

Canterbury

District Health Board

Te Poari Hauora o Waitaha

Submission on Smokefree Environments and Regulated Products (Vaping) Amendment Bill

To: Health Select Committee

Submitter: Canterbury District Health Board

Attn: Kirsty Peel
Community and Public Health
C/- Canterbury District Health Board
PO Box 1475
Christchurch 8140

Proposal: The Health Select Committee is consulting on the Smokefree Environments and Regulated Products (Vaping) Amendment Bill. This bill amends the Smoke-free Environments Act 1990 to bring the provisions of the Act up to date and to ensure that all regulated products (tobacco smoking products, herbal smoking products, smokeless tobacco products, and vaping products) are adequately covered.

SUBMISSION ON THE SMOKEFREE ENVIRONMENTS AND REGULATED PRODUCTS (VAPING) AMENDMENT BILL

Details of submitter

1. Canterbury District Health Board (CDHB).
2. The Ministry of Health requires the submitter to reduce potential health risks by such means as submissions to ensure the public health significance of potential adverse effects are adequately considered during policy development.

General comments

3. We welcome the opportunity to comment on the Smokefree Environments and Regulated Products (Vaping) Amendment Bill. We are, however, disappointed at the very short consultation timeframe, as this, alongside COVID-19 priorities has impacted on our local plan for consultation and collaboration across the DHB, particularly in relation to parts 4 and 5.
4. The Canterbury DHB agrees with the overall intent of the proposed Bill, which will enable access to vape products for current smokers wanting to quit, while restricting access for young people and non-smokers.
5. The Canterbury DHB accepts that vaping is safer than smoking¹, but there is strong evidence that it is not entirely safe². In addition, the health impacts of long term vaping are unknown. The Canterbury DHB is also concerned about the large number of young people with vaping induced lung injury. For these reasons, we believe a cautionary approach to vaping products is necessary.
6. The Canterbury DHB wants to ensure that we do not see one addiction (smoking) replaced with another (vaping). However, we acknowledge that our cautionary approach may result in a more harmful product (tobacco) being more accessible than a less harmful product (vaping).
7. Whilst taking a precautionary approach to vaping, it is also important to not lose sight of the goal to make Canterbury smokefree for all people. Smoking rates amongst Maori are still disproportionately high within nationally and within

¹ Abrams et al., (2018). Harm Minimization and Tobacco Control: Reframing Societal Views of Nicotine Use to Rapidly Save Lives. Annual Review of Public Health. Vol. 39:193-213

² The US National Academies of Sciences, Engineering, and Medicine. (2018). Public Health Consequences of E-Cigarettes. Washington, DC: The National Academies Press. <https://doi.org/10.17226/24952>

Canterbury³. From an equity perspective, the Canterbury DHB would like to see tobacco products be at least as strongly regulated as vaping products. This issue appears to sit outside the scope of this Bill, therefore we will not be addressing tobacco supply further in this submission.

8. The Canterbury DHB understands that vape products can play a role in supporting smokers to quit⁴. However, the desired outcome for current smokers is a smokefree vape-free future. We believe the use of the word 'switch' (which is found throughout the explanatory notes and in Section 24(i)) is unhelpful in describing our ultimate desired outcome, as it implies that long-term vaping is an acceptable outcome. We do not agree that switching smokers to become vapers is an acceptable outcome.
9. The Canterbury DHB supports the provisions in the Bill for approved specialist vape retailers.
10. However, the Canterbury DHB strongly disagrees that vaping devices and products should be available in generic retailers such as dairies, supermarkets and petrol stations, as this would represent a risk for uptake by young people.
11. The Canterbury DHB does however see a place for the sale of vaping products within a regulated environment, such as a pharmacy, where quality information can be provided, and there are existing links with the local stop smoking services, which can provide specialist support for the quit attempt.
12. If the Health Select Committee decides to allow generic retail sales of vaping products, the Canterbury DHB recommends that these should be limited to vaping consumable products (e.g. vaping liquids) only and not the devices. This will enable easy access to consumables for smokers wanting to quit, but will prevent spontaneous sales of devices to non-smokers.
13. The evidence suggests that transitioning from smoking to vaping can be unsatisfying or difficult to master^{5 6} therefore specialist expert advice and support

³ <https://www.canterburywellbeing.org.nz/our-wellbeing/health/smoking-adults/>

⁴ Hajek, P., Phillips-Waller, A., Przulj, D., Pesola, F., Myers Smith, K., Bisal, N., Li, J., Parrott, S., Sasieni, P., Dawkins, L., Ross, L., Goniewicz, M., Wu, Q. and McRobbie, H. (2019). A Randomized Trial of E-Cigarettes versus Nicotine-Replacement Therapy. *The New England Journal of medicine*. 380, 629-637. DOI: 10.1056/NEJMoa1808779

⁵ Hoek, J., Thrul, J., & Ling, P. (2017). Qualitative analysis of young adult ENDS users' expectations and experiences. *BMJ open*, 7(3), e014990.

⁶ Robertson, L., Hoek, J., Blank, M. L., Richards, R., Ling, P., & Popova, L. (2019). Dual use of electronic nicotine delivery systems (ENDS) and smoked tobacco: a qualitative analysis. *Tobacco control*, 28(1), 13-19.

would be beneficial to set someone up for a successful quit attempt. Limiting availability of all vaping products to specialist vape retailers and pharmacies only will help ensure quality information about the use of these products is provided to support people who are wanting to quit smoking. The Canterbury DHB recommends staff serving customers attend mandatory staff training to support customers to utilise vaping for harm reduction or smoking cessation.

14. The Canterbury DHB also recommends that specialist vape retailers and pharmacies facilitate access to stop smoking services so that people receive behavioural support in their quit attempt.
15. In order for this legislation to effectively address inequities and to honour the principles of the Treaty of Waitangi, it will be essential to engage with Māori as part of the Select Committee stage of consultation.
16. The Canterbury DHB recommends that the regulatory framework should include requirements for environmental sustainability for regulated products (e.g. the recycling or disposal of devices and related consumables, banning the use of filters).

Specific comments

Part 1 – Amendments to Smokefree areas

17. The Canterbury DHB agrees with the stated purpose/intent that vaping is included as part of current legislated smokefree environments, to prevent normalisation of smoking and vaping and subsequent youth uptake⁷. We also agree with the proposed application process for Director General approval for specialist vape retailers.
18. *Clause 11 – employer permission for smoking / vaping in work vehicles.* The Canterbury DHB disagrees that anyone should be able to smoke or vape in a work vehicle, which is an enclosed microenvironment and may expose future users of the vehicle to toxins laid down on surfaces⁸.

⁷ Ball, J., Sim, D., & Edwards, R. (2018). Why has adolescent smoking declined dramatically? Trend analysis using repeat cross-sectional data from New Zealand 2002-2015. *BMJ open*, 8(10), e020320. <https://doi.org/10.1136/bmjopen-2017-020320>

⁸ Bahl, V., Jacob, P., Havel, C., Schick, S. F., & Talbot, P. 2014. Thirdhand cigarette smoke: Factors affecting exposure and remediation. *PLoS One*, 9(10), e108258.

19. *Clause 12 (3) - Dedicated rooms for smoking and/or vaping in hospitals and residential care facilities.* The Canterbury DHB disagrees that multiple rooms should be made available for smokers / vapers. We recommend that all smoking and vaping should be carried out in the open air of that facility only, to protect all residents and staff from potential harmful effects.
20. *Clause 21 – Exemptions for vaping in approved specialist vape stores.* The Canterbury DHB agrees with this exemption, on condition that Director General approval criteria excludes large numbers of clients / staff vaping at any one time.
21. *Clause 21 – 14A (2)(b) specialist vape retailers at least 85% of total sales from vaping products.* The Canterbury DHB is concerned that this may allow these stores to sell tobacco as part of the 15% of other sales permissible. We recommend tighter regulations to prevent any potential increase in tobacco supply.

Part 2 - Restrictions on advertising, promotion, sale and distribution of regulated products

22. The Canterbury DHB agrees generally with the proposed restrictions over advertising and sponsorship, supply and distribution, inducement and rewards, visibility of products, legal age for sales, and what constitutes health information but has particular concerns about some clauses as outlined below.

Subpart 1 – advertising restrictions

23. The Canterbury DHB agrees with the proposed advertising restrictions.
24. *Clause 24 –* If the Health Select Committee decides to allow generic retailers to sell vaping products, the Canterbury DHB suggests that these retailers should be prohibited from displaying the products. We believe that displaying products constitutes advertising. We recommend that clause 24, (1)(g)(i) be amended to include only specialist vape retailers.

Subpart 3 – Prohibited ways of supply and distribution

25. As outlined in our General Comments above, the Canterbury DHB disagrees with the proposal to allow generic retailers to sell vaping products at all.
26. *Clause 32 – free distribution of regulated product prohibited.* The Canterbury DHB suggests that if specialist vape retailers wish to provide discounts and free products,

these should be available only to those who are vaping to quit smoking. A mechanism to ensure that young people are not enticed into buying reduced price products would be to have Stop Smoking Services distribute the discount vouchers. This would limit access to discounted or free vaping products only to those genuinely wanting to quit smoking, rather than the retailers offering these discounts directly to their customers, which may lead to non-smokers starting vaping.

Subpart 4 – Inducements and rewards prohibited

27. *Clause 34* – The Canterbury DHB considers that if specialist vape retailers wish to provide inducement and rewards, these should be available only to those who are vaping to quit smoking. A mechanism to ensure that young people are not enticed into buying vaping products would be to have Stop Smoking Services be the only source of inducements. This would limit inducements and rewards only being available to those genuinely wanting to quit, rather than the retailers offering these inducements directly to any customers.

Subpart 5 – visibility, displays etc

28. *Clause 36* – As outlined earlier, the Canterbury DHB recommends that only specialist vape retailers should sell vape products. If however, generic retailers are allowed to sell vaping products, we recommend that they be included in existing prohibitions covering all regulated products relating to display, as we believe this constitutes advertising. We recommend that vaping products should only be displayed in specialist vape retailers.

Subpart 6 – health info and warnings POS

29. *Clause 37 and 38* – The Canterbury DHB agrees that evidence based health information and health warnings need to be available at point of sale, including internet sales.

Subpart 7 – Sale to minors

30. *Clause 39* – The Canterbury DHB agrees that no-one under the age of 18 should be able to access any regulated product.

31. *Clause 43* – The Canterbury DHB believes that internet sales need to be regulated more effectively to ensure those under 18 cannot receive regulated products.

Internet retailers need to be severely penalized if delivery to under 18s takes place. We recommend that the fine amount is raised.

Part 3 – Packaging, labelling and constituents

32. The Canterbury DHB agrees with the proposed measures around standardised packaging, quantity limits, health information and warnings for all regulated products.
33. The Canterbury DHB agrees with the more stringent requirements around listing the harmful constituents and additives in smoking products.
34. Evidence suggests that young people are attracted to vaping by flavours⁹. The Canterbury DHB believes that people can successfully use vaping as a cessation tool, without having a wide variety of flavours available. The Canterbury DHB therefore recommends that flavours should be limited to no more than 10 flavours available only through specialist vape retailers or pharmacies. This will reduce the potential for attracting young people to take up vaping. This will also ensure that those using vaping to quit are not encouraged into long term vaping by experimenting with various flavours.

Part 4 – Regulated products that must be notified

35. The Canterbury DHB generally supports the proposed amendments to new Part 4 of the Principal Act to regulate the safety of notifiable products as this will help protect people from the potential harmful effects of vaping.

Conclusion

36. The CDHB **does** wish to be heard in support of this submission.
37. Thank you for the opportunity to submit on the Smokefree Environments and Regulated Products (Vaping) Amendment Bill.

⁹ Merry, S., & Bullen, C. R. (2018). E-cigarette use in New Zealand – a systematic review and narrative synthesis. NZ Med J, 131(1470), 37-50

Person making the submission



Evon Currie

Date: 27/03/2020

General Manager
Community & Public Health
Canterbury District Health Board

Contact details

Kirsty Peel

For and on behalf of
Community and Public Health
C/- Canterbury District Health Board
PO Box 1475
Christchurch 8140

P +64 3 364 1777

F +64 3 379 6488

Kirsty.peel@cdhb.health.nz