2018 Maryland Tobacco Control Conference

Navigating the Changing Landscape: The Future of Tobacco Control in Maryland

May 8, 2018
<table>
<thead>
<tr>
<th>Time</th>
<th>Session</th>
</tr>
</thead>
<tbody>
<tr>
<td>8:30 AM to 9:15 AM</td>
<td>Registration/Breakfast</td>
</tr>
<tr>
<td>9:15 AM to 9:35 AM</td>
<td>Opening Remarks&lt;br&gt;Kathleen Hoke, JD, Legal Resource Center (LRC)&lt;br&gt;Dawn Berkowitz, MPH, CHES, Maryland Department of Health (MDH)&lt;br&gt;Howard Haft, MD, MMM, CPE, FACPE, Maryland Department of Health (MDH)</td>
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<tr>
<td>9:35 AM to 10:15 AM</td>
<td>Plenary&lt;br&gt;Gustavo Torrez, Campaign for Tobacco-Free Kids</td>
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<tr>
<td>10:30 AM to 10:45 AM</td>
<td>Networking Break</td>
</tr>
<tr>
<td>10:45 AM to 12:00 PM</td>
<td>Innovative Points of Entry and Approaches for Cessation&lt;br&gt;Innovative Tobacco Policy&lt;br&gt;Emerging Enforcement Issues&lt;br&gt;1. Kevin Schroth, JD, New York City Department of Health&lt;br&gt;2. Scott Hall, JD, MBA, Greater Kansas City Chamber of Commerce&lt;br&gt;3. Desmond Jenson, JD, Tobacco Control Legal Consortium&lt;br&gt;1. Cole Dowden, JD; Sgt. Tony Hatcher; Nate Essey; Timothy McNeal; Office of the Comptroller of Maryland&lt;br&gt;2. Wayne Farrare, Caroline County Health Department&lt;br&gt;3. Kathleen Hoke, JD, Legal Resource Center&lt;br&gt;Moderator: Kathleen Hoke&lt;br&gt;Lakeview Ballroom B/C</td>
</tr>
<tr>
<td>12:00 PM to 1:15 PM</td>
<td>Lunch</td>
</tr>
<tr>
<td>1:15 PM to 2:30 PM</td>
<td>Innovative Points of Entry and Approaches for Cessation&lt;br&gt;Innovative Tobacco Policy&lt;br&gt;Emerging Enforcement Issues&lt;br&gt;1. Will Tilburg, JD, Maryland Medical Cannabis Commission&lt;br&gt;2. Ilana Richman, MD, Yale School of Medicine&lt;br&gt;3. George Kolodner, MD, Kolmac Outpatient Recovery Centers&lt;br&gt;1. Rashetta Fairnot, LGSW, Center for Tobacco Products&lt;br&gt;2. Jessica Rowden, MA, Center for Tobacco Products&lt;br&gt;3. Kathleen Hoke&lt;br&gt;Moderator: Kathleen Hoke&lt;br&gt;Lakeview Ballroom D</td>
</tr>
<tr>
<td>2:30 PM to 4:30 PM</td>
<td>Networking Break</td>
</tr>
<tr>
<td>2:30 PM to 3:20 PM</td>
<td>Emerging Threats to Tobacco Control Success: How Juuls and Vapes are Changing Maryland’s Landscape&lt;br&gt;Dawn Berkowitz, MPH, CHES, Maryland Department of Health</td>
</tr>
<tr>
<td>3:20 PM to 4:30 PM</td>
<td>End of Conference for Non-Local Health Department Attendees; Break for Local Health Department Attendees</td>
</tr>
</tbody>
</table>
Plenary:

Gustavo Torrez, Campaign for Tobacco Free Kids

Slideshow Uploaded Separately
Innovative Points of Entry and Approaches for Cessation

1. Kerry Cork, JD, Tobacco Control Legal Consortium
2. Payam Sheikhattari, MD, MPH, Prevention Sciences Research Center
3. Vicki Petro and Melissa Book, Easton Utilities
OVERLOOKED & UNDERTREATED:
NICOTINE ADDICTION IN HOMELESS SHELTERS
THE PUBLIC HEALTH LAW CENTER
LEGAL TECHNICAL ASSISTANCE

- Legal Research
- Policy Development, Implementation, Defense
- Publications
- Trainings
- Direct Representation
- Lobby
OVERLOOKED & UNDERTREATED:
NICOTINE ADDICTION IN HOMELESS SHELTERS

- Background
- Patterns of Tobacco Use
- Barriers & Challenges
- Promising Policy Options
U.S. HOMELESS POPULATION OVERVIEW
DEFINING HOMELESSNESS?

Homelessness =
“State of being without a home”

“State of abject poverty, often accompanied by high-risk comorbidities”
HOMELESSNESS

• Individuals and families who do not have a fixed, regular, and adequate night time residence, including those who live in emergency shelters or places not meant for human habitation

• Individuals and families at imminent risk of losing their main night-time residence

• Unaccompanied youth and families with children and youth who meet other definitions of homelessness

• Individuals and families who are fleeing or attempting to flee domestic violence, dating violence, sexual violence, stalking, or other dangerous or life-threatening conditions
FACES OF THE HOMELESS

- Chronically homeless
- Episodically homeless
- Transitionally homeless
DEMOGRAPHICS

Approximately 554,000 people homeless on a given night in U.S. (2017)

- Poor, marginalized, vulnerable
- Those experiencing mental health issues / addiction
- Victims of domestic & sexual abuse, etc.
- Veterans (suffering from PTSD, depression, etc.)
- Runaway youth
- Seniors
- Families with children
HOST OF PROBLEMS

- Mental disorders
- Alcoholism
- Substance abuse
- Hunger
- Little or no access to health care
- Lack of social support
- Depression
NIQUITINE ADDICTION

- 3 out of 4 homeless people smoke cigarettes, a rate 4 times higher than in general population
- 2 to 5 times more likely to die prematurely
THE LIST GOES ON

• Medical concerns
  – Cardiovascular disease
  – Obstructive lung disease
  – Other chronic / infectious diseases
  – Brain injury
• Cognitive impairment
• Limited education
• Legal / criminal justice challenges
• Displacement (eviction, natural disaster, etc.)
PATTERNS OF TOBACCO USE

- Sniping: Collecting & using discarded cigarette butts or filters
- Rolling own cigarettes
- Blocking filter vents
- Smoking other tobacco or organic substances
- Borrowing, sharing or trading single cigarettes
BARRIERS & CHALLENGES
WHY IT’S HARD FOR THEM TO QUIT

• Many have mental illness or addictions
• Smoking is a way to --
  – Cope with stress, boredom, hunger
  – Self-medicate; regulate their moods
  – Provide instant gratification
  – Socialize; a means of camaraderie
  – Retain control in one area of their lives
TOBACCO USE AMONG HOMELESS PEOPLE

“An expression of autonomy in the face of desperation and a source of comfort in the midst of chaos.”

Dr. Travis Baggett
WHY IT’S HARD FOR THEM TO QUIT

• Tobacco industry’s predatory marketing tactics (Project SCUM)

• Pricing discounts, coupons, cheap alternative tobacco products
AND YET . . .

A majority of homeless individuals want to quit smoking.
TYPES OF SHELTER FOR HOMELESS INDIVIDUALS

- Day Shelters / Rescue Missions
- Emergency Homeless Shelters
- Halfway Housing
- Permanent Affordable Housing
- Residential Drug and Alcohol Rehab Programs
- Supportive Housing
- Shared Housing
- Transitional Housing
- Rooming House or Boarding House
CHALLENGES FOR HOMELESS SERVICE PROVIDERS #1

• Traditional use of tobacco by providers to build trust
• High percentage of provider staff smoke
• Nicotine addiction “less a priority” than other coexisting issues
• Lack of coordination / collaboration among social services, primary care, behavioral health/substance use experts & tobacco addiction experts
CHALLENGES FOR HOMELESS SERVICE PROVIDERS #2

• Service providers lack –
  – Funding for nicotine replacement products
  – Organized cessation counseling programs and trained counselors
• Challenge in providing service to (and retaining contact w/) transient population
• Challenge in determining the most effective cessation treatments, given diverse needs of (& subgroups in) homeless population
PROMISING POLICY OPTIONS
TOBACCO-FREE SHELTERS

- Most shelters are smoke-free on premises
- Many prohibit smoking on entire grounds; others permit smoking w/in a certain distance of entrances & exits (e.g., 20 – 25 ft.)
- Challenge: Enforcing smoke- or tobacco-free policies. Staff often smoke with residents.
TRAIN PROVIDER STAFF

• Make tobacco cessation a priority among staff
• Train staff on how to assist homeless smokers with tobacco cessation
• Engage staff who are former smokers to provide positive support
• Consider recruiting former homeless clients to serve as peer advisors
ENFORCE SMOKE-FREE POLICIES

• Ensure that all staff, residents comply with smoke-free policies, and that policies are enforced fairly and consistently.
LEVERAGE OUTREACH OPPORTUNITIES

• Cessation information in food distribution packages
• Annual one day event where free services are made available at convention center (e.g., haircuts, HIV/AIDS testing housing, healthcare, dental, tobacco cessation)
• Weekly free lunches provided by local parish, offering cessation info / referrals
• Free CT lung screenings and follow-up cessation information
RECRUIT HOMELESS CLIENTS IN STUDIES

• Set up flexible visit schedules
• Provide incentives that meet their needs:
  – Bus tokens & metro cards
  – Gift cards at each visit
  – Hygiene kits
  – Calendar/planner to record their visit times
• Obtain multiple forms of contact info
• Use outreach staff with experience in homelessness
PROVIDE COUNSELING & NRT

- Behavioral counseling (short in-person sessions) or motivational interviews are often preferred over quit lines.
- Pharmacotherapy (NRT cessation medications) are useful when combined with counseling.
- If possible, make cessation info and resources available, along w/ access to NRT.
INTERVENTION STRATEGIES AT DIFFERENT LEVELS

- Individual (e.g., NRT and behavioral counseling)
- Interpersonal (e.g., group & peer-based cessation interventions)
- Health care delivery (e.g., consistent smoke-free message during clinical encounters)
- Shelter (e.g., tobacco-free settings; educational messaging; training, resources & referrals for clients & staff)
- Policy (e.g., expanding health insurance that covers comprehensive tobacco treatment; evidence-based tobacco control policies at state and local levels – pricing, POS, advertising & marketing, licensing)
HUD’S SMOKE-FREE RULE IN PUBLIC HOUSING

Rule requires more than 3,100 public housing agencies across the U.S. to prohibit lit tobacco products in all living units, indoor common areas, administrative offices, and all outdoor areas within 25 feet of housing and administrative office buildings.
“HOUSING FIRST” APPROACH

• Offer permanent, affordable housing as quickly as possible to individuals and families experiencing homelessness,

... and then ...

• provide supportive services and connections to the community-based supports people need to keep their housing and avoid returning to homelessness
TOBACCO USE AMONG THE HOMELESS POPULATION: FAQ

This publication provides answers to several common questions about tobacco use among members of the homeless population, including those who are chronically, episodically or transitionally homeless, and policies and approaches that state and local organizations, including shelters and related facilities, can take to reduce the use of tobacco in this population.

For more information about tobacco policies in residental settings for vulnerable populations, check out the publications and resources on the Public Health Law Center’s website at www.publichealthlawcenter.org.
CONTACT US

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@phealthlawctr

facebook.com/publichealthlawcenter
A NEW APPROACH TO SMOKING CESSATION
ENGAGING PEERS IN COMMUNITY BASED SETTINGS

Payam Sheikhattari, MD, MPH
On behalf of the CEASE partnership
CEASE: Communities Engaged and Advocating for a Smoke-free Environment

- CEASE is a community driven smoking cessation initiative that evolved through a collaboration between Morgan State University and residents of the Southwest Baltimore communities with a mission to educate, encourage, and support individuals to choose a smoke-free lifestyle.
- CEASE especially focuses on underserved and low-income populations that lack affordable, consistent, or accessible community health related resources.
History of the CEASE

- **2002**: Community assessment
- **2006**: Small initiatives
- **2007**: Forming a partnership to address tobacco use
- **2008**: Clinical model (Phase I)
- **2011**: Peer-led Community model (Phase II)
- **2013**: Further adaptations (Phase III)
- **2015**: Different intensities (Phase IV)
CEASE Model

1. Building partnerships
   - Identifying local assets & stakeholders
   - Building relationships
   - Forming community action board
   - Defining mission and strategic goals

2. Responses and interventions
   - Needs assessment and asset mapping
   - Designing interventions
   - Implementation with reflections
   - Revising interventions

3. Peers as providers
   - Recruiting peer motivators
   - Educating and obtaining certifications
   - Partnerships with community
   - Identifying sites

4. Institutionalizing CEASE
   - Creating policies and procedures
   - Enhancing quality and accountability
   - Registration as NGO
   - Creating new chapters elsewhere
Target communities

- The Waverlies
- South West Baltimore
- Middle East Baltimore
CEASE Timeline

Local Health Clinic

2008
- N= 404
- Individual counseling & Group counseling
- Nicotine Replacement Therapy
- Contingency Behavioral Management
- Prescription medications as indicated
- Fresh-start curriculum expanded
- Follow-up for 9 months

Community setting

2011
- N= 398
- Peer-led group counseling plus monetary incentives
- Nicotine Replacement Therapy
- Incentive for attendance and hallmarks
- 2 weeks motivational enhancement counseling
- 4 weeks smoking cessation counseling
- 3 bi-weekly relapse prevention counseling
- Peer support
- Follow-up for 6 months

2013
- N= 163
- Nicotine Replacement Therapy
- Incentive for attendance and hallmarks
- 6 weeks group counseling using toolboxes
- 6 weeks of relapse prevention group counseling in 3 tracks
- Healthy diet, physical activity, relationship management
- Follow-up for 6 months

2015
- N= 842
- Self-help
- Single-session
- Four-session

2017

CEASE Today Tobacco Cessation Manual

Key Tags

CEASE Report
## CEASE Outcomes

<table>
<thead>
<tr>
<th>Setting</th>
<th>Retained in Program</th>
<th>Quit Smoking</th>
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<tbody>
<tr>
<td><strong>Traditional Clinic-Based</strong></td>
<td>13.8%</td>
<td>9.4%</td>
</tr>
<tr>
<td><strong>Community-Based</strong></td>
<td>51.9%</td>
<td>21.1%</td>
</tr>
<tr>
<td><strong>Expanded Community-Based</strong></td>
<td>67.9%</td>
<td>30.1%</td>
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**Further Improved Community-based Setting (Participant’s quit rate)**

- Self-Help Group: 2.30%
- Single-Session Group Counseling: 6.10%
- Four-Session Group Counseling: 13.00%
Cease Today Tobacco Cessation Manual

MODULE 1: Motivating and Preparing
Module 1 will increase your knowledge about smoking and will help you get motivated to quit.

- Lesson 1: Facts about tobacco
- Lesson 2: Facts about quitting
- Lesson 3: Deciding to quit

MODULE 2: Quitting
Module 2 will teach you more about nicotine dependence and present different options for stopping. You will develop your own quit plan to master the first few days of being smoke-free.

- Lesson 4: Quitting with help
- Lesson 5: Planning to quit
- Lesson 6: Your quit-smoking day

MODULE 3: Preventing Relapse
Module 3 will introduce you to resources that can help you maintain a smoke-free lifestyle.

- Lesson 7: Staying smoke-free

Activities
Future goals and opportunities

- Training tobacco-cessation workforce
- Public and scientific presentations
- Tobacco-cessation classes
- Providing technical assistance
- Collaboration with research institutions and conducting more research
THANK YOU!

Acknowledgment
CEASE research projects received financial support from the National Institute on Minority Health and Health Disparities (grants MD000217 and MD002803), the National Institute on Drug Abuse (Grants DA012390 and DA019805), and Pfizer Inc.
Empowering our Employees
In Health and Wellness

Vicki Petro, Director of Human Resources
Melissa Book, Human Resources Assistant
Overview

• Maryland’s first municipally owned public utility founded in 1914

• Seven business units:
  ▪ Electric
  ▪ Natural Gas
  ▪ Water
  ▪ Wastewater
  ▪ Cable Television
  ▪ Internet
  ▪ IT Professional Services

MISSION
To enhance the quality of life in our community by providing reliable, competitively priced utility and communication services through skilled, safety-oriented and customer focused employees.
Demographics

1,948 years of experience!

145 full time employees

13.4 years average service

45 years average age

82 employees over 10 years tenure
History of Wellness Program

• Started wellness awareness in 2002
• Random and disconnected
• Slow start
2018 Wellness Committee
### EASTON UTILITIES FY18 WELLNESS & SAFETY SCORECARD

To qualify for the corporate incentive payout on our wellness goals you must have earned 100 or more points from the below scorecard. (Those who do not achieve 100 points will not be eligible for the incentive for this goal).

*Must achieve 100 or more points
*Points must be from a minimum of three categories
*Programs are to be formal programs established by EU, Health Ins carrier or your physician

<table>
<thead>
<tr>
<th>Activity</th>
<th>Description</th>
<th>Points Value</th>
<th>Points Earned</th>
<th>Cash (C) Gift card (G)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Health Risk Assessment</strong></td>
<td>Complete the confidential, Rally Survey including biometric numbers on myuhc.com. Learn your Rally Age and get recommendations based on your health profile to help enhance your health and well-being.</td>
<td>10</td>
<td></td>
<td>$25.00 G</td>
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<tr>
<td><strong>Spouse</strong></td>
<td>(on UHC insurance) completes the confidential, personal health assessment on myuhc.com</td>
<td>-</td>
<td>-</td>
<td>$25.00 G</td>
</tr>
<tr>
<td><strong>Non UHC employees (not spouses)</strong> complete their providers HRA</td>
<td>10</td>
<td>$25.00 G</td>
<td></td>
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<tr>
<td><strong>Lifestyle Improvement</strong></td>
<td>UHC Members Complete biometric screenings</td>
<td>10</td>
<td></td>
<td>$75.00 G</td>
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<tr>
<td><strong>Preventive Care Visit</strong></td>
<td>Annual Physical from Primary Care Physician</td>
<td>10</td>
<td></td>
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<tr>
<td><strong>Flu Shot</strong></td>
<td>5</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td><strong>Use &quot;Doc on Demand&quot; or &quot;Amwell&quot; through UHC</strong></td>
<td>5</td>
<td></td>
<td></td>
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</tr>
<tr>
<td><strong>Preventive Care - Mammogram</strong></td>
<td>5</td>
<td></td>
<td></td>
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<tr>
<td><strong>Preventive Care - Colonoscopy</strong></td>
<td>5</td>
<td></td>
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<tr>
<td><strong>Vision Exam</strong></td>
<td>5</td>
<td></td>
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<tr>
<td><strong>Dental checkup and cleanings 5 points each. Visits during the quarter before and after FY18 may be included up to 10 points</strong></td>
<td>10</td>
<td></td>
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### Wellness & Safety Seminars (no maximum)

1. Attend one wellness & safety seminar. (please list as attended): 5
2. 5
3. 5
4. 5

### Community Engagement Volunteer work (max of 5 points)

- **Participate in a community focused event. Examples include:**
  - Kickball League
  - Ride for Clean Rivers (formally Tour de Talbot)
  - YMCA Chesapeake Run for Hospice
  - Bark in the Park
  - EVFD "Stop, Drop & Run" 5K
  - Across the Bay 10K

### Community Engagement Volunteer work (max of 5 points)

- **Participate in a community focused physical event. Examples include:**
  - Dobson Reading Participation
  - Fundraising for a Non-Profit Organization
  - Serve as Boardmember for Local Organization
  - Volunteer Mentor

### Wellness Program Involvement

- **Play a roll in continued growth of our wellness program**
- **Complete end of year wellness program assessment.**
- **Participate as member of wellness committee.**
- **Participate as member of events committee.**
- **Participate as safety committee member attending 80% of monthly mtgs.**
- **Participate as safety committee member attending less than 80% of monthly mtgs.**

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<th>Points Earned</th>
<th>Cash (C) Gift card (G)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Lifestyle Improvement (no maximum)</strong></td>
<td>Complete approved Smoking Cessation Program</td>
<td>10</td>
<td>10</td>
<td>$50.00 G</td>
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<tr>
<td><strong>Member completes 3 Rally Missions in 5 weeks</strong></td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td><strong>Spouse completes 3 Rally Missions in 5 weeks</strong></td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
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<tr>
<td><strong>Non UHC members complete an approved hospital or health department sponsored class on health improvement i.e. diabetes education</strong></td>
<td>10</td>
<td>-</td>
<td>-</td>
<td>$50.00 G</td>
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<tr>
<td><strong>UHC members attend YMCA 12x a month. 10 month max.</strong></td>
<td>-</td>
<td>10</td>
<td>-</td>
<td>$20.00 G</td>
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<td><strong>Gym attendance, EU fitness room or run/walk/bike with GPS tracker for 60 to 119 sessions (30 minute minimum workouts)</strong></td>
<td>5</td>
<td>5</td>
<td>-</td>
<td>$100.00 C</td>
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<tr>
<td><strong>Gym attendance, EU Fitness room or run/walk/bike with GPS tracker 120 to 179 sessions (30 minute minimum workouts)</strong></td>
<td>10</td>
<td>10</td>
<td>-</td>
<td>$200.00 C</td>
</tr>
<tr>
<td><strong>Gym attendance, EU Fitness room or run/walk/bike with GPS tracker 180 or more sessions. (30 minute minimum workouts)</strong></td>
<td>10</td>
<td>-</td>
<td>-</td>
<td>$300.00 C</td>
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**Scorecard**

Easton Utilities | Easton, Maryland
Growth of Wellness Program

• 2008 Began new alignment
• Use of available resources
• President’s Goal
• 2014 Employee Wellness Committee formalized
• 2016 Healthiest Maryland Business *Silver* Award
• 2017 Healthiest Maryland Business *Silver* Award
2018 Wellness & Safety Program

- Combined Wellness and Safety Programs
- Corporate Fitness Consultant
- Healthy Food Options
- **Tobacco Cessation Program launched with committee consisting of 15 tobacco/nicotine using employees**
- Healthiest Maryland Business **GOLD** Awarded
“The main reason I wanted to quit was for my family. When EU offered to allow time during work for meeting with the Talbot County Health Department, which is a free service, it was an easy choice for me to quit.”

Matt Thompson
Seven weeks tobacco free
Revised Policy: Issues to Address

• Policy too vague
  – What is “inside” vehicle
  – What is customer property
  – Is personal vehicle a designated area

• Involvement of Talbot Co Health Department

• Disciplinary procedures
Tobacco Free Campus
Talbot County Health Dept.

- Tobacco Cessation Program
- Funded by Maryland Cigarette Restitution Fund
- Free to all Talbot County Residence
- Requires physician referral
Talbot County Health Dept.

- Educational Classes
- Counseling
- Free Cessation Products
- Confidential consultations
- Support System
Future of Wellness Program

• **Three to five year plan**
  – Continue partnership with Corporate Fitness Consultant
  – Fitness facilities enhancements
  – Enhance presentations
  – Interactive events
  – **100% tobacco/nicotine free workplace**
Business Challenges

• Insurance Premium Incentive or Penalty
• Recruiting of Non Tobacco Users
• Inclusion of all Facilities
• Drawing the Line
Employees are your greatest asset! A healthy, empowered employee will positively impact your bottom line.
Innovative Tobacco Policy

1. Kevin Schroth, JD, New York City Department of Health
2. Scott Hall, JD, MBA, Greater Kansas City Chamber of Commerce
3. Desmond Jenson, JD, Tobacco Control Legal Consortium
NYC Tobacco Control Innovations

Kevin R.J. Schroth, Esq.
NYC Department of Health & Mental Hygiene
Primary Care & Prevention
Chronic Disease Prevention & Tobacco Control
NYC’s Five-Point Plan for Tobacco Control

- Taxation
- Legal Action
- Cessation
- Education
- Evaluation

Making it hard to smoke
Making it easy to quit
Is it working?
1993-2001, smoking prevalence was stable, 21.5%-21.7%

NYC & NYS tax increases

Smoke-free Air Act (SFAA)

Free patch programs start

Hard-hitting media campaigns

Federal tax increase, NYC banned flavored sales, & SFAA extended to include hospital entrances

NYS tax increase

Smoke-free parks & beaches

NYS tax increase

SFAA (e-cigs), Sensible Tobacco Enforcement & Tobacco 21

Source: NYC Community Health Survey
# 2017 Tobacco Legislation

## Laws signed August 28, 2017

**Price**
1. Minimum Prices and Tax on OTP

**Access**
2. Pharmacy Ban
3. Retail reduction
4. E-cigarette License
5. License fee

**Residential smoking**
5. Disclosure (residential policies on smoking)
6. Common areas in multi-unit housing

## Laws signed October 16, 2017

1. Hookah permit
2. Hookah warning signs
3. Hookah 21
The Shot
The Room Where it Happens

City Hall
DOHMH
Law Department
City Council
Advocates
Consumer Affairs
Finance
OTP Tax & Price Floors
Other Tobacco Products (“OTP”) Comprise An Increasing Portion of Tobacco Market
How to Raise Taxes in NYC – Option A
How to Raise Tax in NYC – Option B

• In 1937 the federal government became involved in public housing, United States Housing Act (created precursor to HUD)

• US government built public housing projects

• Local governments needed to pay for operations—
  o Need for revenue

• In 1939, NYS law authorized towns (pop > 5000) to tax non-cigarette tobacco products (OTP) at 10% of the retail price
  o Revenue must go to public housing.
How Prices Regulations Can Complement Taxes

Source: Kurt Ribisl and Shelly Golden, University of Chapel Hill, North Carolina
How a Unit-Based Excise Tax Works

- **Prices**
- **Discount**
- **Value**
- **Premium**

Price variation within tiers

- Original range of prices within & between price tiers in the original market
- Hypothesized new range of prices after policy implementation

Source: Kurt Ribisl and Shelly Golden, University of Chapel Hill, North Carolina
Non-tax price policies work differently

Minimum price eliminates cheaper price tiers

Discount ban eliminates cheaper sales within tier

Source: Kurt Ribisl and Shelly Golden, University of Chapel Hill, North Carolina
Tax + Minimum Price + Discount ban

Source: Kurt Ribisl and Shelly Golden, University of Chapel Hill, North Carolina
Can Government Fix Prices?


- States’ power to set minimum prices for milk affirmed even though the law was struck down on unrelated grounds. *West Lynn Creamery v. Healy*, 512 U.S. 186, 201 (1994).

- In another milk case, the Court upheld a milk control board’s power to regulate the milk industry and set minimum prices paid by dealers. *Milk Control Bd. of Pennsylvania v. Eisenberg Farm Prod*, 306 U.S. 346 (1939).

- It has long been settled that regulation of “‘ordinary commercial transactions’” is subject to “rational basis review” requiring deference to reasonable underlying legislative judgments.” *Armour v. City of Indianapolis*, 132 S. Ct. 2073, 2080 (2012) (quoting United States v. Carolene Products Co., 304 U.S. 144, 152 (1938)).

- Minimum and maximum price laws have been considered constitutionally unproblematic for decades. *West Lynn Creamery, Inc. v. Healy*, 512 U.S. 186, 201 (1994)
Minimum Price Laws

Pack price paid NYC, all locations, 2013
# Minimum Prices & OTP Tax

<table>
<thead>
<tr>
<th>Tobacco Product</th>
<th>Minimum Price</th>
<th>Minimum Pack size</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cigarette</td>
<td>$13.00 (now $10.50)</td>
<td>20 cigarettes</td>
</tr>
<tr>
<td>Little cigar</td>
<td>$13.00 (now $10.50)</td>
<td>20 little cigars</td>
</tr>
<tr>
<td>Cigar</td>
<td>$8 / single cigar&lt;br&gt;$1.75 per additional cigar</td>
<td>None</td>
</tr>
<tr>
<td>Smokeless</td>
<td>$8.00</td>
<td>1.2 ounces</td>
</tr>
<tr>
<td>Snus</td>
<td>$8.00</td>
<td>0.32 ounces</td>
</tr>
<tr>
<td>Tobacco-containing shisha</td>
<td>$17.00</td>
<td>3.5 ounces</td>
</tr>
<tr>
<td>Non-tobacco shisha</td>
<td>$17.00</td>
<td>3.5 ounces</td>
</tr>
<tr>
<td>Loose tobacco (pipe &amp; RYO)</td>
<td>$2.55</td>
<td>1.5 ounces</td>
</tr>
</tbody>
</table>
Retail Density
# Tobacco Retail Density

<table>
<thead>
<tr>
<th>CITY</th>
<th>RETAILERS</th>
<th>SQUARE MILES</th>
<th>RETAILERS/SQUARE MILE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Philadelphia</td>
<td>2973</td>
<td>142</td>
<td>20.9</td>
</tr>
<tr>
<td>Boston</td>
<td>860</td>
<td>90</td>
<td>9.6</td>
</tr>
<tr>
<td>San Fran</td>
<td>850</td>
<td>47</td>
<td>18</td>
</tr>
<tr>
<td>NYC</td>
<td>8200</td>
<td>304</td>
<td>27</td>
</tr>
<tr>
<td>NYC Starbucks + Dunkin Donuts</td>
<td>791</td>
<td>304</td>
<td>2.6</td>
</tr>
</tbody>
</table>
Retail Density of Tobacco Outlets

- Physical environment has an impact on health
  - Easy access to tobacco retailers can make it harder to quit
  - The odds of experimenting with smoking was **40% higher** among NYC youth exposed to tobacco retailers **two or more times per week**
Planning Density Reduction

- Licenses – starting point
- Citywide cut
- Cuts based on districts
- Cap on licenses
  - Flat cap – San Francisco
  - % cut per district -- NYC
  - % cut based on population -- Phila
Potential Impact

Current

9% pharmacy reduction

Random 50% reduction

- East/Central Harlem
  - All Pharmacies
  - All Tobacco Retailers
E-Cigarettes
E-Cigarette License Cap

Why?
• Since 2013, Tobacco 21 has banned e-cigarettes sales to persons under 21
• Without a license, enforcement gaps persist

How?
• Create a new e-cigarette license with CD caps
• Open enrollment: Application must be filed within 90 days from law’s effective date
• Pharmacies cannot get a license
• Biennial fee--$200 (same as tobacco license)
Hookah
Operation Caterpillar

• SFAA’s definition of smoking covered only “tobacco” smoking

• Hookah bars (395) claimed to serve shisha without tobacco

• In November 2014, DOHMH investigated 14 hookah bars

• Every shisha sample tested positive for tobacco
Hookah Laws

• **Permit** required for hookah establishments
  - **Cap** grandfathers existing hookah bars
  - 50% revenue must be hookah-related
  - **Non-tobacco** shisha only

• **Shisha 21**
  - Hookah establishments
  - Retail sales OTC (all smoking paraphernalia)

• **Warning signs**
  - Outside door
  - Rooms where hookah smoking occurs
Questions?
The sale and purchase of tobacco products, including alternative nicotine delivery devices, and paraphernalia limited to those 21 and over.
» Youth and teen smoking is 10.2% in KS
(U.S. average 9.2%--range 5.9 to 17.8%)

» Kansas earned an F for tobacco prevention efforts (American Lung Association State of Tobacco Control 2016)
» Youth and teen smoking rate is **11.0%** in MO
   (U.S. average 9.2%--range 5.9 to 17.8%)
» Adult smoking rate is **22.3%** in MO
   (U.S. average is 15.1%--range is 9.1 to 25.9%)
» In 2015, **32.1%** of Missouri youth reported using any tobacco product, including e-cigs
<table>
<thead>
<tr>
<th>Category</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Excess Absenteeism</td>
<td>$517</td>
</tr>
<tr>
<td>Presenteeism</td>
<td>$462</td>
</tr>
<tr>
<td>Smoke Breaks</td>
<td>$3,077</td>
</tr>
<tr>
<td>Excess Health Care Costs</td>
<td>$2,056</td>
</tr>
<tr>
<td>Pension Benefit</td>
<td>($296)</td>
</tr>
</tbody>
</table>

**TOTAL ANNUAL COSTS** $5,816
290 Communities in 19 states (and D.C.) have enacted Tobacco 21 policies. More than 80,000,000 people live in Tobacco 21 communities.
### TOBACCO 21 KC


<table>
<thead>
<tr>
<th></th>
<th>2014</th>
<th></th>
<th></th>
<th>2017</th>
<th></th>
<th></th>
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<tbody>
<tr>
<td></td>
<td>T21</td>
<td>Control</td>
<td>Others*</td>
<td>T21</td>
<td>Control</td>
<td>Others</td>
</tr>
<tr>
<td><strong>Lifetime Use (%)</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cigarettes</td>
<td>14.8</td>
<td>12.6</td>
<td>17.9</td>
<td>10.1</td>
<td>9.4</td>
<td>13.8</td>
</tr>
<tr>
<td>Smokeless</td>
<td>10.0</td>
<td>8.9</td>
<td>12.3</td>
<td>6.4</td>
<td>6.3</td>
<td>9.9</td>
</tr>
<tr>
<td>E-cigarettes</td>
<td>18.7</td>
<td>15.2</td>
<td>16.9</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>30-day use (%)</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cigarettes</td>
<td>5.0</td>
<td>4.4</td>
<td>6.2</td>
<td>3.1</td>
<td>3.2</td>
<td>3.9</td>
</tr>
<tr>
<td>Smokeless</td>
<td>5.3</td>
<td>3.7</td>
<td>5.5</td>
<td>2.8</td>
<td>2.7</td>
<td>4.0</td>
</tr>
<tr>
<td>E-cigarettes</td>
<td></td>
<td>9.2</td>
<td>6.0</td>
<td>5.1</td>
<td></td>
<td></td>
</tr>
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</table>
HEALTHY KC

IN PARTNERSHIP WITH BLUE CROSS AND BLUE SHIELD OF KANSAS CITY
FDA Regulation of Tobacco Products 2018 and Beyond
The Public health law center
Agenda

1. Deeming Rule: Where Are We Now?
2. Litigation
3. New FDA Tobacco & Nicotine Regulatory Plan
4. State and Local Regulation in Light of FDA Action
Deeming Rule
Where are we now
Deeming Rule
Where are we now

<table>
<thead>
<tr>
<th>FDA Policy</th>
<th>Enforcement Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimum sales age of 18 and age verification under 27</td>
<td>August 8, 2016</td>
</tr>
<tr>
<td>Prohibition on vending machine sales except adults-only facilities</td>
<td>August 8, 2016</td>
</tr>
<tr>
<td>Prohibition on free samples</td>
<td>August 8, 2016</td>
</tr>
<tr>
<td>Regulation of adulterated products</td>
<td>August 8, 2016</td>
</tr>
<tr>
<td>Prohibition on false or misleading advertising</td>
<td>August 8, 2016</td>
</tr>
<tr>
<td>Required premarket review of modified risk tobacco products</td>
<td>August 8, 2016</td>
</tr>
<tr>
<td>Required disclosure of health-related documents</td>
<td>February 8, 2017</td>
</tr>
</tbody>
</table>
# Deeming Rule
## Where are we now

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<thead>
<tr>
<th>FDA Policy</th>
<th>Enforcement Date</th>
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<tbody>
<tr>
<td>Required registration of manufacturers and disclosure of product lists</td>
<td>October 12, 2017</td>
</tr>
<tr>
<td>Applications for premarket review of tobacco products seeking a substantial equivalence exemption marketing order</td>
<td>November 8, 2017</td>
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<tr>
<td>Prohibition of the use of “light,” “mild,” “low,” or similar descriptors</td>
<td>November 8, 2017 + 30 day sell-off period</td>
</tr>
<tr>
<td>Required disclosure of ingredients, substances, compounds and additives</td>
<td>May 8, 2018</td>
</tr>
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<td>Required premarket review of tobacco products seeking a substantial equivalence marketing order</td>
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<tr>
<td>Required warning labels</td>
<td>August 10, 2018</td>
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<tr>
<td>Required premarket review of tobacco products seeking a PMTA marketing order</td>
<td>November 8, 2018</td>
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<tr>
<td>Required disclosure of harmful and potentially harmful constituents</td>
<td>November 8, 2019</td>
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## Deeming Rule
### Where are we now

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</table>
Deeming Rule
Where are we now

Final Rule


Regulatory Plan


- New Products without application
- Continued marketing without application
- Continued marketing with application
- Marketing with affirmative order
Agenda

1. Deeming Rule: Where Are We Now?
2. Litigation
3. New FDA Tobacco & Nicotine Regulatory Plan
4. State and Local Regulation in Light of FDA Action
## Litigation

<table>
<thead>
<tr>
<th>Filing Date</th>
<th>Court</th>
<th>Plaintiff</th>
</tr>
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<tbody>
<tr>
<td>5/10/16</td>
<td>D.D.C.</td>
<td>NicoPure Labs et al.</td>
</tr>
<tr>
<td>5/19/16</td>
<td>C.D. Cal.</td>
<td>Lost Art Liquids et al.</td>
</tr>
<tr>
<td>6/1/16</td>
<td>S.D. Fla.</td>
<td>Sanchez Icaza et al.</td>
</tr>
<tr>
<td>6/10/16</td>
<td>S.D. W.V.</td>
<td>Faircloth</td>
</tr>
<tr>
<td>6/20/16</td>
<td>D.D.C.</td>
<td>Right to Be Smoke-Free Coalition et al.</td>
</tr>
<tr>
<td>7/8/16</td>
<td>M.D. Ala.</td>
<td>Cyclops Vapor 2</td>
</tr>
<tr>
<td>7/15/16</td>
<td>D.D.C.</td>
<td>Cigar Association of America et al.</td>
</tr>
<tr>
<td>1/11/18</td>
<td>E.D. Tex.</td>
<td>En Feugo et al.</td>
</tr>
<tr>
<td>1/30/18</td>
<td>D.D.C.</td>
<td>Moose Jooce et al.</td>
</tr>
<tr>
<td>1/30/18</td>
<td>N.D. Tex.</td>
<td>Rave Salon et al.</td>
</tr>
<tr>
<td>1/30/18</td>
<td>D. Minn.</td>
<td>Hoban et al.</td>
</tr>
<tr>
<td>Filing Date</td>
<td>Court</td>
<td>Plaintiff</td>
</tr>
<tr>
<td>------------</td>
<td>---------------</td>
<td>-----------------------------------------------</td>
</tr>
<tr>
<td>5/10/16</td>
<td>D.D.C.</td>
<td>NicoPure Labs et al.</td>
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<td>5/19/16</td>
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<td>Faircloth</td>
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<td>N.D. Tex.</td>
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</tr>
<tr>
<td>1/30/18</td>
<td>D. Minn.</td>
<td>Hoban et al.</td>
</tr>
</tbody>
</table>
Litigation

3. Due to the recent change in administrations, new leadership personnel at the Department of Health and Human Services seek additional time to more fully consider the issues raised in this case, and Defendants therefore respectfully request a 3-month extension of all pending deadlines.

4. The FDA has represented that it will defer enforcement of all future compliance deadlines under the deeming rule for e-cigarette products for 3 months, and that it plans to issue guidance to that effect. Accordingly, Plaintiffs join in this motion.
Upcoming Cigar Compliance Date Among Those Extended for Three Months

Per a recent legal filing, the FDA is extending certain compliance dates related to the final deeming rule for three months.

Among the dates extended is the requirement to submit cigar rotational warning plans by May 10, 2017. The new deadline for this requirement is Aug. 10, 2017.

The FDA intends to issue a guidance on these date extensions in the near future.
Litigation

FDA ANNOUNCES COMPREHENSIVE REGULATORY PLAN

“Addressing the addictive levels of nicotine in combustible cigarettes must be part of the FDA’s strategy for addressing the devastating addiction crisis that is threatening American families.”

FDA COMMISSIONER Scott Gottlieb, M.D.
Litigation

JOINT MOTION TO VACATE BRIEFING SCHEDULE AND STAY CASE

The parties jointly move the Court to vacate the current briefing schedule and stay all proceedings in this case in view of two recent developments: First, the U.S. Food and Drug Administration’s announcement of a new comprehensive plan for the regulation of tobacco products, which affords Plaintiffs much of the relief they seek, and second, anticipated appellate proceedings in an analogous case in the D.C. Circuit that would, at a minimum, significantly inform the resolution of the issues presented here. In support of this motion, the parties state as follows:
## Litigation

<table>
<thead>
<tr>
<th>Plaintiff</th>
<th>Intervention</th>
<th>Stay of Proceedings</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>NicoPure</td>
<td>Withdrawn</td>
<td>No</td>
<td>Appeal pending</td>
</tr>
<tr>
<td>Lost Art Liquids</td>
<td>No</td>
<td>No</td>
<td>Pending</td>
</tr>
<tr>
<td>Sanchez Icaza</td>
<td>No</td>
<td>Yes</td>
<td>Closed</td>
</tr>
<tr>
<td>Faircloth</td>
<td>No</td>
<td>No</td>
<td>Several counts dismissed</td>
</tr>
<tr>
<td>Cyclops Vapor 2</td>
<td>Granted</td>
<td>Yes</td>
<td>Stayed pending Nicopure</td>
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<tr>
<td>Cigar Association</td>
<td>Withdrawn</td>
<td>No</td>
<td>Pending</td>
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<tr>
<td>En Fuego</td>
<td>No</td>
<td>No</td>
<td>Motion to transfer pending</td>
</tr>
<tr>
<td>Moose Jooce</td>
<td>No</td>
<td>No</td>
<td>Motion to transfer pending</td>
</tr>
<tr>
<td>Rave Salon</td>
<td>No</td>
<td>No</td>
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</tr>
<tr>
<td>Hoban</td>
<td>No</td>
<td>No</td>
<td>Motion to transfer pending</td>
</tr>
</tbody>
</table>
Litigation

» American Academy of Pediatrics et al. v. FDA (D. Mass.)
  – Seeking to compel graphic warnings for cigarette packages and advertisements

» American Academy of Pediatrics et al. v. FDA (D. Md.)
  – Challenging the delay of the implementation of premarket review for products covered by the deeming rule

» Public Citizen v. Trump (D.D.C.)
  – Challenging Executive Order 13771
Agenda

1. Deeming Rule: Where Are We Now?
2. Litigation
3. New FDA Tobacco & Nicotine Regulatory Plan
4. State and Local Regulation in Light of FDA Action
Tobacco & Nicotine Regulatory Plan

"Addressing the addictive levels of nicotine in combustible cigarettes must be part of the FDA’s strategy for addressing the devastating addiction crisis that is threatening American families."

FDA COMMISSIONER Scott Gottlieb, M.D.
Tobacco & Nicotine Regulatory Plan

» Nicotine Reduction (March 16, 2018 ANPRM)  
» Flavored Products (March 21, 2018 ANPRM)  
» Premium Cigars (March 21, 2018 ANPRM)  
» NRT Strategy (January 26, 2018 Public Hearing)  
» Premarket Review Changes (August 4, 2017 Guidance)  
» Juul Collection of Information (April 8, 2018)  
» E-liquid Warning Letters (May 1, 2018)
Tobacco & Nicotine Regulatory Plan
Agenda

1. Deeming Rule: Where Are We Now?
2. Litigation
3. New FDA Tobacco & Nicotine Regulatory Plan
4. State and Local Regulation in Light of FDA Action
State and Local Regulation

- Sale
- Distribution
- Possession
- Exposure
- Access

- Advertising and Promotion
- Use
- Information Reporting
- Taxation
CONTACT Me

651.290.7512

Desmond.Jenson@mitchellhamline.edu

www.publichealthlawcenter.org

@DesmondJenson

facebook.com/publichealthlawcenter
Emerging Enforcement Issues

1. Cole Dowden, JD; Sgt. Tony Hatcher; Nate Essey; Timothy McNeal; Office of the Comptroller of Maryland
2. Wayne Farrare, Caroline County Health Department (No Slides)
3. Kathleen Hoke, JD, Legal Resource Center
ENDS Legislative Update

Electronic Nicotine Delivery Systems
Notes from the 90-Day Report issued by the Maryland Department of Legislative Services.
Chapter 814 of 2017 established a licensing and regulatory framework for the manufacture, wholesale distribution, and retail sale of electronic nicotine delivery systems (ENDS) (i.e., e-cigarettes, other similar devices, and their components). A person with a tobacco-related license is authorized to manufacture, distribute, or sell ENDS in the same capacity as the person is licensed for tobacco and does not need a separate ENDS license. Three ENDS licenses authorize the sale of ENDS to consumers under specified circumstances: manufacturer, retailer, and vape shop vendor.

However, only the manufacturer license explicitly authorizes the sale of ENDS to consumers through the mail or an electronic network. Further, an ENDS wholesaler distributor or importer license does not authorize the sale of ENDS to a vape shop vendor – only to another ENDS wholesaler or an ENDS retailer. Likewise, a vape shop vendor license does not authorize the purchase of ENDS from an ENDS wholesaler – only from an ENDS manufacturer.
SB 90 and HB 47

• These two bills both passed and were enrolled as Emergency Bills now allow for the following:
  • Repeal a specific prohibition against the sale of ENDS by an ENDS retailer to a consumer through the mail or an electronic network.
  • The bills also allow an ENDS wholesaler distributor or importer to sell ENDS to a vape shop vendor, allow a vape shop vendor to buy ENDS from a wholesaler distributor or importer, and repeal an outdated reference to an ENDS storage warehouse.
What’s an Emergency Bill?

• Essentially, it is a bill that seeks to be effective upon passing the legislature and enrollment into the appropriate chapter of the law.

• These are used to fix important issues or problems left over from previous bills or legislative sessions.
This bill further regulates the sale of ENDS by establishing:

– the distribution of ENDS to a minor as a misdemeanor,
– subjecting a minor in possession of ENDS to civil penalties,
– and increasing civil penalties for subsequent civil violations, among other changes.

For more information on this bill, see the subpart “Public Health – Generally” within Part J – Health and Human Services of the 90 Day Report.
What is an ENDS device?

- As defined in statute, this definition covers several technologies and their associated components, including electronic cigarettes (or e-cigarettes), Part J – Health and Human Services J-11 vaporizers, vape pens, and vaping liquid.
- Essentially, anything that vaporizes a liquid nicotine product for inhalation.
ENDS “Vape” Devices Anatomy

• For more see the FDA website:
  https://www.fda.gov/TobaccoProducts/Labeling/ProductsIngredientsComponents/ucm456610.htm
ENDS “Vape” Devices
Why is this important to control?

- According to the U.S. Centers for Disease Control and Prevention, between 2011 and 2015, electronic cigarette use among high school students increased from 1.5% to 16%. In addition, a 2017 National Institutes of Health survey of high school seniors found that 27.8% had reported “vaping” in the prior year.
- Essentially, this is the new thing for minors to try and get; cigarettes and Black and Mild's are becoming passé.
E-CIGARETTE USE IN CLASSROOMS BOOMS AS TEACHERS BLAME JUUL VAPE

BY KATHERINE HIGNETT ON 4/10/18 AT 8:06 AM
Updated | Children are vaping in schools, teachers and health and education officials have warned. Kids are hiding e-cigarette vapor under their shirts as they smoke in hallways, bathrooms and even classrooms, the Associated Press reported.

The news came just days after the U.S. Food and Drug Administration (FDA) started a nationwide crackdown on e-cigarettes, including efforts to stop their sale to minors online.
Colorful vape packets draw warning

BY LAURIE McGINLEY

Federal regulators warned 13 manufacturers, distributors and retailers Tuesday that they are endangering children by marketing e-cigarette liquids in packaging that resembles kids-friendly products such as juice boxes, candies and whipped cream.

The Food and Drug Administration and the Federal Trade Commission said the packaging — some of which features cartoon-like images — could mislead children into thinking the products are actually things they commonly eat and drink.

"E-liquids," as they are called, are typically a mix of ingredients including nicotine and flavoring. Ingesting them can cause nicotine poisoning — and even death — in young children, experts say. A recent analysis found that between January 2012 and 2017, more than 8,200 instances of e-cigarette and liquid-nicotine exposure occurred among children younger than 6.

The products being targeted include: "One Mad Hit Juice Box," which resembles children's apple juice containers, such as Tree Top-brand juice boxes; "Vape Heads Sour," which looks like WarHeads candy; "Nilla Cookies & Milk," which resembles Nilla Wafer and Golden Oreo cookies; "Whirlpool Strawberry," which resembles Reddi-wip dairy whipped topping; and "Twirly Pop," which, the FDA said, "not only resembles a Unicorn Pop lolli-popped with one." Those agencies told the companies that the products are "misbranded" under the Federal Food, Drug, and Cosmetic Act because "their labeling and/or advertising imitating kid-friendly foods is false or misleading." In joining the FDA, the FTC emphasized its authority under the Federal Trade Commission Act, which prohibits unfair or deceptive advertising.

The companies have 15 days to say how they will change the packaging of the products. Failure to make changes "may result in further action such as seizure or injunction," the agencies warned.

"E-liquids" sold in small bottles are not subject to the same labeling requirements as tobacco products, the FDA Commissioner Scott Gottlieb, in a telephone briefing with reporters, said it was hard for "any reasonable person" to examine the products and not conclude that "they are deliberately being packaged and marketed in a way that is designed to not only be appealing to kids" but also to confuse him by mimicking items they recognize.

He added that he planned to take more action against entities selling tobacco products to youths or marketing them in "this egregious manner.

Acting FTC Chairman Maureen K. Ohlhausen said, "Nicotine is highly toxic, and these letters make clear the marketing methods that put kids at risk of nicotine poisoning are unacceptable." Several of the businesses that got the letters also were cited for illegally selling the products to minors, the officials said.

Nicholas Warrender, owner of Lifted Liquids, a Wisconsin manufacturer of e-liquids, got one of the warning letters — about the company's Vape Heads Sour Smurf Sauce-liquid, which had packaging that resembled WarHeads candy. But Warrender said he recognized the problem last year and changed the design in November to feature a bearded man, which he said signaled adult use of the product. Warrender said that he has been trying to contact the FDA but that reaching the agency was like "trying to pull teeth out of a chicken."

Cosmic Fog Vapors, a California manufacturer, said in an email that in response to FDA concerns, it stopped selling Whipp'd Strawberries liquid.

American Vaping Association President Greg Conley said he felt little sympathy for companies that "rip off the trademark of an existing product," referring to packaging that resembled children's drinks and snacks. "That's not responsible marketing," he added.

Gottlieb said the warning letters were part of the FDA's new Youth Tobacco Prevention Plan. Last week, the agency announced a nationwide undercover "blitz" against the sale of e-cigarettes — particularly the hugely popular Juul products — to children and teenagers in stores and online. The agency issued dozens of violations of the law and issued 40 warning letters related to Juul e-cigarettes.

Juul-e-cigarettes resemble USB flash drives but contain high levels of nicotine. They come in flavors such as mango, cream brulee and cool mint, and their emissions can be virtually invisible, making it difficult for teachers to spot and stop the use of the products.
What Does HB 1094 Do?

• Establishes that the distribution of ENDS to minors is a misdemeanor subject to existing criminal penalties for the distribution of tobacco products to minors;
• Establishes that the possession of ENDS by minors is a civil offense subject to existing civil procedures and dispositions for the possession of tobacco products by minors;
• And increases civil penalties for subsequent civil violations of distributing ENDS to minors.
HB 1094 Fine Schedule

- **Fines for underage distribution:**
  - $300 for first violation
  - $1,000 for second violation within 2 years after first violation
  - $3,000 for subsequent violation within 2 years after preceding violation
HB 1094 Empowers Local Health Departments

• Reporting by local health departments required for the following violations:

• “A person who distributes tobacco products for commercial purposes, including a person licensed under Title 16 of the Business Regulation Article, may not distribute to a minor: (1) A tobacco product; (2) Tobacco paraphernalia; or (3) A coupon redeemable for a tobacco product.” See 24-307 (b) and (c) (2).
Local Health Departments Reporting Obligations

• It still to be determined the form of the reporting here, but may likely follow same procedure for under-age sales to minors referrals.

• The reporting may likely resemble the bullet points for violation reporting found in our sales to minors referrals.

• **Stay Tuned to the Comptroller's office for pending guidance.**
Reporting Sales to Minors Violations

Local Health Departments are our best asset for keeping minors away from tobacco.
Comptroller’s Reporting Obligations

- Md. Code Ann., Tax-Gen. § 2-107 (e) - Reporting of tobacco distribution violations
  - (e) On or before October 1 each year, the Comptroller's Office shall report to the General Assembly, in accordance with § 2-1246 of the State Government Article, on:
    - (1) the aggregate number of licensed tobacco retailers that committed a violation of § 10-107 of the Criminal Law Article and the aggregate number of minors who committed a violation of § 10-108 of the Criminal Law Article during the reporting period;
    - (2) the number of prior violations for licensed tobacco retailers and minors that committed a violation during the reporting period; and
    - (3) the subsequent action taken by the Comptroller's Office against each violator and, for each action taken, the number of violations committed by the violator.
Local Health Department’s Obligation

• MD Health General Article 24-307 (c)(2)
  – “The local health departments shall report violations of subsection (b) of this section to the Comptroller's Office.”
  – Subsection (b) reads:
    • A person who distributes tobacco products for commercial purposes, including a person licensed under Title 16 of the Business Regulation Article, may not distribute to a minor:
      – (1) A tobacco product;
      – (2) Tobacco paraphernalia; or
      – (3) A coupon redeemable for a tobacco product.
That’s nice and all, but what does it mean?

• THE NAME AND ADDRESS OF THE PERSON CHARGED;
• THE NATURE OF THE VIOLATION;
• THE LOCATION AND TIME OF THE VIOLATION;
• THE AMOUNT OF THE CIVIL PENALTY;
THE NAME AND ADDRESS OF THE PERSON CHARGED

– This needs to be as accurate as possible. At the comptroller’s office we cross reference this information with the licensee bureau to make sure we summon the appropriate license holder.

– Example:
  • Name of person who sold the tobacco (clerk name?)
  • Address of the location of the offense (store address?)
NATURE OF THE VIOLATION

– Here, the details of the violation are important.
  • What we need:
    – the item purchased;
    – whether ID was asked for, scanned, swiped, or visually verified is very helpful to FED in order for us to determine the appropriate penalty.
    – Was a manager or owner involved present at the time of the sale or involved in the sale.
    – Any Comments or statements against the interest of the clerk/licensee made at the time of the violation and the citation being issued.

– Example:
  • Items purchased
  • Age of purchaser
  • ID asked for?
  • ID provided with or without request by clerk.
  • What did the clerk say?
LOCATION AND TIME OF THE VIOLATION

— This is the time, date, and location of the violation. The details can be helpful here but mainly to make sure the address is accurate.

— Example:

  • Time of day
  • Address and city of location of sale
  • Verifying the license displayed against your records to make sure a new owner is not operating at the location.
EVIDENCE OF AT LEAST TWO NEW VIOLATIONS

– Evidence of one conviction
– Evidence of at least one other violation
  • Warning Letter (FDA version acceptable)
  • Citation (FDA version acceptable)
Great, but how do you want the referral?

• Right now, the referrals are sent in via physical mail.
  – We’d love to get them electronically and in some standard form.
  – Baltimore and Howard Counties are great examples of active enforcement programs and they contribute a great deal toward keeping tobacco out of the hands of minors.
  – but maybe there is room for a few tweaks.
What works for your agency?

- A physical packet with a cover letter and the violations for each licensee works for now.
- Would the following work for you?
  - An email PDF packet option?
    - A fillable cover letter that outlines the violations that you’d then email/upload to us.
    - Something that is excel or database friendly for your convenience.
  - An electronic packet submission upload through the Comptroller’s website?
When would you prefer to report?

• Solution: REPORT TIMING of two (2) or more **NEW** violations within a FLOATING six month period.
  – Does this give you time to investigate and enforce and does it give you the opportunity to be effective?
Remember we’re in this together

• “The Maryland Department of Health, in collaboration and consultation with the Office of the Comptroller, local health departments, and local law enforcement agencies, shall develop ongoing strategies for enforcement of §§ 10-107 and 10-108 of the Criminal Law Article.”

Md. Code Ann., Health-Gen. § 24-307 (West)
Sales To Minor’s Violations Hearing Overview

What goes on at a Sales to Minor Violation Hearing?
Notice and Opportunity to be Heard

• The Licensee has the right to be heard and give evidence supporting their side of the reported violation.

• This an informal hearing held at the Comptroller's office in Annapolis, MD.
Firsts Things First

- FED receives a report of a violation from the Local health Department.
- The referrals are assigned to a hearing officer.
- Internally, FED determines the licensee responsible for the violations and makes a determination on the next step.
Send it off in a letter...

• FED through its hearing officers, will send a letter to the licensee on this violation and will offer an opportunity to be heard in order to avoid a number of penalties that the licensee may face for the violation.

• The Licensee has the right to counsel – at their own expense – during this entire process.
The Hearing

• Upon the established hearing date, the Hearing Officer, along with the local health department representative, and the licensee, meets in Annapolis.
• Prior to the hearing the FED Hearing Officer will explain the purpose of the hearing and the rough outline of the process and procedure.
• The parties are administered a perjury oath.
• The Local Health Department representative offers evidence of the violations and presents the case.
  – These include details of the age of the underage agent.
  – Details of the time of day, etc.
The Hearing, con’t.

• After the Local Health Department representative presents their case, the Licensee is allowed to respond.
• There, the Licensee explains their actions; and
• Whether they have made any remedial efforts to correct this behavior that resulted in the violations.
Examples of Remedial Efforts by the Licensee

- Training provided to the clerks;
- Changes to point of sale procedures;
- Termination of violators;
- Point-of-Sale systems to require scanning or electronic verification of IDs;
- Changes in sales policies within the store; Changes to staffing requirements for clerks, etc.
The Hearing, con’t.

• After the Licensee offers their case and explanations, the hearing officer informs them that within 30 days of the hearing date the hearing officer will issue their written determination and it will be mailed to the licensee via certified mail.
  – The determination is also forwarded to the local health department to keep them in the loop on whether the licensee was given a warning, suspension, or revocation.
Questions?
Maryland Clean Indoor Air Act: Enforcement Challenges

Kathleen Hoke
Law School Professor and Director
Legal Resource Center for Public Health Policy

May 8, 2018
Clean Indoor Air Act of 2007
Enough Celebrating . . .

*Enforcement Challenges:*

- Retail Tobacco Business Exemption
- Outdoor Smoking
- ENDS/Vaping
Retail Tobacco Business Exemption

Maryland Health-General §24-505 exempts:

(3) A retail tobacco business that is a sole proprietorship, limited liability company, corporation, partnership, or other enterprise, in which:

(i) The primary activity is the retail sale of tobacco products and accessories; and

(ii) The sale of other products is incidental.
Fact: Maryland’s Clean Indoor Air Act (2007) prohibits smoking in bars, restaurants and other indoor areas open to the public.

**Question:** If smoking is prohibited in bars and restaurants, why is smoking allowed inside hookah bars?

**Answer:** The Clean Indoor Air Act has an exemption (§ 24-505) created for establishments whose “primary activity is the retail sale of tobacco-containing products and accessory products” and the “sale of other products is incidental.” Hookah bars claim to operate under this exemption.

**Question:** If I believe that a hookah bar is “primarily” selling food and drinks rather than hookah, or that food and drinks are more than “incidental” to hookah sales, what should I do?

**Answer:** You can 1) report the matter to the Department of Health and Mental Hygiene, or 2) report to your local health department. The Code of Maryland Regulations (COMAR 10.19.04.07-10) grants local health officers the authority to investigate potential CIA violations, issue citations and levy penalties.

Fact: Maryland’s Clean Indoor Air Act § 24-510 preserves the power of county and municipal governments to enact and enforce more stringent measures to reduce involuntary exposure to environmental tobacco smoke.

**Question:** What more can county governments do to regulate hookah?

**Answer:** State law grants “police power” to the County Council in home rule counties. This gives counties the authority to adopt ordinances in the interest of “maintaining the peace, good government, health and welfare of the county.” Md. Code Ann., Art 25A, §5(a). The sale or use of shisha, the restriction or prohibition of hookah bars, and zoning of hookah bars and retailers may fall under this broad source of power.

**Board of Health Authority:** State law gives County Boards of Health the authority to “adopt and enforce rules and regulations on any nuisance or disease in the county.” Md. Code Ann. Health-Gen. 3-202(d). The use and sale of hookah is a cause of disease and a may be source of nuisance, giving the County Board of Board authority to adopt rules governing sanitation, health and safety of hookah establishments.

**Health Officer’s nuisance abatement authority:** State law grants local health officers the authority to abate nuisances, which include any condition dangerous to health or safety, including any condition “transmitted by...air currents” or “humans.” Md. Code Ann., §20-301(14). The use and sale of hookah is dangerous to health in a number of ways, so the Health Officer may act to abate the nuisance by restricting the use or sale of hookah, and sanitation and safety of hookah establishments.
Laurel's first cigar lounge hopes to create 'elite, VIP experience'

Baltimore Sun (June 16, 2015)

Main Street's Aroma Cigar Lounge 2015: 

Currently Closed
Retail Tobacco Business: A retail store where the primary use is the retail sale of tobacco products and tobacco smoking accessories which may include on site consumption . . . and the incidental sale of food and or beverage provided the gross floor area of the food and or beverage area does not exceed forty-nine percent (49%) of the gross floor area.
Cigar Bar Legislation:
Maryland General Assembly

At least five bills between 2011 and 2017 to permit indoor smoking at cigar bars:

- HB396 (2017)
- HB1445 (2017)
- SB326 (2017)
- HB1069 (2016 – passed without smoking exception)
- HB605 (2011)
MDH Responds

“The Maryland Department of Health is seeking comments on a proposal to amend COMAR 10.19.04 - Prohibition of Smoking in Indoor Areas Open to the Public. The purpose of this proposal is to clarify that the tobacco retailer exemption to the Clean Indoor Air Act applies only to businesses in which the sale of non-tobacco products and accessories is less than 25 percent of total sales.”

Published May 25, 2017
Closed September 25, 2017
No action taken
Where are we now?
Outdoor Smoking

Does the CIAA prohibit smoking outdoors if the smoke wafts inside a protected enclosed area?

Are there perimeter smoking restrictions in the CIAA?

Does the CIAA prohibit smoking in outdoor dining areas?

Read the Act then read Meagan’s lips . . .
Live Casino in Arundel Mills

Baltimore Sun (May 3, 2018)

“With the snip of a ceremonial cigar rather than a ribbon, Live Casino & Hotel officially opened the Orchid Gaming & Smoking Patio on Thursday.

The 8,000-square-foot space, which is open on one side, offers both table games and slots as well as a full-service bar/lounge and a large fireplace.”
ENDS/Vaping

Does the CIAA prohibit vaping in enclosed areas?
The END(S)
Lunch Panel Discussion

Tobacco Prevention and Cessation Through the Healthy Equity Lens

1. Rod Lew, MPH, Asian Pacific Partners for Empowerment, Advocacy and Leadership
2. Juan Carlos Vega, MLS, LGBT HealthLink
Prevalence of Tobacco Product Use by Race/Ethnicity

### 2016 Maryland BRFSS (Adult Use)

<table>
<thead>
<tr>
<th>Race/Ethnicity</th>
<th>Any Tobacco Use</th>
<th>Cigarette Use</th>
<th>Cigar Use</th>
<th>Smokeless Tobacco</th>
<th>E-Cigarette Use</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hispanic/Latino</td>
<td>12.1%</td>
<td>10.2%</td>
<td>3.8%</td>
<td>***</td>
<td>***</td>
</tr>
<tr>
<td>White, Non-Hispanic</td>
<td>18.0%</td>
<td>14.8%</td>
<td>3.4%</td>
<td>2.1%</td>
<td>3.9%</td>
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<tr>
<td>Black, Non-Hispanic</td>
<td>16.9%</td>
<td>13.7%</td>
<td>5.1%</td>
<td>0.7%</td>
<td>2.3%</td>
</tr>
<tr>
<td>Asian, Non-Hispanic</td>
<td>5.5%</td>
<td>13.7%</td>
<td>***</td>
<td>***</td>
<td>***</td>
</tr>
<tr>
<td>American Indian/Alaskan Native, Non-Hispanic</td>
<td>42.6%</td>
<td>37.7%</td>
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<td>***</td>
<td>***</td>
</tr>
<tr>
<td>Other Race, Non-Hispanic</td>
<td>22.9%</td>
<td>19.3%</td>
<td>***</td>
<td>***</td>
<td>***</td>
</tr>
<tr>
<td>Total:</td>
<td>780,867</td>
<td>608,816</td>
<td>154,865</td>
<td>70,410</td>
<td>141,529</td>
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</table>

### 2016 Maryland YRBS (Youth Use)

<table>
<thead>
<tr>
<th>Race/Ethnicity</th>
<th>Any Tobacco Use</th>
<th>Cigarette Use</th>
<th>Cigar Use</th>
<th>Smokeless Tobacco</th>
<th>E-Cigarette Use</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hispanic/Latino</td>
<td>11.4%</td>
<td>7.5%</td>
<td>6.2%</td>
<td>4.0%</td>
<td>11.8%</td>
</tr>
<tr>
<td>White, Non-Hispanic</td>
<td>14.4%</td>
<td>8.6%</td>
<td>8.3%</td>
<td>5.7%</td>
<td>16.0%</td>
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<tr>
<td>Black, Non-Hispanic</td>
<td>12.3%</td>
<td>5.7%</td>
<td>8.6%</td>
<td>5.0%</td>
<td>9.1%</td>
</tr>
<tr>
<td>Asian, Non-Hispanic</td>
<td>5.4%</td>
<td>3.5%</td>
<td>3.8%</td>
<td>2.5%</td>
<td>5.4%</td>
</tr>
<tr>
<td>Indian/Alaskan Native, Non-Hispanic</td>
<td>26.2%</td>
<td>15.4%</td>
<td>16.7%</td>
<td>15.7%</td>
<td>22.4%</td>
</tr>
<tr>
<td>Multiracial, Non-Hispanic</td>
<td>14.6%</td>
<td>8.1%</td>
<td>9.4%</td>
<td>5.3%</td>
<td>15.4%</td>
</tr>
<tr>
<td>Native Hawaiian, Other Pacific Islander</td>
<td>29.7%</td>
<td>19.8%</td>
<td>21.0%</td>
<td>18.7%</td>
<td>30.5%</td>
</tr>
<tr>
<td>Total:</td>
<td>35,448</td>
<td>20,653</td>
<td>22,136</td>
<td>15,225</td>
<td>30,026</td>
</tr>
</tbody>
</table>

14.8% of heterosexual adults reported currently using tobacco products compared to 29.9% of adults who identified as LGBT.

### Smoking Cessation Rates Past 12 Months (Adults)

<table>
<thead>
<tr>
<th>Race/Ethnicity</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hispanic/Latino</td>
<td>18.2%</td>
</tr>
<tr>
<td>White, Non-Hispanic</td>
<td>10.1%</td>
</tr>
<tr>
<td>Black, Non-Hispanic</td>
<td>11.7%</td>
</tr>
<tr>
<td>Asian, Non-Hispanic</td>
<td>***</td>
</tr>
<tr>
<td>American Indian/Alaskan Native, Non-Hispanic</td>
<td>***</td>
</tr>
<tr>
<td>Other Race, Non-Hispanic</td>
<td>20.4%</td>
</tr>
</tbody>
</table>

27.6% of High School Students reported currently using tobacco products compared to 55.9% for the youth LGBT population.

### Smoking Cessation Rates Past 12 Months (Youth)

<table>
<thead>
<tr>
<th>Race/Ethnicity</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hispanic/Latino</td>
<td>52.4%</td>
</tr>
<tr>
<td>White, Non-Hispanic</td>
<td>34.2%</td>
</tr>
<tr>
<td>Black, Non-Hispanic</td>
<td>49.6%</td>
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<tr>
<td>Asian, Non-Hispanic</td>
<td>58.9%</td>
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<tr>
<td>American Indian/Alaskan Native, Non-Hispanic</td>
<td>54.1%</td>
</tr>
<tr>
<td>Multiracial, Non-Hispanic</td>
<td>36.1%</td>
</tr>
<tr>
<td>Native Hawaiian, Other Pacific Islander</td>
<td>52.3%</td>
</tr>
</tbody>
</table>

Smoking Cessation Rates Past 12 Months (Adults)
Vaping, Juuling, & Youth

1. Jeff Willett, PhD, MA, Truth Initiative
2. Tiffany Zheng and Arlette Felix, Easton High School Students
3. Noah Rich, Julia Batavick, Sean Christenssen, Towson High School Students
4. Conor Curran, Old Mill High School Student
JUUL: Recognition, use and perceptions

JEFFREY WILLETT
VICE PRESIDENT, SCHROEDER INSTITUTE
Pod Mods: The Newest Craze

- **Device and pods**
  - Typically vape pre-filled, pod-like cartridges
  - Two types: open-pod systems and closed-pod systems
    - **Open-pod**: device allows you to manually refill nicotine salt e-juice
    - **Closed-pod**: device requires pre-filled pods

- **Appeal to consumers**
  - Low investment and maintenance
  - Hassle-free and easy to use
  - Light-weight, easy to carry and more discreet
Popular Pod Mod Brands

- JUUL (closed system, but can be easily refilled)
- Aspire Gusto mini
- Cue Vapor
- Kandypens RUBI (open system, can use any type of e-juice, leak proof)
- Suorin Drop/Air (popular open system)
- Envii FITT (both open and closed system possible)
- Other Brands: LAAN Pod Mod, Kimsun Smart 4R, Phix Vape, Kilo, Boulder, Bo Vape, Space Jam Juice: The Bird, 7 Daze, Kado, Smok, Baton Vapor, Ro Vape, Vaptio, Perl Vape, Myle Vapor, 12 Vapor, Joyetech, Myjet, Limitless, Xfirevape, SMPO, Aspire, Edge Vapor, Sigelei, Cig2O, Mistic, Hilo, V2 Vertx
What is JUUL?

- Not your typical e-cigarette
  - nicotine salts
  - IT product design
- “By accommodating cigarette-like nicotine levels, JUUL provides satisfaction to meet the standards of smokers looking to switch from smoking cigarettes.”
- Pods with nicotine liquid available in a range of flavors.
- Every JUUL flavored pod contains nicotine.
JUUL – Nicotine Delivery

![](image)

- Absorbed nicotine level (µg/mL) over time after first puff (min)
- Cigarette
- JUUL
- Average e-cigarette

**JUUL device USB charger**
- 4 pod multipack
- 5% strength
- 59 mg/ml
In April, 2018, JUUL represented 60.1% dollar share and 42.0% unit share of the e-cigarette traditional retail market.

On April 24th, the FDA requested that JUUL Labs, Inc. submit documents relating to marketing practices and research on marketing, effects of product design, public health impact, and adverse experiences and complaints related to JUUL.

Source: Nielsen Total US xAOC/Convenience Database and Wells Fargo Securities, LLC
Purpose of Truth Initiative

JUUL studies: To learn more about JUUL awareness, use, perceptions and terminology
November 2017 JUUL study findings

- 25% of 15-24 year olds recognized JUUL
- 10% had ever used a JUUL; 8% used in past 30 days
- Use significantly higher for males, higher SES and 18-24 year olds
- 25% of those who recognized JUUL referred to use as “JUULing”
- Most were not aware that JUUL pods always contain nicotine.
April 2018 JUUL Study

Included 12-14 year olds and expanded questions related to JUUL use.

Sample

- Source: Qualtrics panel, N=1,025
- Age: 12-17 year olds (50% 12-14, 50% 15-17)
- 50% male, 50% female
- Data collected online, 4/3/18 to 4/9/18.
**Awareness**

Among entire sample, N=1,025 12-17 year olds

**Do you recognize this product?**

<table>
<thead>
<tr>
<th>YES (%)</th>
<th>Overall</th>
<th>12 to 14</th>
<th>15 to 17</th>
</tr>
</thead>
<tbody>
<tr>
<td>38%</td>
<td>34%</td>
<td>43%</td>
<td></td>
</tr>
</tbody>
</table>

**Seen JUUL used at school?**

<table>
<thead>
<tr>
<th>YES (%)</th>
<th>JUUL</th>
</tr>
</thead>
<tbody>
<tr>
<td>18%</td>
<td></td>
</tr>
</tbody>
</table>

Awareness among 15-17 was 21% in November.

Greater awareness may reflect increased attention at schools and by media.
Ever and Past 30-Day Use of JUUL

Among entire sample, N=1,025 of 12-17 year olds

Ever Use
12-14 = 5.2%
15-17 = 7.8% (was 7.0% in November)

Past 30-Day Use
12-14 = 4.6%
15-17 = 6.5% (was 6.1% in November)
Flavor and Substance Use

Which JUUL flavor pod used most recently?

Among past 30-day users

- Fruit medley: 30%
- Mango: 28%
- Cool mint: 18%
- Crème brulee: 8%
- Classic menthol: 6%
- Cool cucumber: 6%
- Tobacco: 4%

Ever used marijuana with JUUL?

Among ever users

- 30%
Product Access

Those who “used in past 30 days” were asked how they bought or got the JUUL devices they had used over the past 30 days. Respondents could select multiple response options.

- 74% reported a physical retail location
- 52% reported social sources
- 6% reported Internet

While Internet was not the most common point of access, 89% of youth who attempted to purchase online were successful.
Among those who recognized JUUL (n=394)
Summary
Pod Mod devices represent the newest generation of e-cigarette products.

JUUL represents 60% of e-cigarette retail market share and 38% of 12-17 year olds recognized a JUUL device. Nearly 1-in-5 youth have seen JUUL used at their school.

JUUL users largely report use of fruity and sweet flavors. Of youth who have ever used JUUL, one-in-three have used marijuana with the device.

Youth largely obtained JUUL through physical retail outlets or social sources. Youth reported relative ease obtaining JUUL devices online.

Nearly half of those who are aware of JUUL believe it is “a lot” or “a little” LESS harmful than cigarettes. One-in-three believe JUUL is “much” or “slightly more” addictive than cigarettes.
Thank you

jwillett@truthinitiative.org
E-CIGARETTES & OUR YOUTH
DATA COLLECTION QUESTIONNAIRE CONDUCTED ON 80 STUDENTS IN EASTON HIGH SCHOOL

Arlette Felix & Tiffany Zheng
Q1: “DO YOU KNOW OF SOMEONE WHO USES E-CIGARETTE PRODUCTS?”
"DO YOU KNOW OF SOMEONE WHO USES E-CIGARETTE PRODUCTS?"

89% of students surveyed at Easton High School knew of someone who uses e-cigarette products.
Q2A: “HAVE YOU EVER USED AN E-CIGARETTE PRODUCT?”
"HAVE YOU EVER USED AN E-CIGARETTE PRODUCT?"

<table>
<thead>
<tr>
<th>Grade</th>
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<tbody>
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<td>12th</td>
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55% of 9th grade students at Easton High School have used an e-cigarette product.
Q2B: “IF YOU HAVE TRIED AN E-CIGARETTE PRODUCT, ARE YOU A REGULAR USER?”
"IF YOU HAVE TRIED AN E-CIGARETTE PRODUCT, ARE YOU A REGULAR USER (AT LEAST ONCE A DAY)?"

<table>
<thead>
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<th>Grade</th>
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<th>No</th>
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<td>12th</td>
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Of the $\frac{1}{3}$ of students that have tried an e-cigarette product, 37% of those students are now regular users.
Q3: “DO YOU THINK USING E-CIGARETTE PRODUCTS ARE CONSIDERED SAFER THAN SMOKING REGULAR CIGARETTES?”
"DO YOU THINK USING E-CIGARETTE PRODUCTS ARE CONSIDERED SAFER THAN SMOKING REGULAR CIGARETTES?"

51% of students think that using e-cigarette products are safer than smoking regular cigarettes.
Q4: “HOW EASY DO YOU THINK IT IS TO OBTAIN E-CIGARETTE PRODUCTS?”
94% of students think it is ‘easy’ or ‘somewhat easy’ to obtain e-cigarette products.
Q5: “HOW EASY DO YOU THINK IT IS TO QUIT USING AN E-CIGARETTE DEVICE AFTER ROUTINE USAGE?”
"HOW EASY DO YOU THINK IT IS TO QUIT USING AN E-CIGARETTE DEVICE AFTER ROUTINE USAGE?"

47% of the surveyed students think it is “somewhat difficult” to quit a e-cigarette device after routine usage.
Q6: “WHICH OF THE FOLLOWING CHEMICALS/SUBSTANCES DO YOU THINK ARE PRESENT IN E-CIGARETTES?”
99% of the surveyed students know that nicotine is present in e-cigarette products.
Q7: "WHICH OF THE FOLLOWING HEALTH CONDITIONS DO YOU THINK CAN BE CAUSED BY CHEMICALS IN E-CIGARETTE PRODUCTS THEMSELVES?"
61% of the surveyed students believe that e-cigarette products can lead to the impairment of brain development. 86% of the surveyed students believed that e-cigarette products cause respiratory irritation. While 90% of the surveyed high school students think that the chemical in e-cigarettes can lead to addiction.
Substance Use: Intersection with Tobacco Law and Policy

1. Will Tilburg, JD, Maryland Medical Cannabis Commission
2. Ilana Richman, MD, Yale School of Medicine
3. George Kolodner, MD, Kolmac Outpatient Recovery Centers
Medical Cannabis in Maryland

2018 Maryland Tobacco Control Conference
May 8, 2018

William C. Tilburg, JD, MPH
Director, Policy and Government Relations
Overview

• MMCC Mission, Core Competencies, and Background
• Current Statistics
• Legislative Update
• Public Health Issues
  • Medical cannabis use in schools
  • Density of medical cannabis dispensaries
  • Advertising
MMCC Mission

The Maryland Medical Cannabis Commission (MMCC) develops policies, procedures, and regulations to implement programs that ensure medical cannabis is available to qualifying patients in a safe and effective manner.

The MMCC oversees all licensing, registration, inspection, and testing measures pertaining to Maryland’s medical cannabis program and provides relevant program information to patients, providers, caregivers, growers, processors, dispensaries and testing laboratories.
MMCC Core Competencies

**Licensing** – ensuring that growers, processors, dispensaries, and independent-testing lab facilities are in compliance with COMAR 10.62

**Registration** – oversee the process or adding patients, caregivers, and providers to participate in the program.

**Compliance** – A team of inspectors ensure that facilities are adhering to safety and security measures before initiating sales and during the operational stage.

**Safety & Quality** – Commission and ITLs work together to test products for potency and purity, stability, contaminants, the product’s cannabinoid profile, and other measures that provide consumer safety and confidence.
Program History

2013
General Assembly establishes the MMCC to oversee academic medical centers growing and dispensing medical marijuana

2015
- MMCC issues regulations and accepts license applications

2015
- Marijuana is out, cannabis is in.
- Authorizes MMCC to license processors and independent testing laboratories
- Est. immunity for licensed entities

2017
- Dispensaries open and begin selling cannabis

2016
- Dentists, podiatrists, nurse practitioners, and certified nurse midwives added to certifying providers
- Preapprovals announced for growers, processors, and dispensaries

2018
- HB 2 passed by General Assembly
  Altering the makeup of the Commission and the industry
### Statewide Cannabis Patient Statistics

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<td>Registered Patients</td>
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<td>Certified Patients</td>
<td>23,448</td>
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<td>Pending Patients</td>
<td>10,425</td>
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<tr>
<td>60% need corrections by patients</td>
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<tr>
<td>Registered Caregivers</td>
<td>1,967</td>
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<td>Pending Caregiver</td>
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## Statewide Cannabis Patient Statistics

### Minor Patients

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<tr>
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<tr>
<td>Certified</td>
<td>82</td>
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### Hospice

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<td>Professionals</td>
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<tr>
<td>Nursing (NP &amp; CNMW)</td>
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<tr>
<td>Dentists</td>
<td>44</td>
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<tr>
<td>Podiatrist</td>
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Grower – 14 licensed in MD

Grow several varieties of cannabis

Ship cannabis material to processor, dispensaries or ITL
Processor – 13 licensed in MD

Transform cannabis into multitude of products or extracts
Dispensary – 46 licensed in MD

Storefront where patient purchase medical cannabis flower or infused products
Medical Cannabis Products in MD

- Flower/ Pre-rolls
- Extracts, Oils, & Tinctures
- Vape Cartridges
- Capsules & Patches
- Salves, Lotions, Ointments
- Cannabis- infused edible food products ARE NOT approved in Maryland
Maryland General Assembly 2018: Legislation Recap

Note: The information presented here are for informational purposes only and not for the purpose of providing legal advice. You should contact your attorney to obtain advice with respect to any particular issue or problem.
Vital Statistics

• 38 cannabis-related bills introduced during the 2018 session

• 34 cannabis-related bills failed to pass

• 4 cannabis-related bills passed by the General Assembly
  – HB 2 – Medical Cannabis Commission Reform Act
  – SB 874 – Immunity
  – HB 1035/SB 1063 – Certifying Providers – Referrals
  – HB 698/SB 1201 – Industrial Hemp Pilot Program
HB 2 – Medical Cannabis Commission Reform Act

• Increase number of grower licenses from 15 to 22;
• Increase number of processor licenses from 15 to 28;
• Conduct outreach to small, minority, and women businesses, including, (1) training programs for employment, and (2) educational information on licensing process;
• Reduce the number of Commissioners from 16 to 13, beginning on October 1, 2019;
• Develop regulations to establish the Compassionate Use Fund program (MDH), which will provide access to medical cannabis for Medicaid enrollees and Veterans;
• Submit a report on the: (1) fees and revenues necessary to implement the Compassionate Use Fund; (2) providers, product demand, and consumer price; (3) progress of emergency regulations; (4) advertising and marketing practices of licensees; and (5) use of medical cannabis to treat opioid use disorder; and
• Submit emergency regulations to implement remedial measures to promote diversity in the medical cannabis industry.
Public Health Issues
Medical Cannabis in Schools

• **Restrictions on Medical Cannabis Use**
  - Smoking cannabis in any public place
  - Smoking cannabis in a motor vehicle
  - Smoking cannabis on private property that is subject to a policy

• *Public place* means “a place to which the public or a portion of the public has access and a right to resort for business, dwelling, entertainment, or other lawful purpose.

• *Public place* includes:
  - A restaurant, shop, shopping center, tavern or other place of business
  - A public building
  - A public parking lot
  - A public street or sidewalk
  - The common area of a building
  - A hotel or motel
  - An institution of elementary, secondary, or high education
Medical Cannabis in Schools

• No express provision prohibiting use or administration in schools

• For minor patients:
  - A parent or guardian must serve as a caregiver
  - A caregiver must purchase and administer the medical cannabis

• School nurses are not authorized to serve as a caregiver for a minor patient or otherwise be involved in the administration of medical cannabis to a minor patient

• The issue of administration or use in schools is left up to MSDE or the county boards of education

• At least a dozen states restrict use of medical cannabis on school grounds.

• At least one court (Illinois) has struck down the state ban on the grounds it violated the state’s disability act
Density of Medical Cannabis Dispensaries

• 102 dispensaries pre-approved by the Commission in December 2016
• 46 dispensaries are currently licensed
• Up to 2 licensed dispensaries permitted per Senatorial district*
• Licensed Dispensaries by County:
  - Allegany (1)
  - Anne Arundel (1)
  - Baltimore City (5)
  - Baltimore (5)
  - Calvert (1)
  - Cecil (2)
  - Charles (2)
  - Frederick (3)
  - Montgomery (11)
  - Prince George’s (4)
  - Queen Anne’s (1)
  - St. Mary’s (1)
  - Wicomico (1)
  - Worcester (2)
Medical Cannabis Advertising

• No cannabis-specific advertising restrictions in Maryland

• By the numbers:
  – 30 states have medical and/or adult-use cannabis programs
  – 19 states have laws restricting cannabis advertising
  – 13 states restrict false or misleading advertising
  – 13 states restrict ads targeted at children
  – 7 states restrict ads in print or on radio and television
  – 6 states restrict internet advertising

• Priority issue for the Commission moving forward

• **Commission Meeting: May 24 at 2:00 PM**

• Public Comment will be accepted on any steps the Commission should take to address cannabis advertising
Any Questions?
E-mail:
William.tilburg@Maryland.gov

Note: The information presented here are for informational purposes only and not for the purpose of providing legal advice. You should contact your attorney to obtain advice with respect to any particular issue or problem.
Tobacco addiction treatment in primary care: Can we learn from the opioid epidemic?

Ilana Richman, MD
Yale University School of Medicine
A central paradox in primary care
A central paradox in primary care

- Mammography
- Colon cancer screening
- Pneumococcal vaccination
- Diet and physical activity counseling
- Hypertension screening and treatment
- Tobacco use counseling
- TDAP vaccination

QALYS saved per 1,000

Percent of patients
Why is this the status quo?

• Tobacco use is not treated as an important health problem
• Provider beliefs about the efficacy of interventions
• Provider beliefs about safety concerns
• Relative difficulty/ease of interventions
• Financial incentives
• Reactive model
Why is this the status quo?

- Tobacco use is not treated as an important health problem
- Provider beliefs about the efficacy of interventions
- Provider beliefs about safety concerns
- Relative difficulty/ease of interventions
- Financial incentives
- Reactive model
Can we learn from the opioid epidemic?

• Opioid epidemic has captured national attention
• Conversation about addiction is beginning to change
• Can strategies used in combatting the opioid epidemic also gain traction in treating nicotine addiction?
  • Harm reduction
  • Lowering barriers to treatment
Harm Reduction: Opioids

- Naloxone
- Medication-assisted treatment
- Needle exchanges
- Safe injection sites
Harm Reduction: Tobacco

- Nicotine replacement therapy
- Low nicotine cigarettes
- Electronic cigarettes
- Heat-not-burn tobacco
- Smokeless tobacco
- Combustible cigarettes
Harm Reduction: Tobacco

- Nicotine replacement therapy
- Low nicotine cigarettes
- Electronic cigarettes
- Heat-not-burn tobacco
- Smokeless tobacco
- Combustible cigarettes
Low nicotine cigarettes

- FDA is permitted to regulate nicotine content of cigarettes under the Family Smoking Prevention and Tobacco Control Act of 2009
- Cannot reduce nicotine to zero
- FDA has proposed reducing nicotine in combustible cigarettes to non-addictive levels
- But would such a policy be effective? Might there be unintended consequences?
Randomized trial of low nicotine cigarettes

Donny, E. et al, NEJM 2015
Randomized trial of low nicotine cigarettes

Donny, E. et al, NEJM 2015
Projected impact of reducing nicotine in combustible tobacco

Apelberg, B. et al, NEJM 2018
Projected impact of reducing nicotine in combustible tobacco

Apelberg, B. et al, NEJM 2018
Linkage to care

• Opioids:
  • Increasing interest in bringing treatment for opioid use disorder into a range of settings
  • Focus on screening and initiating treatment, particularly with medication assisted treatment

• Tobacco:
  • Treatments are widely available (e.g., nicotine replacement therapy)
  • But treatment initiation is still an afterthought, approached piecemeal, with higher barriers to initiation, including assessing patient readiness
Linkage to care: Opioid use disorder

Percentage of patients in treatment at 28 days
(n=369)

D'onofrio, G. et al, JAMA, 2015
Linkage to care: Opioid use disorder

Days of opioid use in the past 7 days

- **Referral**
  - Baseline: 5 days
  - 30 days: 2 days

- **Brief intervention**
  - Baseline: 5 days
  - 30 days: 2 days

- **Buprenorphine**
  - Baseline: 5 days
  - 30 days: 1 day

*D’onofrio, G. et al, JAMA, 2015*
Proactive treatment for tobacco addiction

Ebert, J. et al, JAMA, 2015
Proactive treatment for tobacco addiction

Proportion of patients abstinent

Weeks 15-24
Weeks 21-52
Weeks 15-52

Ebert, J. et al, JAMA, 2015
Summary

• Tobacco addiction treatment remains widely underutilized despite its enormous population health benefit
• The current opioid epidemic may be an opportunity to introduce new enthusiasm and new approaches for treating tobacco use
• Using new treatment paradigms, including those that parallel strategies used in treating opioid use disorder, may be effective
Tobacco and Other Substance Use Disorders (SUDs)

George Kolodner, MD DLFAPA FASAM

Chief Clinical Officer
Kolmac Outpatient Recovery Centers
Leaders in addiction treatment since 1973

Clinical Professor of Psychiatry
Georgetown University School of Medicine
University of Maryland School of Medicine
Tobacco Use by SUDs Patients

• People with SUDs have not had the reduction in tobacco use seen in the general population
  – Alcoholics: 34% to 56%
  – Drugs: 52% to 68%

• Highest in patients in treatment for other SUDS
  – 65% to 85% (especially methadone)
  – Relapse on tobacco when enter SUDs treatment
Comparison With Other SUDs

• **Similarities**
  – Continued use despite adverse consequences
  – Genetically influenced
    • Rapid nicotine metabolizers are more susceptible to physical dependence than slow metabolizers
  – High degree of physical dependence
  – Use is perpetuated by addictive thinking

• **Differences**
  – Language
    • Person: ex-smoker vs. recovering
    • Treatment: smoking cessation vs. addiction rehabilitation
  – Funding: most NIH money is in National Cancer Institute, not National Institute for Drug Addiction
Treatment of Tobacco Addiction Has Been Neglected in the Addiction Treatment Community

- All addictive substances except for tobacco are prohibited in treatment programs
  - Despite the fact that tobacco shortens the lifespan of addicts in recovery
- The recovery support community maintains that stopping tobacco use can endanger recovery from other SUDs
  - Nicotine Anonymous meetings are rare
Treatment programs for tobacco use disorders are not covered by most insurance plans

- Similar to non-coverage of alcohol and drug addiction programs until 1980’s

Initially also denied coverage for medication
Consequences of This Neglect

• Intensive, structured treatment programs focused on tobacco use disorders are rare
  – Those that exist (e.g. Mayo Clinic) have positive outcomes

• Treatment of tobacco use disorders in traditional addiction rehabilitation programs can only be done if other SUDs exist
Elements of Effective Treatment for SUDs

- Withdrawal symptoms managed with medication
- Separation from the substance through medication or geography
- Intensive engagement in therapeutic milieu
- Continued treatment following intensive engagement
- Collaboration with recovery support community
Integrating Treatment of Tobacco Addiction Into Addiction Programs

• Most users express a desire to quit
• Practical problems:
  1. How to address this desire while also respecting the desire of others not to quit
  2. Importance of not activating negative side of ambivalence by too aggressive an intervention
     ○ Tobacco control versus addiction treatment
“Talking About Tobacco” Groups

• Once weekly
• No requirement of commitment to quit
• Interventions
  – Challenging belief about timing of quitting
  – Introduction to “the easier way” to quit
  – Reducing anxiety about nicotine replacement
    • Nicotine as the addictive, but not the toxic agent in tobacco
  – Input from recent quitters
Proposal: Treat Tobacco Use Disorders In Same Way as Other Substance Use Disorders

• Use medication to
  – Manage withdrawal symptoms (detoxify)
  – Reduce relapses

• Immerse in short term addiction rehab
  – Intensive outpatient (IOP) with inpatient backup

• Follow with longer term continuing care
  ❖ Transition to recovery support community
Thank you

George Kolodner, M.D.
gkolodner@kolmac.com

Follow Kolmac Blog:
www.kolmac.com
FDA and Strategic Communications

1. Rashetta Fairnot, LGSW, Center for Tobacco Products
2. Jessica Rowden, MA, Center for Tobacco Products
FDA CENTER FOR TOBACCO PRODUCTS
PUBLIC EDUCATION CAMPAIGNS

Presented by: Rashetta Fairnot & Jessica Rowden

FDA Center for Tobacco Products

Disclaimer: This information is not a formal dissemination of information by the FDA and does not represent Agency position or policy.
Tobacco use is the leading preventable cause of disease, disability, and death in the United States, costing us more than 480,000 American lives and approximately $300 billion in healthcare costs and lost productivity from premature death every year.
Public education campaigns are a proven strategy in preventing and reducing population-level tobacco use.

Campaigns have contributed to significant declines in tobacco use over the past several decades.

FDA has multiple efforts targeting discrete, at-risk audiences:

- **The Real Cost**: General market teens at risk or already experimenting with cigarettes (February 2014)
- **Fresh Empire**: Multicultural teens at risk of smoking (October 2015)
- **The Real Cost Smokeless**: Rural male teens at risk of using smokeless (April 2016)
- **This Free Life**: Lesbian, Gay, Bisexual, Transgender (LGBT) young adults at risk of becoming regular smokers (May 2016)
- The Real Cost ENDS: General market teens at risk or already experimenting with ENDS (October 2017)
- **Every Try Counts**: Adult smokers ages 25-54 who have attempted to quit in the past year (January 2018)
EVERY TRY COUNTS

ADULT SMOKING CESSION CAMPAIGN AT POINT-OF-SALE
Tobacco use is the leading preventable cause of disease, disability, and death in the United States, costing us more than 480,000 American lives and over $289 billion in healthcare costs and lost productivity from premature death every year.

- More than 2 out of 3 adult smokers, about 22 million people, say they would like to quit.
- In 2015, 55.4% of adult smokers made a quit attempt but only 7.4% were successful in quitting for 6-12 months.
- Evidence has shown the more quit attempts someone makes the more likely they will succeed.
CAMPAIGN OBJECTIVE

Drive an increase in motivation to quit among smokers who want to quit but were recently unsuccessful, utilizing paid media tactics in and around where tobacco is sold to:

• Get smokers to try again by **reframing what it means to quit**
• Get smokers to try quitting more often by **practicing the quit**
Established smokers report that the point-of-sale environment can discourage their quit attempts:

- Average customer spends 3-4 minutes in a convenience store per visit
- Tobacco companies spend over $8 billion annually on point-of-sale advertising and promotions
- When they’re trying to quit smoking the retail environment can generate a strong urge to smoke, prompting a slip or a relapse
- The point-of-sale environment can elicit an increase in unplanned purchases of tobacco products

“And you go into a store and make a purchase or something, when you look up, what do you see? Cigarettes. Even when I wanted to quit, they were coming at me.” – Research Participant
Of the people who visit convenience stores, our target audience is the **5.8 million adults** that have tried to quit smoking but were unsuccessful.

Data Source: SIMMONS 2016 Fall NCS/NHCS Adults Full Year – SM6HF
LEARNING FROM THE TARGET AUDIENCE

Started smoking as youth, have friends & family who smoke

They have tried quitting for many reasons: health, family, cost

They feel defeated & stuck in the cycle of trying to quit

Don’t know how the next quit attempt will be different
DICHOTOMY OF QUITTING

SMOKERS WANT TO STOP SMOKING
• They know it’s bad for them
• Heard about health risks from their doctor
• They know that quitting will give them long-term benefits
• Want to be there for their family

SMOKERS WANT TO KEEP SMOKING
• They enjoy smoking
• They’re ‘experts’ at smoking
• They’re resigned to smoking as part of their identity
• Quitting is hard
• They feel as if they’re stuck in a cycle of trying to quit and smoking again
Research identified key barriers to their success:
1. No one’s celebrating them as they try
2. They’ve “heard it all” before
3. Smokers don’t feel “ready” to attempt again

Where the opportunity lies:
✓ Celebrate smoker’s attempts to quit smoking
✓ Reframe past failures as an important part of the quit journey
✓ Encourage belief that smokers are more ready than they know
✓ Work in synergy with messaging from CDC’s Tips from Former Smokers to encourage trying again
QUANTITATIVE AD TESTING RESULTS
FORMATIVE RESEARCH PROCESS

**Message Development**
- Perform extensive literature review
- Conduct early strategic research to identify salient message themes
- Consult experts in tobacco public health education and target audience

**Concept Development**
- Conduct focus groups with adult smokers who want to quit to identify promising creative concepts
- Consult experts in tobacco public health education and target audience

**Ad Testing**
- Conduct quantitative copy testing of final draft ads to measure perceived effectiveness and assess for potential unintended consequences
Data were collected via an online questionnaire with a sample that was obtained from a panel provider.

Respondents were eligible if they were smokers aged 25 to 54 who:

- Had previously attempted to quit smoking in the past year
- Visit a convenience store at least once a month
- Purchase cigarettes at convenience stores

There were 1,576 total respondents who were distributed across five groups—one control and four experimental (one for each ad execution). Sample included cigarette-only smokers (referred to as “smokers”) and smokers who also use other tobacco products (“poly-users”).
All ads were perceived as highly effective

- Perceived effectiveness (PE) scores ranged from 3.96–4.28. This is the highest scoring group of ads CTP has tested over five campaigns in four years.
- Responses indicate potential for positive changes in attitudes and other outcomes targeted by our campaign messages.

- **All ads performed well on other performance measures** – the majority of participants who viewed the ads:
  - Reported feeling more ready to make a quit attempt
  - Indicated a high level of trust in the information in the ads
  - Reported feeling highly motivated, empowered, determined, inspired, understood and hopeful

**No potential unintended consequences** were found between ad exposure and control groups for knowledge, attitudes, beliefs about smoking & the quit process
YOU DIDN’T FAIL AT QUITTING. YOU JUST HAVEN’T FINISHED THE PROCESS.

With each quit, you learn more about what works for you and get closer to quitting for good. So don’t give up. There are benefits to quitting at any age. Keep going at EveryTryCounts.gov.
IF AT FIRST YOU DON’T SUCCEED, TRY, TRY, TRY, TRY AGAIN.

It takes most smokers multiple tries to finally quit smoking. Don’t give up. It’s never too late to quit. Keep going at EveryTryCounts.gov.
HMM, HOW ABOUT GUM INSTEAD OF CIGARETTES?

If you’re chewing that over, it’s a sign you’re ready to try quitting. Every quit attempt gets you closer to becoming a non-smoker, so take a small step today. Start moving in a healthier direction at EveryTryCounts.gov.
EVERY TIME YOU PUT OUT A CIGARETTE IS A NEW CHANCE TO TRY QUITTING AGAIN.

The more you try to quit, the more you learn about what works for you. You’re getting closer to quitting for good. It’s not too late to quit. Keep going at EveryTryCounts.gov.
How soon are you likely to try to quit smoking cigarettes? Would you say…

Pre-Exposure

Post-Exposure
PAID MEDIA OVERVIEW

Paid Media Objective

• Reach smokers who want to quit with messaging of encouragement and support in an environment that can trigger unplanned tobacco purchases

Paid Media Implementation

• The *Every Try Counts* campaign will run in **35 markets for at least 24 months**

• Markets selected have high smoking prevalence, a smoking population of 20K+, and have available paid media opportunities in and around convenience stores

Retailer Receptivity

• Ad vendors saw no concerns with this type of campaign messaging in ads and placing advertising in local convenience stores.
Deployment plan starting with a January 2018 launch:

- Buy local ad space in and around convenience stores
- Additional media tactics include radio, digital video, and banners
- Promote cessation by linking to a website developed in partnership with NCI
- Monitor real-time online engagement metrics to inform digital content and website optimizations
- Every Try Counts is available for state and local programs to buy additional ad space and use the ads in their own counties (with exception of control markets)
- Partnership strategy currently in development to extend impact
EVERYTRYCOUNTS.GOV PREVIEW

EVERY TRY COUNTS

Quitting smoking is possible. If you’ve tried to quit, congratulations. That alone is a big achievement. It may take several tries to be successful. By taking small steps, you can learn what works for you. Every try counts. Start here.

TRY SOMETHING NEW

Quitting smoking takes skills. And building skills takes practice. Try a text message program to build the skills and confidence you need to quit for good.

CHOOSE THE PROGRAM THAT’S RIGHT FOR YOU

Chat Online | Live Help

TRY DAILY CHALLENGES

TRY SOMETHING NEW

Quitting smoking takes skills. And building skills takes practice. Try a text message program to build the skills and confidence you need to quit for good.

CHOOSE THE PROGRAM THAT’S RIGHT FOR YOU

FOR MORE HELP QUITTING, GO TO SMOKEFREE.GOV

Tools & Tips
Challenges When Quitting
Quitting Smoking
Stay Smokefree for Good
Help Others Quit
About Smokefree.gov

The National Cancer Institute’s trained counselors provide information and support for quitting in English and Spanish. Call Monday through Friday 8:00 a.m. to 8:00 p.m. Eastern time.

Call 877-44U-QUIT (877-448-7848)
A robust partnership with NCI allows FDA to encourage quitting and promote health benefits while NCI provides critical cessation services.

A mobile friendly website features cessation resources to help visitors take small steps toward quitting including:

- **Text Message Programs**
  - Daily Challenges
  - Practice Quit for 1, 3 or 5 day
  - SmokefreeTXT
- **Mobile quitting app for download, QuitGuide**
- **Online chat with cessation coach**
- **NCI quit line, 877-44U-QUIT**
- **Access to other Smokefree.gov tools and information**

HELPING SMOKERS QUIT AT EVERYTRYCOUNTS.GOV
<table>
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Counties with * are part of evaluation study
EVALUATING EVERY TRY COUNTS

Objective
• Measure the campaign’s effectiveness in affecting key targeted tobacco-related knowledge, attitudes and beliefs, and changes in motivation to quit among adult smokers ages 25-54

Methods
• In-person door-to-door data collection in 15 campaign-targeted media markets and 15 control markets

Timeline & Sample
• Longitudinal data will be collected from smokers ages 25-54 in 4 waves
  o Wave 1: 4,300 participants
  o Wave 2: 3,500 participants
  o Wave 3: 2,900 participants
  o Wave 4: 2,500 participants

*sample sizes are approximate
PREVENTING YOUTH INITIATION:
Protect 10 million at-risk teens who are open to smoking or already experimenting with cigarettes.
If the current trajectory of smoking rates continues, 5.6 million children in the United States alive today will die prematurely as a result of smoking.
THE UNIVERSE OF AT-RISK TEENS (12-17)

25M teens

10M teens at-risk for smoking

Every day in the U.S., more than 2,300 youth under the age of 18 smoke their first cigarette and nearly 400 youth become daily cigarette smokers

CDC 2015, U.S. Census Bureau 2015
LEARNING DIRECTLY FROM NEARLY 12,000 TEENS

- They have chaotic, stressful home and school environments
- They are not academically driven
- They are surrounded by smokers
- They turn to smoking to cope
PURSUING A BEHAVIOR CHANGE LOGIC MODEL

Campaign Design & Implementation
- Message Testing
- Concept Testing
- Copy Testing
- Creative Development
- Targeted Media Plan
- Digital & Social Engagement

Short Term Outcome Goals
- 75% Ad Awareness
- Positive Receptivity

Intermediate Outcome Goals
- 8% Change in Targeted Beliefs

Long Term Outcome Goals
- Reduced Initiation
- Reduced Progression to Established Use
Make teens hyperconscious of the real cost of every cigarette through breakthrough, fresh portrayals of the health and addiction risks of tobacco.

- Find new ways to talk about the health consequences, The cost to my body
- Disrupt beliefs about addiction by stressing loss of control, The cost to my brain
- Challenge their assumptions with new facts, The cost of smoking just 1
Run **continuous national** advertising at high reach and frequency levels and **precisely target** teen’s media **passion points** like music, comedy, extreme sports, fashion and gaming.
Raising Awareness
9 in 10 youth reported seeing *The Real Cost* ads when measured 7 months after launch

Shifting Beliefs
The campaign positively influenced tobacco-related risk perceptions and beliefs with an 11.5% average change when measured 15 months after launch
From February 2014 to March 2016, an estimated 350,000 youth aged 11 to 18 were prevented from smoking as a result of *The Real Cost*

Farrelly et al. 2017
EXPANDING CAMPAIGN MESSAGING TO INCLUDE E-CIGARETTES
OVERVIEW

• In July 2017, FDA Commissioner Gottlieb announced a new comprehensive plan for tobacco and nicotine regulation that places nicotine – and the issue of addiction – at the center of the agency’s efforts
• Acknowledges that nicotine is delivered through products on a continuum of risk with combustible cigarettes being at the most harmful end
• At the same time, CTP acknowledges that there is no level of tobacco or nicotine exposure that is safe for youth
The campaign launched initial e-cigarette prevention messaging in October 2017 and plans to launch a full-scale campaign in September 2018.

This content will be highly targeted through digital channels to reach youth in the places where they spend most of their time: YouTube, Hulu, mobile gaming apps, and other online platforms.
INSIGHTS AND GOAL

Insight: Teens do not see vaping as dangerous
• Vaping does not have the same social stigma as cigarette smoking
• Vapes are available in flavors they like
• Vaping is “no big deal”
• They don’t have a good reason not to vape

Goal: To educate youth who are at-risk for or already experimenting with ENDS about the risks of using these products in adolescence
OHCE developed an e-cigarette prevention ad called “Hacked” that highlights how exposure to nicotine can rewire a teens brain to crave more and more nicotine.

The ad is currently running on digital channels and is supported by online radio ads, banners ads, and content on the campaign website.

The tagline *don't get hacked by vaping* reinforces our message.
• CTP will launch new e-cigarette youth prevention advertising under The Real Cost campaign brand in September 2018
• This advertising will be based on qualitative and quantitative research that was completed in early 2018
THANK YOU! QUESTIONS?
Emerging Threats to Tobacco Control Success: How Juuls and Vapes are Changing Maryland’s Landscape

Dawn Berkowitz, MPH, CHES, Maryland Department of Health
EMERGING THREATS TO TOBACCO CONTROL SUCCESS:
How JUULs and Vapes are Changing Maryland’s Landscape

Dawn Berkowitz, MPH, CHES
Director, Center for Tobacco Prevention and Control

2018 Maryland Tobacco Control Conference
May 8, 2018
Changing Landscape of Popular Tobacco Products
What are ENDS?

- ENDS: Electronic Nicotine Delivery System
- ESDs: Electronic Smoking Devices
- Vapes
- JUULs
- Electronic Cigarettes
- E-Cigarettes

Image taken from https://www.cdc.gov/tobacco/basic_information/e-cigarettes/index.htm
National Snapshot: Youth Use of ENDS

• Between 2011 and 2015, ENDS use grew dramatically among middle school and high school students

• **E-cigarettes are now the most commonly used form of tobacco by youth in the United States**

• Dual use, or use of ENDS and conventional cigarettes by the same person, is common among youth and young adults

• Over 3 million middle and high school students were past-30-day ENDS users

• An estimated 2.3 million high school students had used e-cigarettes at least once in the past 30 days

• 2016 Maryland data showed 13.3% ENDS use (vs 8.2% cigarettes) among HS youth.


"NIH National Institute for Drug Abuse, 2016"
• December 8th, 2016: 298 page report released

• Identified e-cigarettes as the next evolution of tobacco products

• Creating a new generation of Americans at risk of nicotine addiction

• No safe level of nicotine use for youth

• Recognized e-cigs as a public health concern, particularly due to the growing trends in ESD use among youth and young adults

Report is a call for action to reduce use among young people.
What’s the Risk?
New Findings on the Public Health Consequences of E-cigarettes

- There is **conclusive evidence** that in addition to nicotine, most e-cigarettes contain and emit numerous potentially toxic substances.

- There is **conclusive evidence** that e-cigarettes can explode and cause burns and projectile injuries.

- There is **conclusive evidence** that intentional or accidental exposure to e-liquids (from drinking, eye contact, or skin contact) can result in adverse health effects such as seizures, anoxic brain injury, vomiting, and lactic acidosis.

There is **conclusive evidence** that intentionally or accidentally ingesting e-liquids can be fatal.

Source: New Report One of the Most Comprehensive Studies on Health Effects of E-Cigarettes; Finds That Using E-Cigarettes May Lead Youth to Start Smoking, Adults to Stop Smoking
What’s the Risk?

Youth ENDS Users Increased Likelihood of Engaging in Risk Behaviors

- 34% of youth ENDS users also use cigarettes, 35% use cigars, and 25% use smokeless tobacco.
- Youth electronic cigarette use, like tobacco use, is highly correlated with other risk behaviors including drinking alcohol, marijuana use, and prescription drug abuse.
What’s the Risk? Nicotine and the Developing Brain

**Addiction**
- Adolescents can get addicted more easily than adults as their brains are still developing.
- Nicotine can prime the adolescent brain for addiction.
- Early onset of substance abuse, including tobacco use, is associated with greater severity of addiction in adulthood.

**Additional Effects on the Brain**
- Changes the way synapses are formed, which can harm the parts of the brain that control attention and learning
- Can lead to mood disorders and permanently reduced impulse control

Sources: [https://ecigarettes.surgeongeneral.gov/getthefacts.html](https://ecigarettes.surgeongeneral.gov/getthefacts.html); [http://www.nationalacademies.org/hmd/-/media/79C6A4F3B65448ECBECE0BFDFFDC83E.asx](http://www.nationalacademies.org/hmd/-/media/79C6A4F3B65448ECBECE0BFDFFDC83E.asx)
Dispelling Myths and Misperceptions

“No one has ever become a cigarette smoker by smoking cigarettes without nicotine.”
- W.L. Dunn, Philip Morris, 1972

99% of e-cigarettes sold in U.S. convenience stores, supermarkets and similar outlets in 2015 contained nicotine

NIH National Institute for Drug Abuse, 2016
Dispelling Misperceptions: It’s a Harmless Vapor

IT’S NOT A VAPOR, IT’S AN AEROSOL

- Propylene glycol
- Glycerin
- Flavorings (many)
- Nicotine
- NNN
- NNK
- NAB
- NAT
- Ethylbenzene
- Benzene
- Xylene
- Toluene
- Acetaldehyde
- Formaldehyde
- Naphthalene
- Styrene
- Benzo(b)fluoranthene
- Benzaldehyde
- Valeric acid
- Hexanal
- Fluorine
- Anthracene
- Pyrene
- Acenaphthylene
- Acenaphthene
- Fluoranthene
- Benz(a)anthracene
- Chrysene
- Retene
- Benzo(a)pyrene
- Indeno(1,2,3-cd)pyrene
- Silver
- Nickel
- Tin
- Sodium
- Strontium
- Barium
- Aluminum
- Chromium
- Copper
- Selenium
- Arsenic
- Nitrosamines
- Polycyclic aromatic hydrocarbons
- Lead
- Magnesium
- Manganese
- Tin
- Sodium
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- Chromium
- Copper
- Selenium
- Arsenic
- Nitrosamines
- Polycyclic aromatic hydrocarbons

Source: http://med.stanford.edu/tobaccocontroltoolkit/E-Cigs.html
Popcorn Lung
A perfect recipe of flavor and aerosol

• Popcorn factory employees who were always tired, wheezing, and out of breath were diagnosed with bronchiolitis obliterans, or more commonly known as, “popcorn lung.”

• “Popcorn lung” is a serious lung disease that causes coughing, wheezing and shortness of breath.

• It is caused by diacetyl – the chemical giving popcorn it’s ‘buttery’ flavor.

• While major popcorn manufacturers removed diacetyl from their products, it is still found in combustible cigarettes and e-cigarette flavorings and aerosol.

Marketing Appeal of ENDS to Youth

E-cigarette use among youth is rising as e-cigarette advertising grows

- Dollars spent on e-cigarette advertising
- Past 30-day e-cigarette use among youth

Youth are exposed to e-cigarette advertisements from multiple sources.

**Sources of e-cigarette advertisement exposure**

- **14.4 MILLION** youth are exposed at retail stores
- **10.5 MILLION** youth are exposed through the Internet
- **9.6 MILLION** youth are exposed through TV/movies
- **8 MILLION** youth are exposed through magazines/newspapers

**Recall of e-cigarette advertisements at point-of-sale and on the Internet**

**Significantly Associated with Adolescent e-cigarette susceptibility and use**

**Need to minimize adolescent exposure to these advertisements**

71% of high school youth have been exposed to some type of e-cigarette advertising.

Marketing Appeal: Social Media

#vapetricks
#Juulvapor
#doitforjuul
#juulmemes
Marketing Appeal: Social Media
Marketing Appeal: Celebrity Sponsorships

Cardi B at a Swisher Sweets Pack Night Event in New Orleans, LA, December 29, 2017

Photo Source: Truth Initiative

Photo of Bella Hadid tweeting about Dave Chappelle’s JUUL use during his Netflix special – January 2018

Photo of DJ Khaled featuring KandyPens in “I’m the One” music video, April 2017

Photos of 7 year old beauty pageant contestant sponsored by vape company in the UK

MMA Fighter Brian Foster sponsored by VaporFi

Photos of DJ Khaled featuring KandyPens in “I’m the One” music video, April 2017

Photos of 7 year old beauty pageant contestant sponsored by vape company in the UK
Marketing Appeal: Personalized and Compact
Marketing Appeal: Flavors, Flavors, Flavors

Images of various flavored e-liquids and their corresponding flavors:
- Once In A Blue Moon By Kind E Juice
- I Love Watermelon Candy E Juice (60mL)
- I Love Rainbow Candy E Juice (60mL)
- Lava Flow E-Juice By Naked 100
- Banana Milk By Moo E Liquids
- Meteor Milk E Juice By Space Jam

Categories of flavors and their product counts:
- Candy: 578 Products
- Cereal: 164 Products
- Custard: 135 Products
- Dessert: 1230 Products
- Donut: 63 Products
- Fruit: 1937 Products
- Menthol: 199 Products
SUGARCOATING ADDICTIVE PRODUCTS: FROM CIGARETTES TO CIGARS TO VAPES

Don’t Fall for the TRAP

If offered by a friend, adolescents (ages 13-17) were more likely to try menthol-flavored, candy-flavored, or fruit-flavored e-cigarettes.

Source: https://e-cigarettes.surgeongeneral.gov/getthefacts.html
Wrigley lawsuit: Don't use Starburst, Skittles to sell e-cigarette liquid

Wrigley Beats Vape Co. In Starburst, Skittles Flavors TM Row

By Bonnie Eslingar

Law360 (April 13, 2018, 4:08 PM EDT) -- An Illinois federal judge Thursday handed Wrigley's a quick win in its trademark suit against a no-show e-cigarette company that it claimed marketed flavors exploiting the Starburst and Skittles names, saying the Lanham Act violations of Get Wrecked Juices LLC were "willful, intentional and deliberate."

W.M. Wrigley Jr. Co. sought default judgment against Get Wrecked and its purported owner, Brian Edward Turner, after the defendants didn't respond to the candy maker's January complaint.

On Thursday, U.S. District Judge John Z. Lee sided with Wrigley, finding that Get Wrecked violated the Lanham Act, along with Illinois statutes. As a result, Judge Lee ordered Get Wrecked to stop using the Starburst and Skittles trademarks and trade dress for the sale and marketing of its products. The ban includes "any colorable imitation or simulation" of the Wrigley confections, including the vaping company's Skeetlez product, the judge said.
FTC and FDA Take Action Against Flavored Products

**FDA News Release**

**FDA, FTC take action against companies misleading kids with e-liquids that resemble children’s juice boxes, candies and cookies**

Warning letters are part of joint effort to protect youth from dangers of nicotine and tobacco products and part of FDA’s new Youth Tobacco Prevention Plan

**For Immediate Release**

May 1, 2018

As part of ongoing efforts to protect youth from the dangers of nicotine and tobacco products, today the U.S. Food and Drug Administration and the Federal Trade Commission (FTC) issued 13 warning letters to manufacturers, distributors, and retailers for selling e-liquids used in e-cigarettes with labeling and/or advertising that cause them to resemble kid-friendly food products, such as juice boxes, candy or cookies, some of them with cartoon-like imagery. Several of the companies receiving warning letters were also cited for illegally selling the products to minors.

Source: [https://www.fda.gov/TobaccoProducts/NewsEvents/ucm605729.htm](https://www.fda.gov/TobaccoProducts/NewsEvents/ucm605729.htm)
Toxic Levels of Nicotine in Pretty Packages

Maryland Poison Center Data

• 123 e-cigarette device and liquid nicotine cases 2015-2017
• 64% children under six years old

A 2016 study found that over half of the labels on e-cigarette liquid nicotine did not accurately reflect the levels of nicotine found in the products.

Actual nicotine levels in some products were 172% higher than labeled.
Why Youth Say they Vape…and Why They Don’t

“Yeah. I think it kind of sells itself. Because like when you’re smoking it, it just looks cool. Like, it has a lot of effect. It’s like hookah times two.”

“Smell is huge... because you don’t smell like smoke. I could vape in my room and get away with it.”

The belief that e-cigarettes are less harmful than other forms of tobacco, such as cigarettes (17%)

The availability of flavors, such as mint, candy, fruit or chocolate (31%)

Because a friend or family member used them (39%)

Parental Disapproval

Cost

Minor Health Effects

Product Challenges/Learning Curve

Product Quality

Logistical Challenges

• Communicate to teens how you feel about the behavior.
• Set the bar high.
• Let them know how upset you would be if something happened to them.
The Next Wave...
PRODUCT AWARENESS: JUUL aka “JUUting”

New E-Cigarette Popular Among Kids, Easy To Conceal From Parents

By Jon Delano
December 13, 2017 at 12:06 am

Pax Juul: The iPhone of E-cigs?
The startup behind one of the most popular vaporizers in the world has made an e-cigarette.

Health & Public Health

Teens Are 'Juuling' At School. Here's What That Means

March 27, 2018

The Juul, a trendy vape that resembles a flash drive and can be charged in a laptop’s USB port, accounted for 33% of the e-cigarette market as of late 2017, according to

Maryland Department of Health
Marketing Appeal: Discreet, Flavored, Affordable

A Juul starter kit comes with the device, a charger and four pods of a flavored 5% nicotine solution. CREDIT: Juul Labs PHOTO: JUUL

JUULpod 4-Pack: Flavor Multipack
$15.99

Four flavors in one JUULpod pack: Cool Mint, Virginia Tobacco, Creme Brulee and Fruit Medley.
Marketing Appeal: Discreet, Flavored, Affordable

### FLAVOR OPTIONS

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LIMITED EDITION: **BLUSH GOLD DEVICE KIT**

FINE PRINT

© 2018 JUUL Labs, Inc. All Rights Reserved
Terms & Conditions | Privacy Policy

Age restricted product. Not for sale to minors.

Warning: This product contains nicotine. Nicotine is an addictive chemical.

CALIFORNIA PROPOSITION 65 WARNING: This product contains chemicals known to the state of California to cause cancer and birth defects or other reproductive harm.

MARYLAND Department of Health
JUULs and Nicotine

JUULs contain nicotine

JUULs have a higher nicotine content than most e-liquids

1 JUULpod = 1 pack of cigarettes

A product like JUUL, with nicotine salts ...

✓ Can mask the harshness of the high nicotine concentration with flavors.

✓ May hook new users more easily, including those who have never smoked.

What makes JUUL unique?
“We accommodate cigarette-like strength nicotine levels via JUULsalts™ ...”

Why is JUUL vapor intensely satisfying?
“By regulating ... our proprietary JUULsalts™ flavor formula...
Dispelling Myths and Misperceptions

Only 25% of individuals who recognized the product reported that JUUL always contains nicotine. Tobacco Control April 2018

“Personally, I don’t think I’m extremely addicted now, but there was a time when I could get a little anxious if I didn’t have it on me or I hadn’t used it in a few hours…”

“I don’t think I’m addicted, but I do Juul probably every day,” ...
“I go through probably a pod every week and a half to two weeks.”

63% OF JUUL USERS DON’T KNOW THAT THE PRODUCT ALWAYS CONTAINS NICOTINE.

truth initiative
inspiring tobacco-free lives

truthinitiative.org
Rise in Popularity: JUUL Labs Expansion

Late 2017, JUUL sales represented 1/3 of e-cigarette market at $225,000,000
Vape and JUUL Merchandising
JUUL 101: Available for all ages, at no cost on Youtube

Easily Refill Your Juul Pods! How to Refill a Juul Pod Tutorial
Sherlock Hometown Hero • 165K views • 3 months ago
Stop wasting money buying JUUL Pods!!! In this video I teach you how to refill them with your favorite mtl/pod system juice!

PHIX & JUUL VAPE TRICKS FOR BEGINNERS! (HOW TO)
Garlatta Productions • 79K views • 3 months ago
Today I show you guys how to do some beginner vape tricks for the Juul or Phix! I Hope this helps you guys out DROP A LIKE!

quick beginner juul tricks
Juul Army • 156K views • 3 months ago
Check out Juul Pod giveaway in this video!! Read Description! https://www.youtube.com/watch?v=0Voxdk9584 ...

Best Places To Hide Your Vape And Not Get Caught
Jada Ann • 103K views • 6 months ago
I really hope you guys enjoy this video I know this video was a little different than what I usually post but I want to be guys...
On Trend: New USB-like Products

Bo One

“This pod vape is perfect for the new vaper who doesn’t want anything too complicated. Also, great to have as a backup stealth vape.”

Kandypens RUBI

“It looks like your typical pod vape, but it puts out a bigger cloud than most. The best part is the freedom to use any e-liquid of your choice.”

MLV Phix

“It is perfect for beginners who are new to vaping. It can also be used as a backup for vapers who need a portable solution when they are traveling.”

Cue Vapor System

“… utilizes cCell ceramic coils which helps to produce awesome flavor.”
Smoking is gross ... Juuling is really what’s up.

JUUL has been defined by Instagram and Snapchat.

Referring to a popular video, “I know one of the girls in that video!” a high school girl in Maryland told me. It was a huge deal at my school.

Dealers will announce on Snapchat that they bought 100 of them ... and they’ll write the meeting place for kids to show up with cash.

“I’m always surprised when I see an adult with a JUUL ... it’s sort of like seeing my Grandma with an Alexa.”

Teens have taken a technology that was supposed to help grownups stop smoking and invented a new kind of bad habit, molded in their own image.
Health Groups File Suit to Expedite FDA Review of E-Cigarettes, Cigars

Delay in Product Reviews Violates Law and Keeps Kid-Friendly Tobacco Products on the Market for Years, Lawsuit Asserts
March 27, 2018

WASHINGTON, D.C. – Seven public health and medical groups, and several individual pediatricians, filed suit today in federal court in Maryland challenging a U.S. Food and Drug Administration (FDA) decision that allows electronic cigarettes and cigars – including candy-flavored products that appeal to kids – to remain on the market for years, the lawsuit asserts.

The lawsuit, filed by the Campaign for Tobacco-Free Kids, Public Citizen’s Health Research Group, TobaccoControlLawyers, and several pediatricians, argues that the FDA’s failure to promptly review these products is a violation of the Family Smoking Prevention and Tobacco Control Act, which is intended to protect children from tobacco products.

Tobacco products that appeal to kids remain on the market. Deprives the FDA and the public of critical information about the health impact of products already on the market. Relieves manufacturers of the burden to produce scientific evidence that their products have a public health benefit.

Source: https://www.tobaccofreekids.org/press-releases/2018_03_27_fdalawsuit
What are Maryland Laws for ENDS? – SCHOOLS

• **Statewide Law (MSDE)**
  • The sale or use of tobacco in any form (including ENDS) is prohibited in school buildings at all times.
  • In addition, the sale or use of tobacco in any form is prohibited on school grounds during the official school day.

• **Expanded Local Laws**
  • The sale, use, or possession of tobacco in any form by students is prohibited in all Baltimore County Public Schools, in school system buildings, on school grounds, and at any school-sponsored activity. – Baltimore County
  • The use or possession of any tobacco product or electronic cigarettes by students on school property and school buses at all times or at school-sponsored events. – Cecil County

"They can pin them on to their shirt collar or bra strap and lean over and take a hit every now and then, and who’s to know?"

The New York Times, 4/2/18

Source: MD School System Tobacco and ENDS Policies provided by the University of Maryland Baltimore, School of Law, Legal Resource Center
What are Maryland Laws for ENDS? – LICENSE/SALES

- Retailers selling cigarettes, other tobacco products, or ENDS must be licensed to do so.

- Selling or distributing tobacco products or ENDS without the appropriate licensure is a criminal misdemeanor subject to a fine up to $1,000, and/or imprisonment up to 30 days.

- Tobacco products, including ENDS may ONLY be sold to individuals age 18 or older.

- Retailers MUST check photo ID of everyone under age 27 who attempts to purchase any tobacco product, including ENDS.

- Federal, state, and local fines exist for selling tobacco products to minors – as high as $11,000.

Youth Access and Youth Use

Schools and Parents Fight a Juul E-Cigarette Epidemic

As illicit Juul use sweeps through high schools and middle schools, administrators and parents struggle to stem teens’ access to the vaping device, which delivers a powerful dose of nicotine.

“I’ve had customers who just turned 18 and bought a bunch of Juuls,” presumably to distribute or sell to younger friends, says Alexander Terc, a sales associate at the Noon, a smoke shop in Silver Spring, Md. “We can’t stop them from buying a bunch.”
Underage JUUL Use
National TRUTH Study April, 2018

• Those who “used in past 30 days” were asked how they obtained or got the JUUL devices.
  ✔ 74% reported a physical retail location
  ✔ 52% reported social sources
  ✔ 6% reported Internet

• Of youth who attempted online purchases of JUUL, 89% were able to successfully purchase through this method.

• 30% had ever used marijuana with JUUL

April 2018: 1,025 12-17 y/o youth
Addressing JUUL Use in Schools

Vaping Prompts Maryland School To Remove Bathroom Doors

By Pat Warren  April 23, 2018 at 4:22 pm  Filed Under: Local TV, vaping

Baltimore (WJZ) — An Anne Arundel County high school has taken a unique approach to dealing with teens smoking in the bathrooms: It took off the bathroom doors.

“Everyone does it ... every time I go in the bathroom there’s someone doing it.”
Addressing JUUL Use in Schools

THE NEW YORK TIMES, April 2, 2018

“...asked the school nurse about getting...nicotine gum or a patch, to help him get through the school day without violating the rules prohibiting vaping.”

“...shut down all but two bathrooms... considering installing vaping detectors in bathrooms.”

“With so many students caught multiple times, some schools have moved from punishment to intervention, requiring students caught vaping to receive counseling or substance abuse treatment.”

“They don’t want to be kicked out of school...and they don’t want to have a bad relationship with their parents. They continue to use because it’s an addiction.”

“...asked if she could stand at the back of the class and shake her foot when she started to feel the twitch to vape.”
Ashley Gould, chief administrative officer at Juul Labs, says that the product was created by two former smokers specifically and solely to help adult smokers quit, and that the company has numerous anti-youth-use initiatives in place because “we really don’t want kids using our product.” Gould also notes that Juul uses age authentication.

Time, 3/27/18

“I don’t think any tobacco or nicotine delivery device company should be doing their own prevention work,” said Bonnie Halpern-Felsher, Ph.D., a developmental psychologist and pediatrics professor at Stanford University School of Medicine.

Ms. Halpern-Felsher said the flavors of JUUL products are huge draws for teens and that the FDA should ban all flavored tobacco products.

“The comparison is e-cigarette or JUUL versus nothing,” said Ms. Halpern-Felsher, whose research focuses on understanding and reducing health risks among youths related to tobacco, alcohol, drugs and other risk-seeking behavior. “A lot of the youths who are using e-cigarette or JUULs never intended on smoking. So it’s not a harm-reduction conversation that a lot of people are trying to make this. This is an initiation of any tobacco product.”

Washington Times, 4/1/18
CDC Guidance on USB-shaped E-cigarettes

Released 4/12/18

CDC: “Tobacco Industry Sponsored School Based Tobacco Prevention Programs are INEFFECTIVE and may PROMOTE TOBACCO USE among youth.”

Source: https://www.cdc.gov/tobacco/basic_information/e-cigarettes/pdfs/parent-teacher-ecig-508.pdf
Addressing the Problem: Recent Action

**FDA Statement**

Statement from FDA Commissioner Scott Gottlieb, M.D., on new enforcement actions and a Youth Tobacco Prevention Plan to stop youth use of, and access to, JUUL and other e-cigarettes

**For Immediate Release** April 24, 2018

**Statement**

- FDA cites 40 retailers for violations related to youth sales of JUUL e-cigarettes
- Agency announces a new blitz of retail establishments targeting youth sale violations
- Agency takes new action to examine youth appeal of JUUL
- Agency takes steps to foreclose online sales of JUUL to minors
- These are the first steps in a new effort aimed at stopping youth use of e-cigarettes

Protecting our nation's youth from the dangers of tobacco products is among the most important responsibilities of the U.S. Food and Drug Administration — and it's an obligation I take personally. We recognize that it the FDA is to end the tragic cycle of successive generations of nicotine and tobacco addiction, we must take every opportunity to disrupt that process where it starts — youth access to and use of tobacco products.

That's why, as part of our comprehensive plan announced in July, we're pursuing a...

**Warning Letters Issued to Retailers for Selling JUUL to Minors**

These 45 letters were sent Tuesday morning from the FDA Center for Tobacco Products for selling e-cigarettes — specifically JUUL products — to 35 retailers and four large wholesale distributors (FPDP) in April 2018, as part of a concerted effort to remove youth from access to these products.
Truth Initiative Recommends: Five Things The FDA Should Do About JUUL E-Cigarettes

Order the removal of certain JUUL flavors
Order the removal of JUUL look-alikes
Prohibit branded merchandise
Suspend internet sales of JUUL
Reverse the decision to delay e-cigarette regulation

Voluntary Steps by JUUL Are Not a Substitute for Effective FDA Regulation

Statement of Matthew L. Myers, President, Campaign for Tobacco-Free Kids
April 25, 2018
WASHINGTON, D.C. — The voluntary steps announced today by JUUL Labs are not a substitute for effective FDA regulation of JUUL e-cigarettes and all tobacco products. History has shown over and over again that voluntary action by tobacco manufacturers doesn’t work. It is not a substitute for effective government regulation of the manufacturing, marketing, and sale of tobacco products to protect public health and keep kids from using them.

The popularity of JUUL with kids is due in part to how the product was designed and marketed, but it is also a result of the FDA’s failure and delay in enforcing critical regulations. Other manufacturers are already...
Flavors Hook Kids
Campaign from California

Source: California Department of Health https://www.flavorshookkids.org/
Prevention Campaigns from DE and ME

- Don’t Be An E-Cig Guinea Pig

- Vaping Is Not A Safe Alternative To Smoking
ROUGH CUT:
MDH Youth Vape Prevention Campaign

The Vape Experiment
• The Maryland Tobacco Quitline has a confidential, specialized cessation protocol for youth 13-17 years of age.

• Free Resources available to order from www.smokingstopshere.com
Required Corrective Statements

- Tobacco companies must attach corrective statement “onserts” on packs for 12 weeks over 2 years (2 weeks at a time, 3x/year, for 2 years)

- “Onserts” must include information on:
  - Adverse Health Effects of smoking and secondhand smoke
  - Addictiveness
  - Lack of benefit from “low-tar”, “light”, “mild”, “natural”
  - Manipulation of cigarette design and composition

- Must begin implementation by 11/21/18

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Cigarette packs: The tobacco companies must attach the corrective statements as “onserts” on cigarette packs for a total of 12 weeks over two years (two weeks at a time, three times a year, for two years). They have until November 21, 2018 to begin implementing this requirement.
Today’s youth are embracing these new products as their own, developing a new habit that fits the image of this generation ... and addicting themselves to nicotine at potentially higher levels than has been seen in decades.
✓ Long-term effect of new products is unknown
✓ Nicotine is never safe for the developing brain
✓ “Vape” is an AEROSOL, not harmless water vapor
✓ Comparison for youth who have never smoked should not be cigarettes, but clean air
✓ Flavors attract kids, nicotine keeps them