



**“The Voice of Local Public Health in New York State”**

**May 12, 2014**

Testimony before the Senate Standing Committee on Health  
To consider including electronic cigarettes in the existing  
Clean Indoor Air Act and regulating liquid nicotine

Presented by Lawrence E. Eisenstein, MD, FACP, President, NYSACHO  
And Commissioner of Health, Nassau County

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*To support local health departments in their work  
to prevent disease, disability and injury  
and promote health and wellness  
throughout New York State.*

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I would first like to extend kind regards from our state's Local Health Officials to all members of the Senate Standing Committee on Health, including my own representative, and Committee Chairman, Senator Hannon.

My name is Dr. Lawrence Eisenstein. I am the Commissioner of Health for Nassau County, and I currently serve as the President of the New York State Association of County Health Officials (NYSACHO). Thank you for this opportunity to present testimony today on behalf of my colleagues in the 58 local health departments in New York State. We are pleased to support the comprehensive package of legislation recently proposed to regulate electronic tobacco delivery devices and related components. From this point on, I will refer to them as "e-cigarettes".

E-cigarettes are battery-operated products designed to supply nicotine, flavor and other chemicals through a vapor inhaled by the user. The majority of e-cigarettes are manufactured to resemble cigarettes, cigars and pipes. They often have an LED light at the tip that mimics the glow of a traditional cigarette.

Electronic cigarettes have experienced a rapid growth in popularity. But little is known about how they are used or what detrimental effects they may have on the public's health.

Since e-cigarettes are unregulated, we are not yet certain whether harmful chemicals, beyond the addictive nicotine, may be in the vapor that they produce. Marketers sometimes claim they generate pure water vapor, but the vapor odor indicates otherwise.

E-cigarettes are sometimes marketed as a smoking cessation tool, or as a safe alternative to traditional tobacco products. NYSACHO recognizes the importance of finding new tools to help smokers quit. However, you will not find health care providers or public health professionals prescribing or promoting e-cigarettes as a cessation tool. Why? Because the medical and public health professions have seen no evidence that peer-reviewed, randomized clinical trials have confirmed their efficacy or safety for smoking cessation.

Until, and unless, research shows that e-cigarettes are safe and effective, we need regulation of e-cigarette manufacturing and quality control. Until we can assure safety, e-cigarette use and exposure should be limited. The United States Food and Drug Administration (FDA) is proposing regulations related to e-cigarettes. But in the interim, we need to ensure a safe, smoke-free environment for New Yorkers through statutes that will protect them from exposure to vapors that may contain harmful toxins.

There is much we don't know about e-cigarettes. But what we **do** know is very troubling. We know that e-cigarettes are aggressively marketed to youth and young adults. According to the National Youth Tobacco Survey, conducted by the Centers for Disease Control and Prevention (CDC), the percentage of high school students who reported ever using e-cigarettes rose from 4.7% in 2011 to 10% in 2012. Rates also doubled for middle school students. Of those reporting use of e-cigarettes, 76.3 percent of middle and high school students had also smoked conventional cigarettes.

Make no mistake, this data is a result of direct marketing to youth. E-cigarettes are sold in a variety of flavors designed to appeal to youth, a practice banned for traditional cigarettes - flavors such as cherry, vanilla, cola, bubble gum and chocolate. They use marketing similar to that which has been banned for traditional tobacco products, with celebrity endorsements and promotion at youth-oriented events. Their ads highlight the use of e-cigarettes as glamorous, sexy and rebellious. A recent study was conducted by the University of California's San Francisco Center for Tobacco Control Research and Education. It found that the devices were likely to serve as gateways, encouraging teenagers to progress from using e-cigarettes to smoking traditional cigarettes.

In 2012, New York State recognized this public health threat and banned the sale of e-cigarettes to minors. Since that ban was enacted, enforcement has proven difficult, because e-cigarettes were not included in the definition of a tobacco product. Vendors, therefore, were not required to register with the Department of Taxation and Finance. This makes it difficult to establish where e-cigarette products are sold. Lack of adequate information regarding sale locations is an obstacle to enforcement of this ban by both the state and local health departments. NYSACHO therefore supports Senate Bill 7139, which requires retailers not otherwise registered with the state department of taxation and finance to register with the state department of health.

Another serious risk that the sale of e-cigarettes presents to our children is the growing incidence of nicotine poisoning. Nicotine poisoning can cause nausea, vomiting, increased heart rate and loss of muscle control. A tablespoon can be lethal to adults and a teaspoon lethal to children. Until and unless FDA regulations go into effect, these e-liquids can be sold in large quantities and are not required to have child-safety caps or other protective packaging.

Last month the CDC reported that, nationally, calls to poison control centers rose from one per month in 2010, to 215 calls per month as of February 2014. More than half of the calls were for children under the age of five. This is an unacceptable risk to our children's health. NYSACHO strongly supports Senate Bill 7027/Assembly Bill 9299, which prohibits the sale of liquid nicotine to minors, and requires appropriate labeling and warnings to make adults aware of the hazards these liquids pose.

The cost of tobacco use for New York State is estimated to be 8.2 billion dollars annually, including 3.3 billion dollars in annual Medicaid costs, according to the New York State Department of Health. A recent study by the CDC states that the number of Americans who had ever used e-cigarettes quadrupled between 2009 and 2010.

NYSACHO strongly supports Senate Bill 6562/Assembly Bill 8178, which applies current public health law restrictions under the Clean Indoor Air Act to electronic cigarettes. As public health officials, our support for this legislation is based on two concerns:

First, NYSACHO is concerned that e-cigarettes may pose unknown health problems, particularly due to the inhalation of propylene glycol.

Second, the use of e-cigarettes makes it difficult for local health departments to enforce existing smoke-free air laws.

A 2009 FDA study of e-cigarettes found that some contain toxins and carcinogens, including diethylene glycol, a chemical found in anti-freeze. The presence of these toxins makes exposure to vapor a potentially harmful risk for both smokers and non-smokers. NYSACHO believes that policy makers have a responsibility to continue to protect non-smokers from exposure, in the absence of appropriate clinical studies that identify and quantify health risks.

E-cigarettes and traditional cigarettes are similar enough that distinguishing between them can be visually challenging. Use of e-cigarettes in places where the use of other tobacco products is prohibited has been observed, and is promoted by the industry. New York has been a national leader in changing social norms around tobacco use, a key policy change leading to steady decreases in both tobacco use and exposure to second-hand smoke, and related illness and death.

As noted earlier, marketing of e-cigarettes uses the same techniques that were used to promote tobacco use, practices that are no longer allowed. We believe that, by encouraging use of e-cigarettes in public places, the industry seeks to re-establish smoking as an acceptable and appealing behavior, undercutting years of successful public health efforts to reduce tobacco use.

I want to close by thanking Senator Hannon and your colleagues on the Senate Standing Committee on Health, as well as the Assembly sponsors of the legislation. We appreciate that you are holding this hearing and advancing a comprehensive set of proposals to continue our state's progress in reducing tobacco use among children and adults and ensuring cleaner air for all New Yorkers.



## References

1. According to the National Youth Tobacco Survey, conducted by the Centers for Disease Control and Prevention (CDC), the percentage of high school students who reported ever using e-cigarettes rose from 4.7% in 2011 to 10% in 2012. Rates also doubled for middle school students. Of those reporting use of e-cigarettes, 76.3 percent of middle and high school students had also smoked conventional cigarettes.
2. A recent study by the University of California at San Francisco Center for Tobacco Control Research and Education found that the devices were more likely to progress from using e-cigarettes to traditional cigarettes.
3. Last month the CDC reported that, nationally, calls to poison control centers rose from 1 per month in 2010, to 215 calls per month as of February 2014. More than half of the calls were for children under the age of five.
4. A recent study by the CDC states that the number of Americans who had ever used e-cigarettes quadrupled between 2009 and 2010.
5. A 2009 FDA study of e-cigarettes found that some contain toxins and carcinogens, including diethylene glycol, a chemical found in anti-freeze.

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1. Center for Disease Control and Prevention. Notes from the Field; Electronic Cigarette Use among Middle and High School Students-United States, 2011-2012. *Morbidity and Mortality Weekly Report* 2013, 729-30.

2. Dutra L., Stanton G., Electronic Cigarettes and Conventional Cigarette use among US adolescents, *Jama Pediatrics*, E1-E8.

3. Center for Disease Control and Prevention. Notes from the Field; Calls to Poison Centers for Exposures to Electronic Cigarettes- United States, September 2010-February 2014. *Morbidity and Mortality Weekly Report* 2014, 292-293

4. Center for Disease Control and Prevention. Notes from the Field; Electronic Cigarette Use among Middle and High School Students-United States, 2011-2012. *Morbidity and Mortality Weekly Report* 2013, 729-30.

5. FDA and Public Health Experts Warn about Electronic Cigarettes, Jul. 22, 2009. Available at: <http://www.fda.gov/newsevents/newsroom/pressannouncements/ucm173222.htm>