

MEDICAL SOCIETY
of the
STATE OF NEW YORK

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Senior Vice President /
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Division of Governmental Affairs
MEMORANDUM IN SUPPORT

IN SENATE HEALTH COMMITTEE

S.2202-B (HANNON)

ON 3RD READING IN ASSEMBLY

A.5955-B (ROSENTHAL)

AN ACT to amend the public health law, in relation to including electronic cigarettes within provisions regulating smoking in certain public areas and requiring vendors of electronic cigarettes to register

This measure would amend the public health law to include, in the definition of smoking, the use of electronic cigarettes or e-cigarettes. It would thus place the same restrictions on e-cigarettes that are on tobacco products under the New York State Clean Indoor Air Act — a change in policy promoted by the Center for Disease Control and Prevention (CDC) as a means of preserving clean indoor standards and supporting tobacco-free societal norms. **The Medical Society of the State of New York strongly supports this bill.**

Electronic cigarettes, commonly known as e-cigarettes, are electronic devices that deliver highly addictive nicotine to the user. The device heats up liquid nicotine (e-liquid), emitting an aerosol containing nicotine and various chemicals, of which there is very little known. Until May 2016, e-cigarettes were not under the regulatory authority of the FDA and were not subject to tobacco laws since they do not contain tobacco. On May 6, 2016, the FDA issued finalized rules extending their regulatory authority to e-cigarettes and all electronic nicotine delivery systems (ENDS). These new FDA regulations regulate the manufacture, import, packaging, labeling, advertising, promotion, sale and distribution of e-cigarettes. Among the various provisions, e-cigarettes and e-liquid are required to have warning labels, which the FDA advises to read as follows: “WARNING: Contains nicotine, which can be poisonous. Avoid contact with skin and eyes. Do not drink. Keep out of reach of children and pets. In case of accidental contact, seek medical help.” Manufacturers of e-cigarettes and e-liquids are also required to obtain FDA approval to market their products and now must submit a list of ingredients and information on harmful and potentially harmful constituents (HPHCs) to the FDA for consideration for approval.

Prior to these rules and continuing until their implementation, e-cigarette users are placed at undue risk stemming from the lack of information conveyed to the user regarding the chemical makeup of the e-liquid. Furthermore non-user individuals are placed at risk from inhaling the aerosol through second and third-hand exposure. Testing

performed by the FDA in 2009, found that the aerosol created by some e-cigarettes contains dangerous toxins and carcinogens, such as diethylene glycol—an ingredient in antifreeze. Recent studies suggest that e-cigarettes may contain more carcinogens than traditional cigarettes and in some instances ten times the amount of carcinogens. Other such chemicals contained in e-cigarettes and e-liquid include: heavy metals (lead, copper, iron, tin, chromium), acetaldehyde, acrolein (propenal), formaldehyde, toluene (inhalant of “glue sniffing”), propylene-glycol (aircraft de-icing fluid), and xylene (precursor to tear gas).

In 2012, New York State banned the sale and distribution of e-cigarettes to minors under the age of 18. Despite this, the number of middle-school and high-school student e-cigarette users continues to rapidly increase. According to a 2015 NY Times report, from 2013-2014 the number of middle and high school students users more than tripled. The CDC estimates that in 2014, nearly 2.5 million middle and high school students were past-30 day e-cigarette users. And according to the FDA, in 2015 the number of middle and high school users totaled more than 3 million students.

Following recent FDA rulemaking and longstanding CDC policy guidelines, local governments across the county are in the process of amending their clean indoor air policies to address e-cigarettes—a change many local governments, including New York City, have already implemented. The Medical Society’s physician members have unanimously voted on internal policy to urge the New York State legislature to mandate that the use of e-cigarettes be done in accordance with New York State’s Clean Indoor Air Act.

For the above reasons, **The Medical Society of the State of New York strongly supports this bill and urges that it be passed.**

Respectfully submitted,

ELIZABETH DEARS KENT, ESQ

5/24/16
JPM - Support