
TO: Chair and members of the Board of Health

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Recommendations

It is recommended that the Board of Health:

1. Receive this report for information.
2. Send a letter to Minister Christine Elliott urging the provincial government to proceed with the implementation of the vaping regulations within the SFOA, 2017 and to prohibit: 1) the use of water pipes in all public spaces where tobacco smoking is prohibited, and 2) smoking and vaping on all post-secondary education campuses.

Key Points

- The *Smoke-Free Ontario Act*, (SFOA) 2017 was scheduled to come into force on July 1, 2018 and repeal the existing SFOA, 2006 and *Electronic Cigarettes Act*, 2015 (ECA) to replace them with a single legislative framework.
- The changes to the SFOA, 2017 that were set to come into effect on July 1, 2018 are being paused to give the new government the opportunity to carefully review the new regulations related to vaping. The current provisions in the SFOA and the ECA remain in effect and will continue to be enforced.
- Key provisions of the SFOA, 2017 and related regulations that would have been implemented included:
 - Consolidation and updating of the SFOA and the ECA to officially prohibit vaping anywhere tobacco is prohibited;

- Prohibiting smoking and vaping of medical cannabis anywhere tobacco smoking is prohibited;
 - Creating a 20 metre no-smoking/vaping zone around schools, playgrounds and recreational facilities, and a 9 metre no-smoking zone around bar and restaurant patios; and
 - Prohibiting e-cigarette displays in all stores except specialty vape shops, effectively removing vaping products and displays from convenience stores.
- Although the SFOA, 2017 addresses many gaps in the current SFOA, several necessary provisions are not included. Restrictions on the use of water pipes in enclosed public places and workplaces and smoking and vaping of tobacco and medical cannabis on post-secondary campuses are currently not included in the SFOA, 2017.
 - A recently published (2018) comprehensive literature review on e-cigarettes was completed by the National Academies of Sciences, Engineering, and Medicine (NASEM). It concluded:
 - It remains unclear whether e-cigarettes are an effective cessation aid for smokers due to a limited number of robust studies that make it difficult to provide conclusive results.
 - E-cigarette use is associated with subsequent cigarette smoking among youth. However, in the relatively short time period of e-cigarette studies, there are challenges with determining whether youth who start smoking after they try e-cigarettes would have started smoking if they had not used e-cigarettes.
 - Levels of second-hand exposure to airborne levels of nicotine and particulates from e-cigarettes are lower than that of tobacco cigarettes; however, this exposure has the potential to lead to adverse health effects.

Discussion

Background

The SFOA, 2017 – Schedule 3 to Bill 174 received Royal Assent on December 12, 2017. It was scheduled to come into force on July 1, 2018 and repeal the existing SFOA, 2006 and ECA, 2015 to replace them with a single legislative framework.

The changes to the SFOA, 2017 that were set to come into effect on July 1, 2018 are being paused to give the new government the opportunity to carefully review the new regulations related to vaping. The government plans to work with the public, experts and businesses to re-examine the evidence related to vaping as a smoking cessation tool to ensure that any changes are in the best interests of the public and protect Ontarians' health and safety.¹ The provisions in the current SFOA and the ECA remain in effect and will continue to be enforced.

The proposed SFOA, 2017 (prior to July 1, 2018) is outlined below. Omissions from the SFOA, 2017 are described, and a summary of the current evidence on e-cigarettes is also provided.

Smoke Free Ontario Act, 2017

Places of Use

It was proposed that smoking or holding lighted tobacco, the use of an e-cigarette (including e-cigarettes containing medical cannabis) or smoking medical cannabis in places where it was previously only prohibited to smoke tobacco would be prohibited. This included:

- Enclosed public places;
- Enclosed workplaces;
- On the grounds of primary and secondary schools;
- Indoor common areas in condominiums, apartment buildings and university/college residences;
- Child care centres;
- Places where home child care is provided (whether or not children are present);
- Places where an early years program or service is provided;
- Reserved seating areas of outdoor sports or entertainment venues;
- Restaurant and bar patios;
- Children's playgrounds and public areas within 20 metres of playgrounds;
- In cars transporting children under 16 years of age;
- Sporting areas (excluding golf courses), adjacent spectator areas and public areas within 20 metres of these places;
- The outdoor grounds of public hospitals, private hospitals and psychiatric facilities;
- Nine metres from any entrance or exit of a long-term care home or independent health facility; and
- The outdoor grounds of prescribed Ontario government office buildings.

In addition, the following areas would have been added to the above:

- Public areas within 20 metres from the perimeter of the grounds of elementary and secondary schools;
- The outdoor grounds of a community recreation facility and public areas within 20 metres of the perimeter of the grounds; and
- Public areas within 9 metres of a restaurant or bar patio.²

Sale and Supply to Minors

Existing provisions in the SFOA and ECA that prohibited the sale or supply of tobacco products and vapour products to a person who is less than 19 years old would have been carried forward. A limited exemption to this was included in the SFOA, 2017 and would allow a person under 19 to obtain a vapour product for medical cannabis purposes. The medical cannabis user could obtain the vapour product from a parent, guardian or caregiver, or a person who is authorized to produce and distribute medical cannabis under Federal law.²

Display and Promotion

The SFOA, 2017 would have prohibited the display and promotion of tobacco products, branded tobacco accessories (e.g., lighters) and vapour products where they are sold or offered for sale. Certain exemptions to this would exist for tobacconists, specialty vape shops, duty-free tobacco retailers and manufacturers.²

Gaps in the SFOA, 2017

Although the SFOA, 2017 addresses many gaps in the current SFOA, several necessary provisions are not included. Water pipes (also known as “hookah” or “shisha”), were not included under the SFOA, 2017, the negative health impacts of which are more clearly demonstrated than those of vaping. In February 2017, a report was prepared for the Board of Health on the health risks of indoor water pipe (hookah) smoking. The Board also sent letters to each municipality in Wellington Dufferin Guelph providing information, offering consultation and recommending regulations be considered to restrict local hookah establishments.³ Ongoing permission of the use of water pipes in enclosed public places and workplaces is inconsistent with the aims of the SFOA, 2017 and has the potential to undermine its success.⁴ As such, provisions to prohibit the use of water pipes in indoor public spaces should have been included.

Tobacco- and smoke-free post-secondary education campuses (including universities, colleges, and trade school campuses) have a high potential to prevent tobacco use among a large number of young adults. However, the SFOA 2017 did not include any provisions to ban smoking on post-secondary campuses. Students on tobacco- and smoke-free campuses are less likely to smoke or intend to smoke and have less social exposure to smoking. For current smokers, tobacco- and smoke-free campuses create an environment where quitting smoking is the easy, obvious choice.⁵ Ontario lags behind many other jurisdictions, as tobacco- and/or smoke-free policies are in place at post-secondary institutions in other parts of Canada, the United States and internationally.⁵ However, on January 1, 2018 McMaster University became the province’s first 100% tobacco- and smoke-free post-secondary institution. Currently, several other post-secondary institutions in Ontario are working towards tobacco- and smoke-free policies, including the University of Guelph. A province-wide policy to make post-secondary campuses tobacco- and smoke-free would ensure consistency across Ontario.

Furthermore, it is important to acknowledge that properly enforcing the provisions in the SFOA, 2017 would require a significant commitment of local public health resources. If the provisions are enacted, it is imperative that public health units be provided with sufficient human resources and supporting materials (e.g. signage) to properly enforce the legislation.

Current Evidence on E-cigarettes

In June 2018, the Ministry of Health and Long-Term Care (MOHLTC) made a time-sensitive request to Public Health Ontario (PHO) to conduct a literature review on the latest evidence on electronic cigarettes. The MOHLTC was interested in the evidence with regards to the following three questions:

- 1) Is the use of e-cigarettes an effective cessation aid for smokers?
- 2) Does the use of e-cigarettes in non-smoking youth and young people increase the likelihood of smoking initiation?
- 3) Are there health risks associated with the exposure to second-hand vapour from e-cigarettes?

A recently published (2018) comprehensive review of the evidence on e-cigarettes by the National Academies of Sciences, Engineering, and Medicine (NASEM) served as the basis for the literature review.

E-cigarettes as a Cessation Aid

It remains unclear whether e-cigarettes are an effective cessation aid for smokers. There are a limited number of randomized controlled trials (RCTs) that have specifically studied this issue. In addition, observational studies include a number of factors (e.g. type of product, pattern of use and user characteristics) that make it difficult to provide conclusive results.⁶

The 2018 NASEM report considered recent evidence and concluded:

- Overall, there is **limited evidence** that e-cigarettes may be effective aids to promote smoking cessation;
- There is **moderate evidence** from RCTs that e-cigarettes with nicotine are more effective than e-cigarettes without nicotine for smoking cessation;
- There is **insufficient evidence** from RCTs about the effectiveness of e-cigarettes as cessation aids compared with no treatment or to Food and Drug Administration-approved smoking cessation treatments; and
- There is **moderate evidence** from observational studies that more frequent use of e-cigarettes is associated with an increased likelihood of cessation.⁶

Vaping as a Gateway to Smoking

The existing evidence indicates that e-cigarette use is associated with subsequent cigarette smoking among youth.^{6,7} However, in the relatively short period of e-cigarette studies, there are challenges in determining whether youth who start smoking cigarettes after they try e-cigarettes would have started smoking if they had not used e-cigarettes.

The 2018 NASEM report considered recent evidence and concluded:

- There is **substantial evidence** that e-cigarette use increases risk of ever using tobacco cigarettes among youth and young adults;
- Among youth and young adult e-cigarette users who ever use tobacco cigarettes, there is **moderate evidence** that e-cigarette use increases the frequency and intensity of subsequent tobacco cigarette smoking; and
- Among youth and young adult e-cigarette users who ever use tobacco cigarettes, there is **limited evidence** that e-cigarette use increases, in the short term, the duration of subsequent tobacco cigarette smoking.⁶

Health Risks of Second-Hand E-Cigarette Vapour Exposure

There is evidence that e-cigarette use increases airborne levels of nicotine and particulates, although these are lower compared with tobacco cigarettes. Due to the recent emergence of e-cigarettes, long-term studies that have directly studied health outcomes of passive exposure to e-cigarettes are not available.

The 2018 NASEM report considered recent evidence and concluded:

- There is **conclusive evidence** that e-cigarette use increases airborne concentrations of particulate matter and nicotine in indoor environments compared with background levels; and
- There is **moderate evidence** that second-hand exposure to nicotine and particulates is lower from e-cigarettes compared with tobacco cigarettes.⁶

Conclusion

The changes to the SFOA, 2017 that were set to come into effect on July 1, 2018 are being paused to give the new government the opportunity to carefully review the new regulations related to vaping.

Recognizing the potential benefits and documented risks of e-cigarettes, a measured response is needed that both protects Ontarians and promotes cessation. The SFOA, 2017 regulations prohibiting the use of e-cigarettes in the same public spaces as tobacco and restricting e-cigarette display and promotion would have made great progress towards that goal. However, because the SFOA, 2017 has been paused for review, the opportunity to further strengthen the legislation by addressing the use of indoor water pipes and tobacco- and smoke-free campuses should be explored.

As such, it is recommended that the Chair, on behalf of the BOH, write a letter to Minister Christine Elliott urging the provincial government to proceed with the implementation of the regulations within the SFOA, 2017. As this legislation is currently being reviewed, we also encourage the provincial government to prohibit: 1) the use of water pipes in all public spaces where tobacco smoking is prohibited, and 2) smoking and vaping on all post-secondary education campuses.

Ontario Public Health Standard

Foundational Standards:

Healthy Equity

Goal: Public health practice results in decreased health inequities such that everyone has equal opportunities for optimal health and can attain their full health potential without disadvantage due to social position or other socially determined circumstances.

Effective Public Health Practice

Goal: Public health practice is transparent, responsive to current and emerging evidence, and emphasizes continuous quality improvement.

Program Standards:

Substance Use and Injury Prevention

Goal: To reduce the burden of preventable injuries and substance use

Requirements:

- The board of health shall enforce the *Smoke Free Ontario Act* in accordance with the *Tobacco Protocol, 2018* (or as current).
- The board of health shall enforce the *Electronic Cigarettes Act, 2015* in accordance with the *Electronic Cigarettes Protocol, 2018* (or as current).

WDGPH Strategic Direction(s)

- Health Equity:** We will provide programs and services that integrate health equity principles to reduce or eliminate health differences between population groups.
- Organizational Capacity:** We will improve our capacity to effectively deliver public health programs and services.
- Service Centered Approach:** We are committed to providing excellent service to anyone interacting with WDG Public Health.
- Building Healthy Communities:** We will work with communities to support the health and well-being of everyone.

Health Equity

It is well-documented that some groups are particularly vulnerable to tobacco use, including people who identify as Indigenous, the LGBTQ community and people with low socio-economic status.⁸ Reducing tobacco use, exposure and associated negative health impacts is an important way to reduce social inequalities in health.

Comprehensive tobacco control can promote health equity and decrease tobacco-related health disparities through a combination of population-based and targeted approaches.^{9,10}

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Appendices

Appendix “A” – Definitions

APPENDIX “A”: Definitions

Electronic Cigarette – A vaporizer or inhalant type device, whether called an electronic cigarette or any other name, that contains a power source and heating element designed to heat a substance and produce a vapour intended to be inhaled by the user of the device directly through the mouth, whether or not the vapour contains nicotine.

E-Substance – A substance that is manufactured or sold to be used in an electronic cigarette.

Specialty Vape Shop – A retail establishment that is registered as a specialty vape store with the board of health for the place where it is located and where,

- a) At least 85 percent of the establishment’s total sales for the previous 12 months is from vapour products or, if the retail establishment has been in operation for less than 12 months, at least 85 percent of the establishment’s total inventory purchases for the time it has been in existence consists of vapour products or at least 85 per cent of the total sales for the time it has been in existence consists of vapour products;
- b) The remainder of the establishment’s total sales or inventory purchases during the application period in clause (a) are from or consist of other items reasonably associated with a vapour product or branded with the name of the speciality vape store or a brand of vapour product; and
- c) No tobacco products are sold or supplied.

Tobacco Product – Any product that contains tobacco and includes the package in which tobacco is sold.

Tobacco Product Accessory – A product that may be used in the consumption of a tobacco product including a humidor, pipe, cigarette holder, cigar clip, lighter and matches.

Tobacconist – A retail establishment that is registered as a tobacconist with the board of health for the places where it is located and where, subject to subsection 20 (2),

- a) At least 85 percent of the establishment’s total sales for the previous 12 months is from speciality tobacco products or, if the retail establishment has been in operation for less than 12 months, at least 85 percent of the establishment’s total inventory purchases for the time it has been in existence consists of specialty tobacco products or at least 85 percent of the total sales for the time it has been in existence consists of specialty tobacco products;
- b) The remainder of the establishment’s total sales or inventory purchases during the application period in clause (a) are from or consist of cigarettes within the meaning of the *Tobacco Tax Act* or other items reasonably associated with a tobacco product or branded with the name of the tobacconist or a brand of tobacco; and
- c) No vapour products are sold or supplied, other than vapour products that are manufactured or sold for use with tobacco.

Vapour Product – An electronic cigarette, e-substance, or any component of an electronic cigarette.