MIDDLESEX-LONDON HEALTH UNIT

REPORT NO. 46-22

TO: Chair and Members of the Board of Health

FROM: Dr. Alexander Summers, Medical Officer of Health & Emily Williams, Chief Executive Officer

DATE: 2022 July 14

FEEDBACK ON PROPOSED DISCLOSURE REQUIREMENT FOR VAPING PRODUCT MANUFACTURERS UNDER THE *TOBACCO AND VAPING PRODUCTS ACT*

Recommendation

It is recommended that the Board of Health:

1. ***Receive Report No. 46-22 "Feedback on Proposed Disclosure Requirement for Vaping Product Manufacturers under the Tobacco and Vaping Products Act" for information;***
2. ***Endorse and submit feedback prepared by Middlesex-London Health Unit staff, attached as Appendix A, to the Tobacco Control Directorate of Health Canada, expressing its feedback on the proposed regulations regarding vapour product manufacturer reporting requirements; and***
3. ***Send a copy of the Middlesex-London Health Unit submission, attached as Appendix A, to the Honourable Carolyn Bennett, Minister of Mental Health and Addictions and Associate Minister of Health, recommending that Health Canada publish peer reviewed evidence regarding product safety and health consequences from the use of vaping products within six months.***

Key Points

- On June 18, 2022, Health Canada opened a public consultation to gather feedback on the proposed *Vaping Products Reporting Regulations* which would require vaping product manufacturers to disclose sales data and ingredient information to Health Canada.
- Health Unit staff prepared a submission for Board of Health approval, attached as Appendix A, to express its support and to offer additional recommendations to address the issues underlying the public health concerns related to vaping in Canada.
- On June 23, 2022, the US Food and Drug Administration (FDA) issued orders to ban the sale of JUUL vapour products in the US due to concerns regarding product safety and their disproportionate role in the rise of youth vaping.
- The actions employed by the FDA warrant careful analysis and review by Health Canada.

Consultation on Proposed Vaping Products Reporting Regulations under the *Tobacco and Vaping Products Act*

On June 18, 2022 proposed regulations concerning vaping product reporting requirements and an accompanying Regulatory Impact Analysis Statement were published in *Canada Gazette, Part I*. This publication opened a 45-day consultation period that will close on August 2, 2022. The proposed Regulations would require vaping products manufacturers and importers to disclose the following information to Health Canada:

- **Report on sales** – information on sales of vaping products by brand sold in Canada and for export.
- **Report on ingredients** – information on the ingredients of vaping substances by brand sold in Canada.

The proposed regulations were described as the first step of a gradual approach to introducing vaping product reporting requirements. Ensuring that government, non-government and health organizations remain informed of vapour product industry practices is important to supporting the efforts of health, non-governmental, and governmental agencies to be able to respond to an evolving vapour product market. British American Tobacco plc, Altria Group Inc., Japan Tobacco Inc., Imperial Tobacco Group, Philip Morris International Inc., VMR Products LLC, NJOY Inc., International Vapor Group, Nicotek LLC, VMR Products LLC, MCIG Inc., ITC Limited, and J WELL France are the predominant companies that are operating in the e-cigarette market. The tobacco industry has a long history of deceptive marketing and advertising practices and authoring reports with inaccuracies as to the addictive nature and health consequences of commercial tobacco use. For this reason, vapour product manufacturers should be held to the same standard of accountability and scrutiny as tobacco product manufacturers through the enactment of the proposed regulations.

US Food and Drug Administration Orders Ban on Sale of JUUL Products

Public health concerns about health consequences from vapour product use and the creation of a whole new generation of people addicted to nicotine have reached new levels. On June 23, 2022, the United States Food and Drug Administration (FDA) issued market denial orders (MDOs), with immediate effect, to all JUUL products in the United States. These MDOs require that the company must immediately stop selling and distributing its products in the US, and that in addition, JUUL products currently on the US market must be removed or face enforcement action. The FDA stated in a release that JUUL's application to market their products "lacked sufficient evidence regarding the toxicological profile of the products to demonstrate that marketing of the products would be appropriate for the protection of the public health", and further, that JUUL products "have played a disproportionate role in the rise in youth vaping". While a US federal appeals court has issued a temporary stay blocking the nationwide ban until the matter proceeds through the court system, the action employed by the FDA warrants careful consideration and analysis by Health Canada. A more rigorous approach requiring vapour product manufacturers to prove the safety and efficacy of their products prior to sale may be warranted. Considering this recent development, it is recommended that Health Canada takes meaningful action to determine the health harms from vapour product use through the completion of a comprehensive study of peer-reviewed evidence. Health Canada is encouraged to publish the results of this evidence review within six (6) months, and based on the growing scientific body of research, Health Canada's regulatory approach and vapour product safety messaging may require further revision.

This report was submitted by the Healthy Living Division.

Dr. Alexander Summers, MD, MPH, CCFP, FRCPC
Medical Officer of Health

Emily Williams, BScN, RN, MBA, CHE
Chief Executive Officer