



31 March 2020

Submission to the Health Select Committee: Smokefree Environments and Regulated Products (Vaping) Amendment Bill

The New Zealand College of Public Health Medicine would like to thank the Health Select Committee for the opportunity to make a submission on the Smokefree Environments and Regulated Products (Vaping) Amendment Bill (the Bill).

The New Zealand College of Public Health Medicine (the College) is the professional body representing the medical specialty of public health medicine in New Zealand. We have 223 members, all of whom are medical doctors, including 185 fully qualified Public Health Medicine Specialists with the majority of the remainder being registrars training in the specialty of public health medicine.

Public Health Medicine is the branch of medicine concerned with the assessment of population health and health care needs, the development of policy and strategy, health promotion, the control and prevention of disease, and the organisation of services. The NZCPHM partners to achieve health gain and equity for our population, eliminating inequities across socioeconomic and ethnic groups, and promoting environments in which everyone can be healthy.

General Points

Tobacco smoking is a leading preventable cause of morbidity and premature mortality in New Zealand, and it is estimated that smoking kills around 4500 to 5000 people in New Zealand every year (including deaths due from second-hand smoke exposure).¹ Smoking is linked to many diseases including asthma, chronic obstructive respiratory disease, and lung and other cancers. In children second-hand smoke can increase the risk of sudden infant death syndrome, asthma attacks, chest infections, and chronic suppurative otitis media ('glue ear').¹

Smoking disproportionately affects Māori and Pacific communities and is a leading cause of health inequities in New Zealand.¹ Current smoking prevalence among Māori and Pacific peoples is 34% and 24%, respectively, compared with only 14% overall.² Current smoking prevalence is almost four times higher among the most socioeconomically deprived (26%) compared with the least socioeconomically deprived (7.2%).

It is evident that New Zealand is way off-track to meet its Smokefree 2025 goal, particularly for Māori, Pacific peoples and the most socioeconomically deprived. These substantial disparities are likely to persist if New Zealand's efforts are not intensified.

Many health experts agree that e-cigarettes may be a useful tool in helping smokers quit, and that they may be useful in assisting New Zealand to achieve its Smokefree 2025 goal.³

The College is aware that there is limited evidence about the absolute health risks of e-cigarettes, and that the long-term effects on morbidity and mortality remain unclear.⁴ Furthermore, as e-cigarettes evolve, their nicotine delivery systems improve, likely increasing their addiction potential.⁵

Despite these uncertainties, we note that there is general consensus that e-cigarettes are less harmful than smoking tobacco, so long as smokers transition towards vaping, or use e-cigarettes to quit their nicotine addiction altogether.^{6,7}

The College supports the intention of the Bill to adequately cover all regulated products, including vaping products. The College has been among a group of health and community organisations, academics and school organisations around New Zealand expressing concern at the delays to the introduction of vaping legislation.⁸

The College is pleased to see that the Bill:

- intends to take a balanced approach to the regulation of vaping,
- acknowledges concerns about children's and young people's access to e-cigarette products and
- outlines that one of the purposes of the principal Act is *to prevent the normalisation of vaping*.

The College supports the introduction of the concept of 'regulated products', as defined in the Bill to encompass vaping products also, which allows for regulations under the amended Act to be extended to vaping products.

The College acknowledges the importance of extending the prohibitions and restrictions on smoking in workplaces and public areas, to all regulated products, including e-cigarettes; these locations are outlined in clauses 10, and 13 to 20 and include workplaces, schools, early childhood centres, aircrafts restaurants, etc. Dispelling any beliefs (such as vaping aerosol is just steam) that seek to normalise vaping behaviours or trivialise their risk is an important public health measure. These prohibitions will work to dispel such beliefs and reduce modelling behaviour from young people who witness smoking/vaping practices by others in public.⁹

We are however disappointed with the Bill's intention to:

- allow generic retailers to sell e-cigarette products,
- place no restrictions on flavours for specialist retailers,
- permit specialist vape retailers to offer inducements and rewards involving regulated products.

Our comments on these specific issues are as follows:

Ban the sale of vaping products from generic retailers

The Bill makes a distinction between 'generic retailers' and specialist retailers', with generic retailers, such as dairies, supermarkets and service stations, subject to greater restrictions. For example, generic stores will only be allowed to sell three e-liquid flavours i.e. tobacco, menthol and mint, and will not be allowed to permit in-store sampling of vaping products. The College does not believe that these restrictions in fact go far enough to protect those under 18 years and non-smokers from taking up vaping.

Research indicates that greater access to outlets selling tobacco is associated with higher smoking in youth.¹⁰ This suggests the availability of addictive products such as e-cigarettes must be carefully regulated. The widespread availability of vaping products in generic stores increases the risk of adolescents and non-smokers being able to purchase these products.¹¹

Generic tobacco retailers are also less likely to be able to (and less invested in) providing sound advice on vaping products than specialist retailers. One New Zealand study of 18 non-specialist tobacco retailers reported retailers generally having poor knowledge of e-cigarette products and smoking cessation; most provided their customers with either no advice on how to use the devices or gave incorrect information and many saw their role as strictly commercial.¹² Switching from smoking to vaping can be more complex than anticipated, and retailers may have an important role to play in the transition. For example smokers have previously reported difficulty knowing which e-liquid nicotine concentration would satisfy their cravings, and how to avoid excessive concentrations that could yield unpleasant symptoms or increase dependence.¹³ Evidence also indicates that people find moving from smoking to vaping difficult because of the core behaviour changes required.¹⁴

Behavioural counselling is likely to increase successful transitions from smoking to vaping.¹⁵ Providing cessation support and guidance on vaping at point of sale could make a difference during this transition. Consequently, retailers may have an important role to play in helping smokers to switch, but they can only be effective when they have sound knowledge. Allowing only specialist licensed vape stores to sell vaping products could aid with this, by ensuring that sales staff have relevant knowledge.¹⁴

The College therefore calls for modifications to the Bill that restrict generic retailers from selling vaping products, to reduce the availability of e-cigarettes to those under 18. We also suggest the Bill be amended to permit the sale of vaping products at pharmacies, to ensure access for those in small regions that might not have specialist vape stores. Selling these products at pharmacies will also help ensure smokers have access to adequate cessation support, and helps frame e-cigarettes as cessation aids, rather than as products for recreational use.¹⁶

Introduce restrictions on flavours

The Bill places no restrictions on flavours for specialist vape retailers (barring any prohibited flavours), and this risks continuation of e-cigarette marketing to young people. E-cigarette manufacturers have been criticised for using flavours like vanilla, candy and fruit, to attract young people who might never smoke to initiate vaping.^{17, 18} Many flavours have names that are more likely to appeal to young people than established smokers.¹¹ There is a risk that these flavours improve the palatability of e-cigarettes by masking the harshness of the vapour, possibly facilitating youth uptake.^{19, 20} We propose that the Bill allow specialist retailers to only sell three flavours: tobacco, menthol and mint.

Exemptions to specialist vape retailers

The College opposes the exemptions granted to specialist vape retailers as outlined in *Subpart 4 of Clause 34(4)*, which permit a specialist retailer to offer gift or cash rebate, or the right to participate in any contest, lottery, or game to customers. Although vaping may be less harmful than smoking, e-cigarette products are not completely risk-free and should be treated as such. Activities such as contests, lotteries and games may entice customers to purchase these products, and detracts from the perception of these products as cessation aids. The College opposes gambling in all forms. Any attempts to increase the allure of e-cigarettes, normalise vaping as a recreational activity, or understate the risk it poses through having contests, lotteries or games, should be stopped. Therefore, we call for *clause 34(4)* to be removed from the Bill.

Thank you for the opportunity for the NZCPHM to submit on the Smokefree Environments and Regulated Products (Vaping) Amendment Bill. We hope our feedback is helpful and are happy to provide further clarification on matter covered in this submission.

Sincerely,



Dr Felicity Dumble, President, NZCPHM

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