limit vapour product promotion and advertising.

Health Warnings on Permitted Advertisements and Product Packages

The *List of Health Warnings for Vaping Product Advertising* is currently unavailable for review. Studies on electronic cigarette health warnings have found that the exposure to a health warning increases negative feelings regarding the use of an electronic cigarette. Moreover, these studies have found that exposure to the health warning also reduces positive attitudes about vapour products and intentions to purchase an electronic cigarette (Baig, S. B., Brewer, N. T., Hall, M.G., et al., 2018). The first two warnings proposed for use under the regulation are small, and do not reflect the seriousness of the health effects of vaping as currently documented in scientific evidence.

Youth and young adults are the largest users of vaping products and they continue to lack reliable information and be unaware of the health effects of electronic cigarette use. In 2019, the Ontario Tobacco Research Unit conducted focus groups in Ontario, a couple of which were held in London, ON. Multiple young people stated that they felt that if vaping was unsafe, the government would have stricter regulations. For example, one participant expressed the following opinion, "... I think that's why the government is a bit more lax with [vaping] - because there's no demonstrable proof that it actually does have health implications. If there was, they would do something" (Ontario Tobacco Research Unit, 2019). It is our recommendation that warnings should include clear scientific findings about the effects of nicotine on brain development. This is an indisputable health implication that we feel will add more weight to the proposed warnings. In addition, the MLHU recommends that the *List of Health Warnings for Vaping Product Advertising* consist exclusively of effective warnings with the addition of graphic elements. Canada has been a leader in the implementation of graphic health warnings for tobacco products; therefore, the opportunity exists to apply the evidence from the implementation of graphic health warnings on tobacco product packages to the regulations for vapour product packaging.

In addition, the inclusion of health warnings on advertisements visible to adults is an important step toward enhancing public awareness about the health hazards of vaping. Due to ongoing uncertainty around the harms of specific ingredients and combinations of ingredients, health warnings should also be included on advertisements for all vaping products, and not limited to those for vaping products that contain nicotine or are intended to be used with vaping liquid. The MLHU recommends that the size of the required warning on the permitted advertisement be increased from 20% to 50% of the surface area. Additionally, bilingual health warnings will reduce the size of the font, impacting the visibility and impact of the message. Therefore, MLHU recommends that if an advertisement is in only one official language (as outlined in s.12(2) of the proposed regulations), that the health warning be only in the language of the advertisement.

Lastly, due to the increasing number of confirmed or probable cases of vaping-related severe pulmonary disease in Canada (15 cases reported by Health Canada as of January 7, 2020), and a lack of confirmed evidence regarding the specific cause of these illnesses, there is a need to increase awareness about the potential consequences of vaping. The

MLHU supports the ongoing update of health warnings on advertisements and vapour product packaging to keep the public informed as the body of evidence regarding the health consequences of vaping grows.

Additional Comments

The proposed regulations, along with the recommendations outlined within this submission, will help to prevent the initiation of vapour product use by youth, young adults and non-smokers; however, further regulatory and legislative changes are needed.

- Many youth who vape report that they obtain these products online. Online vendors may be both less able and less inclined to take effective measures to limit sales to minors; some online vendors accept a simple declaration of a client's age. Strict age-verification measures are required for online sales, including age-verification at time of purchase and proof of legal age at delivery. Active enforcement of online sales to assess compliance with age restriction laws is also required. In addition, at the time of delivery of e-cigarettes and e-juice purchased online, confirmation of age by government-issued identification should be required.
- "Flavor is a multisensory perception" that involves taste, aroma, and feelings of cooling and burning within the mouth and throat (Small, D.M. and Green, B.G., 2012). Youth and young adults are particularly influenced by flavours (Mennella, J.A., Pepino, M.Y., and Reed, D.R., 2005). Due to pervasive marketing and promotion tactics, and the addition of attractive candy and fruit flavours to vapour products, sales of e-cigarettes are growing rapidly across Canada and around the world, with over one thousand e-liquid flavours available in the marketplace under the banner of 460 different brands (Euromonitor International, 2015). The MLHU recommends that Health Canada strengthens the current approach to regulating flavoured e-substances to include tighter prohibitions on the manufacturing and sale of e-substance flavours that are attractive to youth and adolescents, with an overall reduction/market cap on the number of flavours available for sale in Canada. Nicotine replacement therapy is only available in a limited number of flavours; therefore, the inventory of vapour product flavours should be limited.
- Nicotine is a highly addictive substance that poses significant risk, especially to young people. The brain continues to develop until an individual reaches the approximate age of 25. Exposure to nicotine during brain development can result in nicotine addiction, mood disorders, permanent lowering of impulse control, and changes in attention and learning (NASEM, 2018). To reduce youth appeal and to protect the developing youth brain, the Health Unit recommends that acceptable nicotine concentration levels for vapour products should be more closely aligned with the approved nicotine concentrations for nicotine replacement therapeutic products (e.g. patches, gum, mist, inhalers, lozenges) already approved and regulated as cessation aids in Canada. The MLHU recommends that the nicotine concentration level for e-substances should not exceed 20 mg/ml. This level is in alignment with the European Union Tobacco Products Directive (20 mg/ml), which states that this concentration allows for delivery of nicotine that is comparable to a standard cigarette (Health Canada, 2019).

The MLHU applauds the finalization of Health Canada's *Vaping Products Labelling and Packaging Regulations* along with continued efforts to prevent youth vaping initiation. The MLHU looks forward to continuing to work in partnership to reduce the negative impact that tobacco and vaping product use is having on our community.

References

- Baig, S. B., Brewer, N. T., Hall, M. G., Jeong, M., Mendel, J. R. (2018). Placing health warnings on e-cigarettes: A standardized protocol. *International Journal of Environmental Research in Public Health*, 15(8). Retrieved from <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6122039/>
- Berenbaum E., Keller Olaman S., Manson H., Moloughney B., Muir S., Simms C., Singh H., Watson K. (2018). Current evidence on e-cigarettes: a summary of potential impacts. Toronto, ON: Queen's Printer for Ontario. Retrieved from <https://www.publichealthontario.ca/-/media/documents/literature-review-ecigarettes.pdf?la=en>
- England, L.J., Bunnell, R.E., Pechacek, T.F., Tong, V.T. and McAfee, T.A.,(2015). Nicotine and the developing human: a neglected element in the electronic cigarette debate. *American Journal of Preventive Medicine*, 49(2), pp.286-293.
- Euromonitor International. (2015). Vapour Devices and E-cigarettes in the Global Tobacco Market. Retrieved from <http://blog.euromonitor.com/2015/06/vapor-devices-and-e-cigarettes-in-the-global-tobacco-market.html>
- Hammond, D., Reid, J. L., Rynard, V. L., Fong, G. T., Cummings, K. M., McNeill, A., ... & O'Connor, R. (2019). Prevalence of vaping and smoking among adolescents in Canada, England, and the United States: repeat national cross sectional surveys. *British Medical Journal*, 365, 12219.
- Health Canada. (2019). Results of the Canadian Student Tobacco, Alcohol and Drugs Survey (CSTADS). 2018-19. Retrieved from <https://www.canada.ca/en/health-canada/services/canadian-student-tobacco-alcohol-drugs-survey/2018-2019-summary.html>
- Health Canada. (2019). Reducing Youth Access and Appeal of Vaping Products. Consultation of Potential Regulatory Measures. Ottawa, Canada.
- Heart and Stroke Foundation. (2019). What is marketing. *Stop Marketing to Kids Coalition*. Retrieved from <https://stopmarketingtokids.ca/what-is-marketing/>
- Leger. (2019). Promotion of vaping products seen by youth. Research conducted on behalf of the Coalition Quebecoise Pour Le Controle du Tabac. Retrieved from http://www.cqct.qc.ca/Documents_docs/DOCU_2019/POLL_19_04_08_Leger_YouthVaping_Measures.pdf
- Margolis, K. A., Donaldson, E. A., Portnoy, D. B., Robinson, J., Ne, L. J., & Jamal, A. (2018). E-cigarette openness, curiosity, harm perceptions and advertising exposure among U.S. middle and high school students. *Preventive Medicine*. Retrieved from <https://www.sciencedirect.com/science/article/pii/S0091743518301282>
- Mennella, J.A., M.Y. Pepino, and D.R. Reed. (2005). Genetic and environmental determinants of bitter perception and sweet preferences. *Pediatrics*. 115(2):e216-e222.
- National Academies of Sciences, Engineering and Medicine. (2018). Public health consequences of e-cigarettes. Washington, DC: The National Academies Press. doi: <https://doi.org/10.17226/24952>.
- Ontario Tobacco Research Unit. (2019). Conversations about Vaping: A Focus Group Study. Retrieved from https://www.otru.org/wp-content/uploads/2019/03/otru_projectnews_mar2019.pdf
- Small, D.M. and B.G. Green. (2012). A Proposed Model of a Flavor Modality. In: M.M. Murray and M.T. Wallace, M.T. (Eds.), *The Neural Bases of Multisensory Processes*, Chapter 36. Boca Raton FL: CRC Press/Taylor & Francis