MEMORANDUM

DATE: April 29, 2015

TO: All Members of the Delaware House of Representatives and Delaware State Senate

FROM: Ms. Daniese McMullin-Powell, Chairperson
State Council for Persons with Disabilities

RE: H.B. 5 (E-Cigarettes)

The State Council for Persons with Disabilities (SCPD) has reviewed H.B. 5 with H.A. 1 & H.A. 2 which would add electronic smoking devices to the Clean Indoor Air Act and prohibits the use of electronic smoking devices in all public places where smoking is prohibited under current law.

SCPD has the following observations.

The rationale for the legislation is compelling. E-cigarette marketing is pervasive and growing, especially among teens and young adults. There are 466 brands and 7,700 flavors. See attached August 25, 2014 News Journal article. Use among high schoolers has tripled in only 2 years. See attached November 14, 2014 USA Today article. The Delaware Division of Public Health (DPH) Director recently published an excellent article on the danger of exposure to vapors and emissions from e-cigarettes. See attached April 2, 2015 News Journal article. At the time of SCPD review of the legislation, two amendments had been placed with the bill. H.A. 1 would exempt tobacco smoking and e-cigarette use in both “tobacco businesses” and “vapor businesses”. H.A. 2 would “grandfather” existing vapor shops to allow on-premises consumption of electronic cigarettes for 2 years after enactment of H.B. No. 5. The prime sponsor, Rep. Heffernan, does not support either amendment. See attached April 3, 2015 News Journal article.

Given the health dangers to innocent bystanders from second-hand smoke and emissions, SCPD strongly endorses the proposed legislation. The ban should also make highly addictive e-cigarette use less attractive to individuals considering use. However, SCPD opposes both amendments.

H.A. 1 is the most harmful since it would totally exempt tobacco businesses and vapor businesses from the entire Indoor Clean Air Act. Therefore, such sites could be pumping tobacco smoke and cancer-linked emissions into indoor areas with aplomb. The attached November 14, 2014 USA Today article notes that e-cigarettes are frequently sold in kiosks in malls. Thus, the amendment would allow kiosks and covered businesses within malls to issue pervasive emissions throughout the entire indoor mall. Nearby businesses
would suffer through exposure to their employees and deterrence of customers. Apart from malls, “tobacco businesses” and “vapor businesses” could open as kiosks or small contractors within bowling alleys, supermarkets, theaters, etc. and undermine the entire Indoor Clean Air Act. It’s simply “bad business” to allow the proliferation of vendors emitting second-hand smoke and toxic vapors affecting the public.

H.A. 2 is similarly problematic since it would exempt the operation of vapor shops for another 2 years. It would predictably result in a rush to open new shops prior to June 15 to take advantage of the exemption. The reference to “indoor enclosed area” provides insufficient protection to others since air conditioning and heating ducts may be shared within malls and multi-unit commercial establishments.

Thank you for your consideration and please contact SCPD if you have any questions regarding our observations and position on the proposed legislation.

cc: Mr. Brian Hartman
Governor’s Advisory Council for Exceptional Citizens
Developmental Disabilities Council

HB 5 e-cigarettes 4-29-15
Heart group calls on FDA to regulate e-cigarettes

Liz Szabo
USA TODAY

Electronic cigarettes need to be strongly regulated – and quickly – to prevent another generation of young people from becoming addicted to nicotine, according to the American Heart Association's first policy statement on the products.

In its statement, the heart association pointed to studies suggesting that e-cigarettes, which contain nicotine but no tobacco, could serve as a “gateway” drug to addict young people, who may go on to regular cigarettes or smokeless tobacco. The association pointed to flavors in e-cigarettes, such as bubble gum, arguing that these are intended to attract kids.

“We are fiercely committed to preventing the tobacco industry from addicting another generation of smokers,” said Nancy Brown, CEO of the heart association, in a statement.

An April proposal from the Food and Drug Administration would require most e-cigarettes to undergo an agency review. The proposed rules would ban sales of e-cigarettes to minors and require warning labels.

In its new statement, the heart association calls on the FDA to put the proposed rules – three years in the making – in place before the end of the year.

“Any additional delay of these new regulations will have real, continuing public health consequences,” Brown said.

The e-cigarette has grown dramatically in the past decade. There are 466 brands and more than 7,700 flavors on the market, the policy report says.

Use among teens nearly doubled from 2011 to 2012, and nearly 7% of teens have tried them. About 24 million young people have seen e-cigarette marketing, according to a recent paper in the journal Pediatrics.

“Electronic cigarettes should be classified as tobacco products and subject to the same laws and regulations as other tobacco products,” says Vince Willmore, spokesman for the Campaign for Tobacco-Free Kids.

Cynthia Cabrera, executive director of the Smoke-Free Alternatives Trade Association, which represents e-cigarette makers, distributors and retailers, says e-cigarettes can reduce the harm from tobacco by helping people quit or smoke less. Willmore says research doesn't clearly show whether e-cigarettes help people to quit or not. Cabrera argues that e-cigarettes are much safer than tobacco.
E-CIGARETTE USE TRIPLES AMONG HIGH SCHOOLERS

Liz Szabo
USA TODAY

Use of electronic cigarettes by high-school students tripled in two years, according to a new report from the Centers for Disease Control and Prevention.

About 4.5% of high schoolers used e-cigarettes regularly in 2013, according to a report released Thursday. Nearly 12% of high schoolers and 3% of middle schoolers had tried them at least once.

Cigarette use among teens has been cut in half since 2000, falling from 28% of high schoolers in 2000 to 12.7% in 2013, said Peter Hamm, a spokesman for the Campaign for Tobacco-Free Kids.

But kids are experimenting with a variety of tobacco products beyond cigarettes — from cigars to hookahs, chewing tobacco and pipes. Nearly 23% of high-school students use some sort of tobacco product, according to the CDC.

Scientists don't yet know the full health effects of e-cigarettes, but the Surgeon General has said the nicotine they deliver is addictive and can harm adolescent brain development.

E-cigs are often sold in kiosks at places frequented by teens, such as shopping malls.

Public health researchers such as Stanton Glantz of the University of California-San Francisco worry that e-cigarettes could serve as a gateway drug to cigarettes.

"We must do more to prevent our youth from using tobacco products, or we will see millions of them suffer and die prematurely as adults," said Tim McAfee, director of the CDC's Office on Smoking and Health.

The Food and Drug Administration has proposed regulating e-cigarettes and other tobacco products, but it has not yet issued a final rule. The proposed rule would ban sales of e-cigs to people under age 18. Manufacturers of e-cigs would have to register any new products with the FDA.
Ban e-cigarettes from bars and restaurants

DELAWARE VOICE
DR. KARYL RATTAY

More than a decade ago, Delaware was the second state, after California, to pass a law against smoking in indoor workplaces and public places, the Clean Indoor Air Act. The law was hailed as revolutionary and is credited with reducing smoking rates in our state.

It was also celebrated as protecting children, nonsmokers, and restaurant workers and patrons from the dangers of secondhand smoke. Ten years later, a new tobacco product - which also exposes people to toxins and carcinogens - is on the market and is currently legal to use in restaurants, bars, and public places.

We must add e-cigarettes to the Clean Indoor Air Act.

Rep. Deborah Heathman has introduced legislation, House Bill 5, to add e-cigarettes to the list of tobacco products banned in public places. This proposal has extremely important implications for protecting the public from toxic emissions and sending a message that nicotine exposure is not safe. E-cigarettes are marketed as an alternative to smoking tobacco that produces harmless water vapor.

However, a growing number of studies shows that e-cigarette emissions are not harmless. They contain nicotine, particles, heavy metals and other carcinogens, and toxic chemicals.

After the user inhales, the residual emissions are exhaled into the surrounding air. This visible vapor from e-cigarettes contains many chemicals that are known to be toxic to humans, including nicotine. In fact, one study demonstrated that people passively exposed to e-cigarette emissions absorb nicotine in levels comparable to passive smokers. Nicotine deposits from e-cigarettes can remain on indoor surfaces for weeks to months. Nicotine exposure in fetuses and infants has been shown to cause preterm births, SIIDS, and to have detrimental effects on brain and lung development.

Children and adolescents exposed to nicotine also can suffer lasting brain effects. Nicotine poisoning is another consequence of the rising use of e-cigarettes. Data from American Poison Control Centers show a rapid increase in exposures to liquid nicotine from 2010 to 3,808 in 2014.

In addition to nicotine, studies have shown numerous other chemicals are emitted in indoor air from e-cigarettes. Emmissions include: ultrafine particles; toxic metals (nickel, chromium, lead, cadmium and zinc); carbonyls (acetic acid, acetone, isoprene, formaldehyde and acetaldehyde); volatile organic compounds (toluene); polycyclic aromatic hydrocarbons (carcinogens); tobacco-specific nitrosamines (carcinogens); and glycols (found in antifreeze).

While tests on e-cigarette emissions do show lower levels of some of these toxics compared to conventional cigarettes, the heat used to produce vapor in e-cigarettes can reach temperatures that produce carcinogens as well as toxic heavy metals not found in or even at higher levels than conventional cigarettes. Those exposed to vapors have reported irritations similar to regular cigarettes such as sore throats and headaches.

E-cigarette use is becoming the norm among adults and youth. According to results from the Delaware Youth Tobacco Survey, the percentage of Delaware high school students who reported ever using e-cigarettes jumped from 4.7 percent in 2011 to 10 percent in 2012 up to 14.3 percent in 2014. One in five youth using e-cigarettes was not previously a tobacco user.

Also, among students first smoking cigarettes, e-cigarette users are far more likely to continue smoking cigarettes than non e-cigarette users. Including e-cigarette in the Clean Indoor Air Act can help so their use does not become even more "normal," similar to the impact the smoking ban had on de-normalizing and decreasing rates of smoking regular cigarettes.

We understand that the main argument of e-cigarette users is that these products may help them "quit" conventional cigarette smoking. Evidence may indicate the opposite; recent research shows that users of e-cigarettes are 30 percent less likely to quit smoking compared to smokers who do not use e-cigarettes.

And, make no mistake about it, e-cigarettes are a growth industry. Big tobacco will make sure of that. The three big tobacco companies are investing heavily in e-cigarettes, creating their own product lines and buying up e-cigarette companies, and then marketing aggressively.

This means that without preventive measures similar to that which have been put into place for traditional cigarettes, Delawareans will increasingly be exposed to harmful e-cigarette emissions in places we all frequent visit.

Dr. Karyl Rattay is director of Delaware's Division of Public Health.
Bill banning indoor use of e-cigs passes in committee

JON OFFREDO THE NEWS JOURNAL

A measure that adds e-cigarettes to Delaware's Clean Indoor Air Act, which bans smoking in restaurants, bars and other indoor public places, was largely passed out of the House Health and Human Development Committee.

Lawmakers on the committee released the legislation Thursday, 9-3, for a full hearing on the floor of the House of Representatives.

The move comes after an over hour-long public hearing Wednesday. During the hearing many vape shop owners testified that the bill, which would not allow customers to smoke in the shops, would hurt their businesses. Others testified that the ban would adversely affect their ability to quit smoking.

Oscar Gonzales, a disabled veteran who testified during the hearing, said that vaping helped him kick a 12-year smoking habit. E-cigarettes are his substitute, he said.

"Let the stores do what they want," he said. "This is not prohibition."

"Don't take us backwards."

Chair of the health committee, Rep. Mike Barbieri, D-Newark, said Thursday that he thought the legislation was important, but is a bill that needs an amend-

When House lawmakers return from a two week recess they could consider a possible amendment that would exempt vape shops from the legislation.

The bill's sponsor, Rep. Debra Heffernan, D-Bran-dywine Hundred South, said she would prefer the measure move through the House unamended, but would not stand in the way if the majority lawmakers wanted to exempt vape shops.

Last year, a similar bill stalled in the Senate. But lawmakers passed a bipartisan piece of legislation that treats the sale and purchase of electronic cigarettes in Delaware the same as regular tobacco when it comes to minors.

The battery-powered cigarettes heat a cartridge of nicotine-mixed liquid, which produces an aerosol that can be inhaled by smokers instead of smoke. The devices are not regulated by the U.S. Food and Drug Administration.

House Bill 5 is also supported by the Delaware Restaurant Association, which represents hundreds of restaurant owners and operators throughout the state.

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In this 2014 photo, UD student Taylor MacKenzie, 20, samples a flavored nicotine e-cigarette.