AMERICAN MEDICAL ASSOCIATION HOUSE OF DELEGATES

Resolution: 925
(I-19)

Introduced by: California

Subject: Suspending Sales of Vaping Products / Electronic Cigarettes Until FDA Review

Referred to: Reference Committee K

Whereas, Nationwide, the number of cases of confirmed and probable vaping-associated lung illnesses has risen to 1,080 across 48 states, with 19 reported deaths, according to the Centers for Disease Control and Prevention (CDC) and therefore, the CDC has warned people to avoid vaping altogether; and

Whereas, Vaping and electronic cigarettes are also increasingly being shown to have negative health impacts including harm to cardiovascular function, addiction to nicotine, secondhand exposure to harmful chemicals, progression to use of tobacco products, and more, with adolescent use skyrocketing in recent years, even erasing more than a decade of progress in reducing youth tobacco consumption; and

Whereas, The U.S. Food and Drug Administration (FDA) recently strengthened its warning to consumers to stop using vaping products containing THC amid more than 1,000 reports of lung injuries--including some resulting in deaths--following the use of vaping products; and

Whereas, The mass marketing of vaping products has been shown in some ways to resemble long time tobacco marketing practices, including downplaying risks and targeting young people, despite restrictions on sale to youth; and

Whereas The explosion of the vaping products industry and marketing has somewhat caught health officials and researchers off-guard, with a “catch-up” scenario playing out as regulation and education lag behind the explosion in use; and

Whereas, The FDA did not gain regulatory power over e-cigarettes until 2016, so many popular brands that launched before that date, including market leader Juul, are currently available for sale despite lacking explicit FDA authorization. The agency has given manufacturers until May 2020 to retroactively apply for authorization; if at that point they cannot prove their products are “appropriate for the protection of public health,” they could be removed from the market; and

Whereas, The “precautionary principle,” an increasingly accepted guideline for public health and environmental policy, states that “When an activity raises threats of harm to human health or the environment, precautionary measures should be taken even if some cause and effect relationships are not fully established scientifically; In this context the proponent of an activity, rather than the public, should bear the burden of proof”; and

Whereas, An increasing number of states (Michigan, New York, Massachusetts, Rhode Island) and municipalities (Los Angeles and San Francisco), among others, are filling a regulatory void

caused by federal inaction and are banning sales of flavored tobacco and vaping products as research shows these are harmful, to health, addictive, and marketed towards youth; and

Whereas, Officials in San Francisco and other municipalities have proposed new regulations that would prohibit the sale of any e-cigarette that has not undergone FDA review; any e-cigarette that is required to have, but has not received, FDA pre-market review could not be sold at a store or bought online and shipped to a San Francisco address until the FDA completes its review and allows the products to be sold;" and

Whereas, This proposal is in line with both the precautionary principle and Hippocratic dictum, and is increasingly supported by research on the impacts and risks of vaping and electronic cigarettes; therefore be it

RESOLVED, That our American Medical Association support regulations that would prohibit the sale of any e-cigarette or other vaping product that has not undergone U.S. Food and Drug Administration (FDA) pre-market review until the FDA completes its review and allows the products to be sold. (New HOD Policy)

Fiscal Note: Not yet determined

Received: 10/11/19

RELEVANT AMA POLICY

Legal Action to Compel FDA to Regulate E-Cigarettes D-495.992
Our AMA will consider joining other medical organizations in an amicus brief supporting the American Academy of Pediatrics legal action to compel the U.S. Food and Drug Administration to take timely action to establish effective regulation of e-cigarettes, cigars and other nicotine tobacco products.
Citation: Res. 432, A-18

Sales and Distribution of Tobacco Products and Electronic Nicotine Delivery Systems (ENDS) and E-cigarettes H-495.986
H-495.986 Tobacco Product Sales and Distribution
Our AMA:
(1) recognizes the use of e-cigarettes and vaping as an urgent public health epidemic and will actively work with the Food and Drug Administration and other relevant stakeholders to counteract the marketing and use of addictive e-cigarette and vaping devices, including but not limited to bans and strict restrictions on marketing to minors under the age of 21;
(2) encourages the passage of laws, ordinances and regulations that would set the minimum age for purchasing tobacco products, including electronic nicotine delivery systems (ENDS) and e-cigarettes, at 21 years, and urges strict enforcement of laws prohibiting the sale of tobacco products to minors;
(3) supports the development of model legislation regarding enforcement of laws restricting children's access to tobacco, including but not limited to attention to the following issues: (a) provision for licensure to sell tobacco and for the revocation thereof; (b) appropriate civil or criminal penalties (e.g., fines, prison terms, license revocation) to deter violation of laws restricting children's access to and possession of tobacco; (c) requirements for merchants to post notices warning minors against attempting to purchase tobacco and to obtain proof of age for would-be purchasers; (d) measures to facilitate enforcement; (e) banning out-of-package cigarette sales ("loosies"); and (f) requiring tobacco purchasers and vendors to be of legal smoking age;
(4) requests that states adequately fund the enforcement of the laws related to tobacco sales to minors;
(5) opposes the use of vending machines to distribute tobacco products and supports ordinances

and legislation to ban the use of vending machines for distribution of tobacco products;
(6) seeks a ban on the production, distribution, and sale of candy products that depict or resemble tobacco products;
(7) opposes the distribution of free tobacco products by any means and supports the enactment of legislation prohibiting the disbursement of samples of tobacco and tobacco products by mail;
(8) (a) publicly commends (and so urges local medical societies) pharmacies and pharmacy owners who have chosen not to sell tobacco products, and asks its members to encourage patients to seek out and patronize pharmacies that do not sell tobacco products; (b) encourages other pharmacists and pharmacy owners individually and through their professional associations to remove such products from their stores; (c) urges the American Pharmacists Association, the National Association of Retail Druggists, and other pharmaceutical associations to adopt a position calling for their members to remove tobacco products from their stores; and (d) encourages state medical associations to develop lists of pharmacies that have voluntarily banned the sale of tobacco for distribution to their members; and
(9) opposes the sale of tobacco at any facility where health services are provided; and
(10) supports that the sale of tobacco products be restricted to tobacco specialty stores.
Citation: CSA Rep. 3, A-04; Appended: Res. 413, A-04; Reaffirmation A-07; Amended: Res. 817, I-07; Reaffirmation A-08; Reaffirmation I-08; Reaffirmation A-09; Reaffirmation I-13; Reaffirmation A-14; Reaffirmation I-14; Reaffirmation A-15; Modified in lieu of Res. 421, A-15; Modified in lieu of Res. 424, A-15; Reaffirmation I-16; Appended: Res. 926, I-18

Electronic Cigarettes, Vaping, and Health H-495.972
1. Our AMA urges physicians to: (a) educate themselves about electronic nicotine delivery systems (ENDS), including e-cigarettes, be prepared to counsel patients about the use of these products and the potential for nicotine addiction and the potential hazards of dual use with conventional cigarettes, and be sensitive to the possibility that when patients ask about e-cigarettes, they may be asking for help to quit smoking; (b) consider expanding clinical interviews to inquire about "vaping" or the use of e-cigarettes; (c) promote the use of FDA-approved smoking cessation tools and resources for their patients and caregivers; and (d) advise patients who use e-cigarettes to take measures to assure the safety of children in the home who could be exposed to risks of nicotine overdose via ingestion of replacement e-cigarette liquid that is capped or stored improperly.
2. Our AMA: (a) encourages further clinical and epidemiological research on e-cigarettes; (b) supports education of the public on the health effects, including toxins and carcinogens of electronic nicotine delivery systems (ENDS) including e-cigarettes; and (c) recognizes that the use of products containing nicotine in any form among youth, including e-cigarettes, is unsafe and can cause addiction.
3. Our AMA supports legislation and associated initiatives and will work in coordination with the Surgeon General to prevent e-cigarettes from reaching youth and young adults through various means, including, but not limited to, CDC research, education and a campaign for preventing and reducing use by youth, young adults and others of e-cigarettes, and combustible and emerging tobacco products.
Citation: CSAPH Rep. 2, I-14; Modified in lieu of Res. 412, A-15; Modified in lieu of Res. 419, A-15; Reaffirmed: Res. 421, A-15; Modified: CSAPH Rep. 05, A-18; Reaffirmed: CSAPH Rep. 03, A-19; Appended: Res. 428, A-19