REPORT OF THE BOARD OF TRUSTEES

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Subject: Annual Update on Activities and Progress in Tobacco Control: March 2023 through February 2024

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This report summarizes trends and news on tobacco usage, policies, and tobacco control advocacy activities from March 2023 through February 2024. The report is written pursuant to American Medical Association (AMA) Policy D-490.983, “Annual Tobacco Report.”

TOBACCO USE AT A GLANCE

In the 1960s the adult smoking rate was at its highest at 42 percent.\(^1\) Today that rate has been cut by more than half to an all-time low in 2022 of 11 percent. Despite this decline, tobacco use remains the leading cause of preventable disease, disability, and death in the United States. According to the Centers for Disease Control and Prevention (CDC) cigarette smoking accounts for more than 480,000 deaths every year, or about 1 in 5 deaths. More than 16 million Americans live with a smoking-related disease.\(^2\)

An annual review of tobacco use among adults, published in the May 5, 2023, Morbidity and Mortality Weekly Report (MMWR), summarizes National Health Interview Survey (NHIS) data to assess recent national estimates of commercial tobacco use among U.S. persons aged ≥18 years. NHIS is an annual, nationally representative household survey of the noninstitutionalized U.S. civilian population. Current smokers are defined as people who reported smoking at least 100 cigarettes during their lifetime and who, at the time they participated in a survey about this topic, reported smoking every day or some days. This analysis found an estimated 46 million U.S. adults (18.7 percent) reported currently using any tobacco product, including cigarettes (11.5 percent), e-cigarettes (4.5 percent), cigars (3.5 percent), smokeless tobacco (2.1 percent), and pipes (including hookah) (0.9 percent). Although cigarette smoking decreased, e-cigarette use increased, from 3.7 percent in 2020 to 4.5 percent in 2021, largely driven by higher prevalence in use among persons aged 18–24 years.\(^3\)

Nearly one in five adults who currently used tobacco products used two or more products, with nearly one third of these individuals (31.4 percent) reporting use of cigarettes and e-cigarettes. Dual use of tobacco products may have overlapping adverse health effects. While smoking and vaping may share similar harmful cardiovascular effects, each appears to cause some potentially damaging effects that the other does not. This suggests that dual product use may be more harmful than using either product alone.\(^3,4\)

The CDC and FDA analyzed data from the 2023 National Youth Tobacco Survey (NYTS) to assess tobacco product use patterns among U.S. middle school (grades 6–8) and high school (grades 9–12) students. This analysis was published in the November 3, 2023, MMWR.\(^5\) The NYTS is a cross-sectional, school-based, self-administered web-based survey of U.S. middle and high school students. A stratified, three-stage cluster sampling procedure was used to generate a nationally representative sample of U.S. students attending private or public middle (grades 6–8) and high
Current use of any use of any tobacco product by high school students declined by an estimated 540,000, from 2.51 million in 2022 to 1.97 million in 2023. Declines were also reported for current e-cigarette use among high school students during that same period from 14.1 percent to 10.0 percent. While these declines demonstrate the effectiveness of tobacco control legislation and regulations, there is still cause for concern. E-cigarette products were the most used tobacco product of middle and high school students with 7.7 percent reporting current e-cigarette use followed by cigarettes at 1.6 percent. Among students who had ever used an e-cigarette, 46.7 percent reported current use and 89.4 percent of them used flavored products and 25.2 percent used an e-cigarette daily. Given the number of middle and high school students that use tobacco products, sustained efforts to prevent initiation of tobacco product use among young persons and strategies to help young tobacco users quit are critical to reducing U.S. youth tobacco product use.

Sales Use of E-Cigarettes Dominated by Flavored Products

E-cigarette unit sales increased by 46.6 percent during January 2020–December 2022 according to a study released by the truth initiative®. The study E-cigarette Unit Sales by Product and Flavor Type, and Top-Selling Brands, United States, 2020–2022 was published in the June 23, 2023, MMWR. From January 26, 2020, to December 25, 2022, unit shares of tobacco-flavored and mint-flavored products decreased (from 28.4 percent to 20.1 percent and from 10.1 percent to 5.9 percent, respectively), whereas shares of other flavor sales increased (from 29.2 percent to 41.3 percent). The study authors also looked at types of e-cigarettes. Disposable e-cigarettes are the preferred delivery device for vaped tobacco. Sales of fruit- and mint-flavored disposable products saw a significant rise compared to refillable cartridge devices. During the study period, January 2020–December 2022, sales of prefilled cartridges decreased from 75.2 percent to 48.0 percent, and disposable e-cigarette sales increased from 24.7 percent to 51.8 percent. The authors attributed this to an announcement in January 2020 by the U.S. Food and Drug Administration (FDA) that the agency would prioritize enforcement against prefilled e-cigarettes in flavors other than tobacco and menthol based on the prevalence of use of these products by youth.

In the United States, the prevalence of e-cigarette use is markedly higher among youths and young adults than it is among adults overall. In 2021, 4.5 percent of all adults aged ≥18 years (an estimated 11.1 million) and 11.0 percent of young adults aged 18–24 years (an estimated 3.1 million) currently (≥1 day during the previous 30 days) used e-cigarettes; during 2022, 14.1 percent of high school students (an estimated 2.14 million) currently used e-cigarettes. The unit share of menthol-flavored product sales remained relatively stable, while non-menthol flavor unit shares changed.

EFFORTS TO ADDRESS TOBACCO CONTROL

AMA Litigation Center joins with public health groups to protect tobacco regulation

In the courts, the AMA has continued to be very active in supporting efforts to further regulate and limit tobacco products and electronic nicotine delivery systems (ENDS). The AMA has joined numerous amicus briefs around the country in cases involving the federal government’s efforts to regulate and remove flavored ENDS from the market, which have contributed to favorable
outcomes in several federal circuit courts. In addition, the AMA has supported state and local
governments with friend-of-the-court briefs after their laws banning flavored tobacco products and
ENDS have been challenged by the tobacco and vaping industry. Finally, the AMA continues to
monitor the federal government's efforts to eliminate the manufacture and sale of tobacco products
with characterizing flavors, including menthol, as the AMA was one of the named plaintiffs in a
lawsuit requiring the FDA to take long-overdue action on this issue.

The AMA Litigation Center joined amicus briefs in Oregon supporting the ability of two counties
to regulate flavored tobacco products beyond the state-level restrictions. The court cases centered
on whether a county ordinance banning the sale of flavored tobacco products conflicts with a state
law regulating the sale of tobacco and nicotine. One of the counties received a favorable ruling, and
the other matter remains pending.

The Litigation Center also joined an amicus brief supporting the use of graphic warnings on
tobacco products. The issue in R.J. Reynolds v. FDA is whether an FDA rule regarding graphic
warnings on cigarettes is lawful. That case remains pending.

AMA urged the FDA to investigate violations of federal law in California

In December 2022 California’s law prohibiting the sales of menthol cigarettes and other flavored
tobacco products prevailed despite legal challenges. California became the largest state in the
country banning these products and became the target for release of new products designed to
circumvent the law. R.J. Reynolds announced two new brands, Camel Crisp Non-Menthol and
Camel Crush Oasis Non-Menthol Capsule.

The Tobacco Control Act, which gives the FDA authority to regulate the tobacco industry prohibits
the introduction of new products that have not undergone remarked review by the FDA. The
introduction and marketing of the R.J. Reynolds products and others as “substitutes” for menthol
cigarettes rather than “new” products suggests that the industry believes it has found a loophole.

In March 2023 the AMA joined by other medical, public health and community organizations
urged the FDA to use its authority and begin an investigation.

Helping Tobacco Users Quit Act would expand and ensure cessation coverage

In July 2023 Congresswoman Lisa Blunt Rochester (D-Del.) and Congressman Brian Fitzpatrick
(R-Penn.) introduced the Helping Tobacco Users Quit Act. This bi-partisan bill, supported by the
AMA, calls for expanded comprehensive Medicaid tobacco cessation coverage in every state with
no cost-sharing or access barriers for beneficiaries. The bill would also help states conduct outreach
campaigns to educate providers and beneficiaries about Medicaid’s coverage of cessation services.

The bill was referred to the House Energy and Commerce Subcommittee on Health waiting for a
hearing and further consideration. Medicaid enrollees smoke at twice the rate of those with private
insurance, meaning that expanding cessation coverage in Medicaid would improve health outcomes
while lowering government spending.7

American Lung Association Releases its 2024 State of Tobacco Report

The American Lung Association’s 2024 “State of Tobacco Control” report reveals the continued
impact of tobacco use, including menthol cigarettes, on individuals and families across the country,
and underscores the urgent need for the White House to finalize the rules to end the sale of menthol
cigarettes and flavored cigars to save lives. The report highlighted the tobacco industry and its allies’ influence to successfully convince the White House to delay finalizing the menthol cigarettes and flavored cigars rules.

Since the 1950s, Black individuals have been successfully targeted by aggressive marketing campaigns. According to a study in the 2023 April issue of *Nicotine & Tobacco Research*, an estimated 80 percent of Black individuals in the U.S. who smoke prefer menthol cigarettes. The authors also noted that target marketing was having an impact on Hispanic adults. During the study period the use of menthol went from 34 percent in 2008 to 51 percent in 2020.

At the local level, Chicago, IL and Milwaukee, WI were highlighted in the report for actions taken to restrict where new tobacco retailers can locate. This legislative action takes aim at the increased concentration of tobacco product retailers in low-income neighborhoods.