



STATEMENT OF POLICY

Vaping as a Public Health Epidemic

Mission: The mission of NYSPHA is to promote and protect the public's health through professional development, networking, advocacy, and education.

Vision: Strengthening public health and taking action to make New York the healthiest state

Problem Statement

Vaping is defined as the inhaling of vapor created by an electronic device, commonly known as e-cigarettes. Vaping devices are battery-operated that people use to inhale an aerosol, which can contain nicotine, flavorings, and other chemicals. The devices resemble cigarettes, cigars or pipes or everyday items, such as pens or USB flash drives.

Vaping devices are the most used form of nicotine by teens, many of whom do not realize that they contain nicotine. The devices are readily available, and teens are drawn to them through advertisements, e-liquid flavorings, and the belief they are safer than cigarettes. They also are easy to hide from teachers and parents as they do not leave behind the smell of cigarette smoke.

The use of e-cigarettes is not safe for anyone, and is particularly unsafe for teens, kids, young adults, and pregnant women. Adults who currently do not use tobacco products may be recruited to use tobacco products by vaping. E-cigarettes, in addition to nicotine, contain volatile organic compounds, cancer causing chemicals, heavy metals, such as nickel, tin and lead, ultrafine particles and flavorings, which can contain cancer-causing agents. Particles and chemicals reach deep into the lungs when inhaling e-cigarettes and can lead to harmful health outcomes.

Policy Statement

NYSPHA, as an advocate for public health in New York State, recognizes that e-cigarettes can cause harmful effects, especially among adolescents, young adults, and pregnant women.

The New York Public Health Association (NYSPHA) advocates for:

1. Education among physicians, educators, parents, guardians, and healthcare professionals on the effects of vaping and how to address e-cigarettes with your children and young adults. Support

the National Public Education Prevention Campaigns, such as “The Real Cost”, The Truth Initiative’s “Safer does not equal Safe”, to educate youth on the potential risks of using e-cigarettes (CDC, 2022).

2. Support of Governor Hochul’s legislation banning the sale of flavored tobacco products including menthol and wintergreen flavors and New York City law on the restriction of selling flavored e-cigarettes (Bill Int.0577).
3. Support for the FDA to effectively regulate, through laws and policies, the marketing and advertising of e-cigarettes directed at youth which includes inaccurate and misleading messages; regulate the sale of e-cigarettes to youth, including all flavorings as well as mint, and menthol, chemicals, and nicotine; reduce the amount of nicotine contained in e-cigarettes to non-additive amounts; and pursue testing all substances found in e-cigarettes.
4. Support the FDA testing of all substances used in e-cigarettes, as well as monitor the relative safety of the devices themselves (for example, preventing exploding batteries).
5. Support of additional stringent regulations that focus on the prevention of the sale of vapes to minors. Convenience stores, retailers, and online retailers have flouted existing regulations by falsely selling nicotine-containing products as “nicotine-free”.
6. Vape products to require pharmaceutical-like packaging, and for all e-cigarettes to be sold as prescription only, which will allow the nicotine concentrations to be regulated. In addition, all single use disposal vape products should be banned.
7. Insurance coverage for smoking cessation treatment, which should include education on the harmful effects of nicotine and nicotine-free vapes.
8. Strengthening the enforcement of the current flavored vaping ban in New York State

Justification

E-cigarettes are the most used tobacco product among youth and youth are more likely to use e-cigarettes than adults. In 2022, 3.6 million US middle and high school students used e-cigarettes within the past 30 days, of which 4.9% were middle school students and 20.8% were high school students (Cooper et al, 2022). In 2015, among current e-cigarette users, aged 18- 24 years, 40.0% had never been regular cigarette smokers. Among adult e-cigarette smokers, 58.8% were current regular cigarette smokers, 29.8% were former regular cigarette smokers, and 11.4% had never been regular cigarette smokers (CDC, 2022).

In 2014, New York City implemented Tobacco 21 (T21) to prohibit the sale of e-cigarettes to anyone under 21 years of age (Debchoudhury et al, 2022). In addition, as of July 2020, NYC law restricts retailers from selling flavored tobacco and vaping products. Retailers may only sell tobacco products that are unflavored or only tobacco, menthol, mint or wintergreen flavored. E-cigarettes must be tobacco-flavored or unflavored, and retailers are prohibited from selling e-cigarettes that are flavored (City of New York, 2023).

Despite T21, NYC high school students’ current e-cigarette use increased from 2014 to 2018 from 8.1% to 23.5%. Middle school students’ use increased between 2014 (4.8%) and 2016 (9.0%) yet reversed by 2018 (5.8%). Willingness to try e-cigarettes among those who had never tried an e-cigarette was twice as high among NYC high school students in 2018 compared with 2014 (Debchoudhury et al, 2022). E-cigarettes have increased in popularity among youth, and in New York City in 2019, more than one in six (15.2%) of New York City high school students reported using e-cigarettes. In addition, almost five times

as many high school students use e-cigarettes than smoke cigarettes. One in 15 middle school students uses e-cigarettes, with a higher number of us among seventh graders when compared to sixth graders (NYS DOH, 2023).

Although e-cigarettes have been marketed to help adults quit smoking, the US Preventive Services Task Force concluded that there is insufficient evidence to recommend e-cigarettes for smoking cessation in adults (CDC, 2022a). In addition, e-cigarettes are not FDA approved as a quit aid for smokers (NIH, 2020).

Most e-cigarettes contain nicotine which is addictive and can harm brain development in adolescents until the mid-20s. Nicotine can harm parts of the brain that control attention, learning, mood, and impulse control. A CDC study showed that 99% of e-cigarettes sold in the US contained nicotine. In 2018, the National Academy of Medicine found evidence that young people who use e-cigarettes are more likely to smoke regular cigarettes in the future (CDC, 2022b). In addition, fifty percent of calls to poison control centers about e-cigarettes are for children aged five and under (CDC, 2014).

E-cigarette aerosols that users inhale and exhale from the device contain harmful substances. In addition to nicotine, e-cigarettes can contain ultrafine particles, flavorings that have been linked to serious lung disease, volatile organic compounds, cancer-causing chemicals, and heavy metals such as lead, tin and nickel. Exhaled vapors expose both the user and those around them to harmful substances (CDC, 2022). The lung disease caused by e-cigarettes has been named EVALI (e-cigarette vaping, product use-associated lung injury (ALA 2022)). Studies have shown that pregnant women who use e-cigarettes have an increased chance to have small babies, which may be associated with a change in the baby's lungs, and increased newborn irritability. E-cigarettes may also contain nicotine and contaminants which has an increased risk of adverse health effects to both the mother and unborn child (NIH, 2021).

The use of nicotine can affect the mental health of adolescents when they stop vaping. Nicotine withdrawal symptoms include irritability, restlessness, trouble sleeping, diminished concentration and feeling anxious or depressed. Quitting vaping will lead to better mental health and is associated with lower levels of anxiety, depression, stress, increased positive mood and quality of life (CDC, 2022b). A study examined the effect of secondhand nicotine vaping on young adults and concluded that exposure was associated with the risk of bronchial symptoms and shortness of breath (Islam et al, 2022).

Flavors of e-cigarettes such as fruit, candy, mint, and menthol were developed to be appealing to young adults and in fact, have increased youth uptake of e-cigarettes. In 2022, 84.9% of youth reported using flavored varieties of e-cigarettes. Youth report that flavors are the primary reason for using e-cigarettes and that advertising targeting youth can be seen on social media. In 2021, approximately 74% of students had viewed e-cigarette posts on social media (CDC, 2022b).

Evidence suggests that teens that use vaping products may go on to use other nicotine products, such as cigarettes, which can lead to unhealthy outcomes. A study showed that students who had used e-cigarettes by the time they started 9th grade were more likely than others to start smoking cigarettes and other smokable tobacco products within the next year (Leventhal et al, 2015). In another study of high school students who used e-cigarettes in the last month were about 7 times more likely to smoke cigarettes six months later when compared to those that did not use e-cigarettes (Bold et al, 2018). A third study showed that adolescents using e-cigarettes were positively associated with cigarette smoking and that e-cigarettes did not divert from progressing to smoking (Chaffee, Watkins & Glantz, 2018).

To address e-cigarettes, the Food and Drug Administration (FDA) regulates the manufacture, import, packaging, labeling, advertising, promotion, sale and of ENDS (e-cigarettes, vapes, and other electronic nicotine delivery systems). It is also illegal for a retailer to sell e-cigarettes to anyone under 21 years of age (FDA, 2022). In 2020, the FDA finalized a policy that prohibits the sale of any flavor e-cigarettes other than tobacco or menthol and additional steps were taken to prohibit flavored disposable e-cigarettes (CDC,2022b).

In New York State, the prevalence of e-cigarette use among adults in 2020 was 4.1% and is highest among 18 to 24 year-olds at 10.6%, which is more than triple the e-cigarette use rate for adults 25 years of age and older (NYS DOH, 2022). The use of e-cigarettes among high school youth continues to rise. Between 2014 and 2018, the use of e-cigarettes among high school youth increased from 10.5% to 27.4%, a rate increase of 160% (NYS DOH, 2019).

The sale of flavored vaping products was banned in New York State in 2020. It falls on the local health departments (LHDs) to enforce the ban during inspections of tobacco retailers and other locations that sell vaping products. However, when New York State passed legislation within the 2020 budget to address the epidemic of e-cigarette use among youth, it created enforcement loopholes in the law that have caused challenges to effective enforcement of the law. The exemption for products that have received a pre-market tobacco product authorization (PMTA) by the US Food and Drug Administration (FDA) has created ambiguity around which flavored products remain legal under the law for retailers and health inspectors. Out of the six states that have comprehensive e-cigarette flavor policies, only New York has this exemption, and it has the highest continued retail availability of prohibited products in any of those states. Also, loopholes that allow distributors to continue to carry and sell prohibited products to merchants as well as vagueness that allows retailers to claim they are selling products remotely undercut the effectiveness of the law. Additionally, the LHDs report that the level of fines that they can assess for violations does not deter all vendors from continuing to sell the banned products. These loopholes need to be eliminated. Unfortunately, the issue was not dealt with in the 2023 NYS Legislative session.

In February 2023, as part of her 2023-24 Budget, New York State Governor Hochul announced that she is introducing legislation in the 2023-24 Executive Budget, that will end the sale of all flavored tobacco products, flavored smokeless tobacco and expand the state's ban on the sale of flavored tobacco products (NYS DOH, 2023).

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Record of Action 6/14/23

- Proposed by NYSPHA Policy and Advocacy Committee (PAC) Policy Workgroup - 6/14/23
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