



Ottawa Council on
Smoking or Health

Conseil d'Ottawa sur le
tabagisme ou la santé

August 20, 2015

The Honourable Dr. Eric Hoskins, MPP (St. Paul's)
Minister of Health and Long-Term Care

The Honourable Dipika Damerla
Associate Minister of Health and Long-Term Care

Ms. France G elinas, MPP (Nickel Belt)

Ms. Martha Greenberg
Assistant Deputy Minister (Interim)
Ministry of Health and Long-Term Care

Jackie Wood
Acting Director
Strategic Initiatives Branch, Ministry of Health and Long-Term Care

Dear Ministers Hoskins and Damerla, Ms. G elinas, Ms. Greenberg, and Ms. Wood:

**RE: Proposed Regulations Related to the Smoke-Free Ontario Act:
Ontario Regulation 48/06 and Electronic Cigarettes Act, 2015**

The Ottawa Council on Smoking or Health (OCSH) is writing in support of regulations regarding:

- The prohibition on flavoured tobacco sales
- Smoke-free grounds for hospitals and provincial government buildings
- Automatic Prohibition signs
- The prohibition on selling or supplying electronic cigarettes to minors, and
- The prohibition on using electronic cigarettes in certain public places or areas and enclosed workplaces.

We are a local volunteer organization established in 1978. Our goals are to: protect the public from second-hand smoke (SHS); prevent youth from starting to smoke; encourage smokers to quit; and advocate for better smoking cessation resources.

The OCSH submitted a letter to the Ontario Ministry of Health and Long-Term Care (OMHLTC) on February 27, 2014 in support of *Bill 130 (Prohibiting Flavoured Tobacco, New Tobacco Products and Smokeless Tobacco)*, and *Bill 131 (Youth Smoking Prevention Act), Amendments to*

the *Smoke-Free Ontario Act*. See: <http://www.smokefreeottawa.com/whats-new/ocsh-submits-recommendations-on-bill-130-and-bill-131-amendments-to-the-smoke-free-ontario-act>.

We also submitted a letter to the OMHLTC on April 14, 2015 in support of *Bill 45, Making Healthier Choices Act; Schedule 2 (Smoke-Free Ontario Act); and Schedule 3 (Electronic Cigarettes Act, 2014)*. See:

<http://www.smokefreeottawa.com/whats-new/ocsh-letter-in-support-of-ontario-bill-45-amendments-to-the-smoke-free-ontario-act-and-the-electronic-cigarettes-act>.

The OCSH closely followed the political debates regarding these bills. We thank the province of Ontario for amending the *Smoke-Free Ontario Act (SFOA)* by passing Bill 45, and for continuing to adopt stronger tobacco control measures to protect the public.

Please find below our comments and recommendations regarding the proposed regulations:

1. Flavoured Tobacco Sales Prohibition

- The OCSH supports a ban on the sale of flavoured tobacco.
- We **do not support** the exemption for menthol and clove flavouring, flavoured pipe tobacco, and flavoured cigars until January 1, 2017.
- We urge the province to reconsider this timeline and to ban all flavoured tobacco, pipe, and cigar products as of January 1, 2016. Exempting these products for an extra year will only serve to perpetuate youth addiction and to protect the interests of the tobacco industry. The use of flavoured tobacco among Canadian youth already poses a significant public health burden.^{1,2}

2. Smoke-Free Grounds for Hospitals and Provincial Government Buildings

- The OCSH supports 100% smoke-free hospitals, with **no** Designated Smoking Areas (DSAs), and **no** delays in the implementation of this regulation.

“Even occasional and brief exposure to second-hand smoke can cause immediate lung inflammation, acute cardiac events, and damage to blood vessels that can trigger a heart attack, stroke or aneurysm.”³

- **Tobacco use remains the number one cause of disease, disability, and death in Ontario. The government of Ontario must do everything in its power to protect the public from SHS and to promote smoking cessation.**
- There are no legal, scientific, or medical reasons for postponing the implementation of 100% smoke-free hospital grounds for another two years.
- The province of Ontario did not permit Designated Smoking Rooms (DSRs) when it adopted the SFOA **nine years ago** due to the risks posed by SHS and due to the fact that DSRs do not work, do not help smokers to quit, and do not create a level playing field. Why would the province of Ontario permit smoking and SHS exposure on hospital grounds in DSAs for **an additional two years?**
- Given the astronomical costs of health care in Ontario, why would the province of Ontario permit smoking and SHS exposure on hospital grounds? Why would the government waste tax payers' dollars to establish and maintain DSAs when a 100% smoke-free regulation would:
 - Eliminate these cost
 - Reduce health care costs
 - Divert tax payers' money to priority health care programs
 - Protect everyone from SHS
 - Remove cues for all individuals who are trying to quit
 - Support individuals who have already quit and who are trying to stay smoke-free?
- According to the province of Ontario:

"Today, health care consumes 42 cents of every dollar spent on provincial programs. Without a change of course, health spending would eat up 70 per cent of the provincial budget within 12 years, crowding out our ability to pay for many other important priorities."⁴

Why would the province of Ontario delay implementing 100% smoke-free hospital grounds, given that 100% smoke-free spaces are an effective, evidence-based smoking cessation strategy that also saves health care dollars?

- The University of Ottawa Heart Institute developed the *Ottawa Model for Smoking Cessation* **thirteen years ago**.⁵ The *Ottawa Model* is another effective, evidence-based smoking cessation strategy. More than 100 communities and 144 health care organizations have adopted the *Ottawa Model*.⁶ Why hasn't the province of Ontario mandated all hospitals in Ontario to implement the *Ottawa Model*? There is no

justification for hospitals to not offer smoking cessation support to patients, staff, and visitors, and to not provide 100% smoke-free grounds by January 1, 2016.

- The Centre for Addiction and Mental Health (CAMH) offers *Training Enhancement in Applied Cessation Counselling and Health (TEACH)*, “an evidence-based tobacco dependence treatment among Ontario practitioners.”⁷ We urge the province of Ontario to ensure that more hospital employees receiving this training so that they can provide better care for patients with nicotine addiction.
- **Nine years ago**, the province of Ontario adopted the SFOA based on scientific evidence regarding SHS. Therefore, there is no justification for the province of Ontario to allow some of the most vulnerable and the sickest individuals in our community to be exposed to SHS on hospital grounds, and to allow SHS to drift into emergency departments and main entranceways.
- There is no justification for hospital staff, patients, and visitors to **off-gas third-hand smoke** to the most vulnerable and the sickest patients in the hospital (e.g. in palliative care, critical care, surgical care, reverse isolation units, etc...).
- Why would the province of Ontario permit smoking and SHS exposure on hospital grounds for an **additional three years after** making other outdoor workplaces and public places (e.g. patios, parks, sports fields) 100% smoke-free?
- The SFOA should treat hospital administrators like all other work place proprietors in the province (e.g. restaurant and bar proprietors) and require hospital administrators to maintain the 100% smoke-free grounds regulation. For example, the City of Ottawa’s smoke-free bylaw states: “*No proprietor or other person in charge of a public place shall permit smoking where smoking is prohibited under this by-law.*”⁸ Any hospital that fails to maintain the regulation should be subject to substantial fines.
- The province should require all hospitals to post 100% smoke-free signs.
- The province of Ontario has a population of 13.6 million.⁹ Ontario has 155 public, private and specialty psychiatric hospital corporations which operate on 238 sites; 145 public hospital corporations with 224 sites; 6 private hospitals with 6 sites; and 4 specialty psychiatric hospitals with 8 sites.¹⁰ The Ottawa Hospital alone serves 1.2 million residents from Ottawa and Eastern Ontario, has 12,000 employees, 1,250 physicians, and more than 2,000 volunteers.¹¹ These figures serve to illustrate that a substantial number of Ontario residents are exposed to SHS on a daily or a regular basis at Ontario hospitals. The province of Ontario has a legal duty to protect all hospital patients, visitors, workers, and volunteers from SHS without delay.

- At least 10 municipalities in Ontario have already passed **by laws** prohibiting smoking on hospital grounds: Elliot Lake, Mattawa, North Bay, Parry Sound, Peterborough, Sault Ste. Marie, Stratford, Thunder Bay, Timmons, and Woodstock.¹² This level of legal protection should be extended across the province in order to create a level playing field and to provide the same level of protection for all hospital patients, visitors, workers, and volunteers.
- Based on the evidence provided above, we strongly support **making the grounds of all hospitals and all provincial government buildings 100% smoke-free as of January 1, 2016.** This will provide uniform protection for employees and visitors. The City of Ottawa has already made outdoor areas around municipal facilities 100% smoke-free.¹³ We urge the province of Ontario to extend this level of protection across the province.



Cigarette butt litter at The Ottawa Hospital (Civic Campus), April 2015



Cigarette butt litter at The Ottawa Hospital (Civic Campus), April 2015

3. Automatic Prohibition Signs:

- The OCSH supports the proposed rewording on the signs to clarify that “tobacco offences were committed at the place in question, rather than by a particular owner”.
- We support the regulation coming into force on the day it is filed with the Registrar of Regulations.

4. Prohibition on Selling or Supplying Electronic Cigarettes to Minors:

- The OCSH applauds the province of Ontario for proposing a ban on the sale or supply of electronic cigarettes to minors as of January 1, 2016.

5. Prohibition on Using Electronic Cigarettes in Certain Public Places or Areas and Enclosed Workplaces:

- The OCSH strongly supports prohibiting the use of electronic cigarettes in **all enclosed public places and workplaces, as well as certain outdoor public places and workplaces, including:**

- Nine (9) metres from any entrance or exit to a public hospital, private hospital, psychiatric facility, long-term care home, or independent facility. **However, we urge the province to extend the 9 meter regulation to all entranceways of all public places and all workplaces.**
 - Restaurant and bar patios as defined in Ontario Regulation 48/06 made under the *SFOA*, including patios operated by a veterans' organization or legion.
 - An area with a roof and more than two walls to which the public is ordinarily invited or permitted access, either expressly or by implication, whether or not a fee is charged for entry, or that is worked in or frequented by employees during the course of their employment whether or not they are acting in the course of their employment at the time.
 - Children's playgrounds as defined in Ontario Regulation 48/06 made under the *SFOA*, and all public areas within 20 metres of children's playgrounds.
 - Sporting areas as defined in Ontario Regulation 48/06 made under the *SFOA*, spectator areas adjacent to sporting areas, and public areas within 20 metres of sporting areas and adjacent spectator areas;
 - The outdoor grounds of any public hospital, private hospital, or psychiatric facility. **We do not support designated vaping areas for hospitals and we urge the province of Ontario to prohibit them as of January 1, 2016 for the same reasons we do not support designated smoking areas on hospital grounds.**
- We strongly urge the province of Ontario to ban the use of electronic cigarettes in motor vehicles with passengers under the age of 16 for the same reasons that the province banned smoking in motor vehicles as of January 31, 2009.
 - We support signage stating "No Use of Electronic Cigarettes".
 - We strongly support the implementation date of January 1, 2016. This will resolve the numerous complaints that the OCSH has received from the public.

6. Our Recommendations Regarding Gaps in Proposed Regulations:

The OCSH is concerned that the proposed regulations do not address the top four complaints that the OCSH continually receives from the public:

1. SHS exposure in multi-unit dwellings (MUDs) and public housing:

- This is the number one complaint that we receive via our website (<http://www.smokefreeottawa.com/multi-unit-dwellings.html>). Many complaints are from seniors with chronic health conditions and families with young, asthmatic children. They, and other vulnerable individuals, such as pregnant mothers, have no answers on how they are supposed to maintain their

health and are extremely frustrated by the lack of legal protection. In some cases, landlords are unsympathetic and will not take any action to remedy this dire health and legal problem. In other cases, landlords have difficulty enforcing their smoke-free policies, even when the rental lease specifies that units are designated smoke-free. The OCSH also receives complaints about SHS drifting into units from balconies, patios, and other outdoor MUDs property. Due to the lack of legislative protection, some tenants will seek emergency shelter or “couch surf”, and many are forced to move out of their home. Furthermore, third-hand smoke poses a significant health risk and causes property damage. One study found that chronic exposure to the poisonous chemical constituents of third-hand smoke can damage DNA and potentially cause cancer.^{14, 15} Smoke-free legislation would also reduce the risk of fires, loss of property, and personal injury. Cigarettes, cigars, and pipes constitute the fourth top ignition source of fires in Ontario.¹⁶ In 2013, cigarettes caused 463 structural fires, 401 residential fires, and 59 fire injuries.¹⁷

- Individuals living in Ottawa Community Housing (OCH) continue to contact us about exposure to SHS in their units, even though OCH implemented a smoke-free policy for new rental units beginning May 31, 2013. We understand that it will take approximately **ten years** for all OCH units to become 100% smoke-free. This is unacceptable given the high number of vulnerable seniors, children, and individuals with chronic health conditions who live in OCH and who are involuntarily exposed to SHS daily.
- As community volunteers, we try our best to provide advice and support to tenants living in MUDs and to residents living in OCH who have complained to their landlords and who are seeking protection, to no avail. **The only solution to this pervasive public health and legal problem is a provincial law making all MUDs and public housing 100% smoke-free, with no grandfather clause.** The province must institute a legal recourse to protect individuals who are exposed to SHS in their unit either because the landlord has not written a smoke-free policy in the lease, or because the landlord has difficulty enforcing the smoke-free policy in the lease. Landlords have the legal right to declare their MUDs smoke-free, but in some cases, their hands are tied when tenants refuse to comply, and landlords have difficulty terminating their lease.
- Shared air is the same, regardless if it is in a government office, in a restaurant, in a classroom, or in an apartment unit. Individuals living in residential care facilities have legal protection from SHS.¹⁸ We urge the province of Ontario to extend this legal protection to all Ontario residents living in MUDs. The province has a legal duty to protect the most vulnerable citizens from involuntary exposure to SHS.

- A 2011 survey found that 80% of Ontario residents living in MUDs want to live in smoke-free housing.¹⁹ We urge the province of Ontario to amend the *Condominium Act* as follows:
 - Explicitly note that no-smoking provisions/bylaws are legal, non-discriminatory and enforceable.
 - Developers can declare new buildings 100% smoke-free from the outset.
 - A condominium corporation should be legally required to disclose to all potential buyers and renters whether it has a no-smoking policy or bylaw.
 - Declare second-hand smoke as a nuisance.
- We also urge the province of Ontario to prohibit the smoking of marijuana, electronic cigarettes, and other tobacco/herbal products (e.g. herbal cigarettes, water pipes) in all MUDs.

2. SHS exposure at building entranceways:

- For many years, members of the public have asked the OCSH to advocate for a 9 meter smoke-free zone around all entranceways to public places and work places. Outdoor SHS from just one cigarette is detectable at 9 meters.²⁰ This is a particular health risk to vulnerable populations (e.g. individuals with respiratory and cardiac diseases and young children). We urge the province to resolve this ongoing public health problem as of January 1, 2016.

3. SHS exposure along the Sparks Street Mall (Ottawa's outdoor pedestrian mall):

- The OCSH has advocated for a 100% smoke-free regulation for Ottawa's Sparks Street Mall for the past three years. Mall merchants, mall employees, and members of the public have continually complained about the high levels of exposure to SHS. The City of Ottawa has stated that it cannot regulate the Sparks Street Mall because it is a part of the roadway and falls under the jurisdiction of the *Ontario Highway Traffic Act*. We request that the province of Ontario amend the *Ontario Highway Traffic Act* to make all pedestrian malls, outdoor plazas, public squares, outdoor shopping areas, and street fairs 100% smoke-free. Our website includes a list of more than a dozen jurisdictions around the world that have 100% smoke-free pedestrian malls:
<http://www.smokefreeottawa.com/sparks-street-mall.html>.

4. SHS exposure and cigarette butt litter on city sidewalks:

- The OCSH also receives many complaints about exposure to SHS on downtown sidewalks. Individuals can be exposed to high levels of particulate matter while walking on sidewalks.²¹ A 2011 study found that 53% of Ontario residents support smoke-free sidewalks.²²

7. Additional Gaps in the Proposed Regulations:

We are also concerned that the province of Ontario has not made any efforts to:

- 1. Address the increased use of water pipes among Ontario youth.** While cigarette use among Canadian youth is declining, **25% of Canadian high school seniors have tried water pipes²³ and more than 78,200 youth are current water pipe users.²⁴**
- 2. Prohibit the use of water pipes in all indoor and all outdoor public places and workplaces.** Recent scientific studies conducted in Alberta^{25,26} and in Ontario²⁷, and a summary of scientific evidence compiled by the Non-Smokers' Rights Association²⁸ reinforce the serious health risks posed by the use of water pipes and by the toxic SHS from water pipes.

We draw your attention to these recent legal developments across Canada regarding the prohibition of water pipe smoking in public places and work places where cigarette smoking is prohibited:

- Several municipalities in Ontario have banned the use of water pipes either inside or outside public places and work places.²⁹
- On June 19, 2015, the Supreme Court of British Columbia upheld Vancouver's bylaw prohibiting the use of water pipes in all public places and work places where smoking is prohibited.³⁰
- Nova Scotia adopted a provincial law, effective May 31, 2015.³¹
- New Brunswick adopted a provincial law, effective July 1, 2015.³²
- Prince Edward Island passed legislation, which is awaiting proclamation.³³
- Alberta passed legislation, which is awaiting proclamation.³⁴
- The City of Toronto is considering adopting a bylaw.³⁵

Unfortunately, the province of Ontario has fallen far behind other Canadian jurisdictions on this public health issue, resulting in more youth becoming addicted. **We strongly urge the province of Ontario to ban the use of both tobacco and herbal water pipes in all indoor and in all outdoor public places and work places as of January 1, 2016.**

- 3. Address the high rate of smoking among workers in the construction industry and protect workers from SHS.** A shocking 34%³⁶ of construction industry workers smoke. In comparison, 18% of Canadians smoke.³⁷ The province of Ontario should expand the city of Ottawa's best practice smoking cessation project for construction workers^{38,39} to all construction industry workers in Ontario. One scientific study found that:

"...all construction occupations...have a significantly elevated risk for all lung cancer combined...and for each lung cancer histologic subtype examined. Construction workers were diagnosed at an earlier age, at a more advanced stage...These findings justify additional reductions in carcinogenic exposures in

construction, and increased support for smoking cessation programs at construction sites.”⁴⁰

We urge the province of Ontario to extend the smoke-free work place bylaw to all construction sites to protect all workers in this industry, and to work with the construction industry to deliver smoking cessation support in order to reduce morbidity and mortality rates.

8. Conclusion:

The OCSH thanks the OMHLTC for considering our comments and recommendations. The proposed regulations are long overdue. They are vital in protecting Ontario youth from the predatory tactics of the tobacco industry and, more recently, electronic cigarette companies (some of which are now owned by Big Tobacco). The proposed regulations will also protect the public from the growing list of health risks associated with electronic cigarette vapor.⁴¹

We anticipate that the proposed regulations prohibiting the use of electronic cigarettes in public places and work places, and prohibiting smoking on hospital grounds will finally resolve at least some of the ongoing complaints that we have received from the public over the past several years.

We strongly encourage the province of Ontario to go further and to adopt stricter tobacco control regulations to resolve the ongoing public complaints about SHS exposure in MUDs and at building entranceways and pedestrian malls; to address water pipe use among youth; to ban the use of water pipes inside and outside public places and work places; and to address smoking and SHS exposure in the construction industry. It's time for the province to address these outstanding tobacco control issues, which have caused significant and deleterious effects on the public's health, safety, and quality of life.

Respectfully submitted,

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