

**Submission
No 12**

E-CIGARETTE REGULATION AND COMPLIANCE IN NEW SOUTH WALES

Organisation: The Royal Australian College of General Practitioners (RACGP) NSW and ACT

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31 October 2023

E. Atalla, Committee Chair
Legislative Assembly Committee on Law and Safety
NSW Parliament House
6 Macquarie Street
Sydney NSW 2000

Lodged to submission portal 2994

Dear Mr Atalla,

Re: Inquiry into e-cigarette regulation and compliance in NSW

The Royal Australian College of General Practitioners (RACGP) NSW & ACT Faculty thanks the Legislative Assembly Committee on Law and Safety for the opportunity to provide input to the *Inquiry into E-cigarette regulation and compliance in New South Wales*.

The RACGP is Australia's largest professional general practice organisation, representing over 40,000 members working in or toward a specialty career in general practice, including 4-in-5 rural general practitioners (GPs) who are members of the RACGP. The RACGP sets the standards for general practice, facilitates lifelong learning for GPs, connects the general practice community, and advocates for better health and wellbeing for all Australians.

The RACGP produces evidence-based clinical guidelines and resources relevant to all healthcare professionals who provide support for people wishing to quit smoking. The RACGP guideline, [Supporting smoking cessation: A guide for health professionals](#) (Smoking cessation guidelines)¹, reflects the Therapeutic Goods (Standard for Nicotine Vaping Products) TGO 110 and provides a guideline for the conservative use of nicotine-containing e-cigarette products as a smoking cessation aid. Evidence suggests that the use of Nicotine Vaping Products (NVPs) is more effective in smoking cessation than nicotine replacement therapy and is likely more effective than the use of e-cigarettes without nicotine.⁶

However, NVPs are not registered as therapeutic goods in Australia and therefore their safety, efficacy and quality have not been established.¹ Due to the lack of available evidence, the long-term health effects of NVPs are unknown. The immediate risks of NVPs however are identifiable and include intentional and accidental poisoning; acute nicotine toxicity, injuries, burns and lung injury; and greater long-term exposure to nicotine than the use of other smoking cessation measures. Vapour also contains low doses of some toxic chemicals such as heavy metals, carbonyls, and volatile organic compounds.² Furthermore, there is a lack of uniformity in vaping devices and NVPs, which increases uncertainties associated with their use.¹ There are potential medicolegal risks for prescribers as a result of these uncertainties. The RACGP guidelines highlight advising patients against long-term use of NVPs as crucial in minimising risk of harm associated with use of NVPs.

Although a number of studies exist that suggest the effectiveness of NVPs in smoking cessation, there are currently no evaluated programs looking at the cessation of NVP use. Clinicians are currently recommending a number of interventions to aid NVP cessation, including behavioural intervention; weaning; and replacement using Nicotine Replacement Therapies or other pharmacotherapies, but the effectiveness of these interventions is yet to be evaluated. The lack of evidence to support effective cessation of NVP use poses direct challenge to advice against long-term use of NVPs. From a General Practitioner perspective, use of NVPs appears to be increasing which suggests that existing programmes intended to prevent the uptake and continuing use of NVPs are

ineffective. Furthermore, there appears to be little enforcement of the current NSW regulatory framework thus limiting its effectiveness in reducing the harm caused by the use of e-cigarettes.

The risks associated with NVPs are particularly apparent in young people. Nicotine exposure can cause harm to adolescent brain development and the use of products containing nicotine in any form, including e-cigarettes, among youth, is unsafe.³ Child fatalities have also occurred following the ingestion of liquid nicotine.¹ Despite this risk, e-cigarette products are marketed by promoting flavours and bright colours that appeal to youth and young adults. The nature and appearance of e-cigarette products has the potential to promote nicotine use and re-normalise smoking amongst those who do not smoke, especially young people.¹ A 2016 USA report to the surgeon general concluded that in 2014 e-cigarettes were the most commonly used tobacco products used among youth. In 2014, use of e-cigarettes used by young adults aged 18-24 years of age surpassed that of adults aged 25 years of age and older.³ In terms of Australian data, an NSW Population Health Survey⁴, showed that in 2020-21, the use of e-cigarettes was highest amongst persons aged 16-24 years, for both first ever use and current use. In 2022, a University of Sydney study of more than 700 teenagers found that, among the teens surveyed, 32% had ever vaped and of these, 54% had never previously smoked tobacco containing products.⁵

Illegal supply of nicotine containing e-cigarette products is also widespread which suggests that the current NSW regulatory framework is not effective in preventing illegal supply. The challenge to the enforcement of the regulatory framework is primarily rooted in the confusion of division of responsibility between police and environmental health or other agencies; public education campaigns have focused on the role of police in active enforcement of the NSW regulatory framework, however, much of the challenge to enforcement comes from illegal importation of NVPs, which is a Commonwealth Border Force issue. To be effective, the prevention of illegal importation needs to be enforced via the Commonwealth with parallel and synchronised enforcement then undertaken by police.

The Commonwealth has prepared draft tobacco legislation for approval through Parliament. The most substantive changes in the proposed legislation are to cease personal importation of e-cigarettes and to allow dispensing of e-cigarettes only on prescription, for example via pharmacies.⁷ In NSW the main legislation that applies is the Public Health (Tobacco) Act 2008.⁸ The main policy that applies is the NSW Tobacco Strategy 2012-2021 which guides NSW Government on ways to reduce smoking and harm associated with tobacco use. The 2022 update to the NSW Tobacco Act⁹ incorporates e-cigarettes and their risk to public health. To work more effectively with Federal Government to implement reform on e-cigarette products, further changes that do not appear to be included in the NSW 2022 Tobacco Act would need to be implemented for The Act to align with proposed Commonwealth legislation if this is passed. These changes include:

- Part 2 Division 1 – Tobacco packaging and labelling rules must extend to include health warnings on e-cigarettes. If e-cigarettes are regarded as medication, this would be a requirement.
- Division 2 – Division 2 must clearly incorporate the sale of e-cigarettes in its discussion of retailing tobacco-containing products, including prohibitions and licensing. The question remains over whether pharmacists would require a licence to supply e-cigarettes.
- Division 4 – Division 4 should include the seizure of e-cigarettes where breaches occur.
- Part 6 – Part 6 must include enforcement of e-cigarettes.

Further changes would be required should e-cigarettes be made available on prescription only.



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Thank you again for the opportunity to provide input into the inquiry. For any further information or enquiries please contact the NSW&ACT State Manager, Sarah Spagnardi at [REDACTED]

Yours sincerely

[REDACTED]

Professor Charlotte Hespe
Chair NSW & ACT Faculty



References

1. The Royal Australian College of General Practitioners. Supporting smoking cessation: A guide for health professionals. East Melbourne, Vic: RACGP, 2021. Available at www.racgp.org.au/supporting-smoking-cessation [Accessed 2 October 2023].
2. C, Mendelsohn & C, Beaumont, 'An update on vaping and nicotine prescribing', *Australian Journal of General Practice*, Vol. 51, no. 7, 2022.
3. National Center for Chronic Disease Prevention and Health Promotion (US) Office on Smoking and Health. E-Cigarette Use Among Youth and Young Adults: A Report of the Surgeon General. Atlanta (GA): Centers for Disease Control and Prevention (US), 2016. Available at <https://www.ncbi.nlm.nih.gov/books/NBK538684/>.
4. Chan G, Leung J, Gartner C, Yong HH, Borland R & Hall W. Correlates of electronic cigarette use in the general population and among smokers in Australia - Findings from a nationally representative survey, *Addictive Behaviours* 2019, Vol. 95.
5. C, Watts, S, Egger, A, Dessaix, A, Brooks, E, Jenkinson, P, Grogan & B, Freeman, 'Vaping product access and use among 14-17-year-olds in New South Wales: a cross-sectional study', *Australian and New Zealand Journal of Public Health*, Vol, 46, 2022.
6. J, Hartmann-Boyce, N, Lindson, AR, Butler, H, McRobbie, C, Bullen, R, Begh, A, Theodoulou, C, Notley, NA, Rigotti, T, Turner, TR, Fanshawe & P, Hajek, 'Electronic cigarettes for smoking cessation', *Cochrane Database of Systematic Reviews*, 2022, vol. 11.
7. NSW Tobacco Strategy 2-12-2021
8. Public Health (Tobacco) Act 2008 No 94
9. Public Health (Tobacco) Regulation 2022