



Connecticut Department of Public Health

Testimony Presented Before the Public Health Committee

March 6, 2020

**Commissioner Renée D. Coleman-Mitchell, M.P.H.
860-509-7101**

House Bill 5020, An Act Implementing the Governor's Budget Recommendations Regarding Public Health

The Department of Public Health (DPH) strongly supports and provides the following information regarding House Bill 5020, which will help to reduce youth initiation of tobacco use in Connecticut, require licensure of the Albert J. Solnit Children's Center (Solnit Center), and enhance rights of residential care home (RCH) clients experiencing involuntary transfer or discharge. The Department would like to thank the Public Health Committee for the opportunity to discuss components of the Governor's Public Health Budget Implementer.

Sales of Flavored Vaping Products

Prohibiting the sale of flavored electronic nicotine delivery systems (ENDS) and vapor products will help to reduce youth initiation and continued use of these products. In the first week of February 2020, the Food and Drug Administration banned flavored ENDS cartridges and pods from the marketplace. However, this ban does not include e-liquids. This has led to both confusion and an opening for other avenues for new products to target youth.

There is a general perception that flavored ENDS and vapor products are less harmful than products with tobacco flavors,² but the long-term consequences of vaping flavored e-liquids are not yet fully known. Although flavorings have been tested as safe for *ingestion*, they have not been fully tested for *inhalation* safety⁴. Studies are showing that some flavors contain chemicals known to irritate the respiratory system.^{5,6}

All flavors should be removed from all vaping products in order to prevent more youth initiation of e-cigarette use. Although the Department has heard that adults who are trying to stop using cigarettes may gravitate towards using flavored ENDS products, our 2019 data show that only 5% of adults report use of these products as compared with over 20% of our youth.

Limitation on Nicotine Content

The Governor also proposes a prohibition on the sale of any ENDS or vapor product having a nicotine content greater than 35 milligrams per milliliter (mg/ml). Although most e-liquids on

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the market previously contained 36 mg/ml or less of nicotine, with the introduction of Juuls to the market in 2015 and the creation of nicotine salts, ENDS manufacturers found a way to make their products more appealing with ever-increasing levels of nicotine. As a result, Connecticut youth are using certain products that are five times more potent than cigarettes. We know that adolescent brains are particularly vulnerable to nicotine and nicotine addiction⁸, and that many young people are not aware that most ENDS contain nicotine.⁹ Youth can become addicted after just a few “hits.” A nicotine addiction is very hard to break, and there is a shortage of evidence-based tobacco use cessation programs for adolescents and teens.

Increased Penalties for Sales Violations

Last year the General Assembly enacted PA 19-13, which increased the legal age for purchasing tobacco products to 21 years. This policy will reduce the likelihood of youth becoming addicted to tobacco products. The Governor proposes to double the financial penalties imposed upon employees and business entities found to be in violation of this sales prohibition and establish equivalent penalties for businesses found to be selling flavored ENDS or vapor products or similar products having a nicotine content greater than 35 mg/ml. This will protect additional Connecticut youth by reaffirming for retailers that compliance is imperative.

Licensure of the Albert J. Solnit Children’s Center (Solnit Center)

The Solnit Center is a state-administered children’s psychiatric facility operated by the Department of Children and Families (DCF). “Solnit South,” in Middletown, consists of four co-ed hospital units and three female adolescent psychiatric residential treatment facility (PRTF) units. “Solnit North,” in East Windsor, provides PRTF services to adolescent males.

Special Act 19-16, An Act Concerning the Licensure of the Albert J. Solnit Children’s Center, directed the Commissioner of Children and Families to submit a report recommending a process for DPH to license the Solnit Center’s north and south campuses. Recommendations of a working group comprised of representatives from DCF, DPH, the Department of Social Services, the Office of the Child Advocate, Beacon Health Options, and two privately-operated adolescent psychiatric treatment facilities were submitted to the Children’s Committee earlier this year. The working group’s recommendations are reflected in Sections 8 through 10 of this bill. Enactment will lead to DPH licensure of the PRTFs at both the north and south campuses and the hospital at the south campus.

The hospital and PRTF units at the Solnit Center are each certified through the Centers for Medicare and Medicaid Services (CMS). However, they are currently exempt from licensing by DPH pursuant to Section 19a-490 of the general statutes. Removing this exemption will provide greater oversight of the two campuses to ensure quality of care.

DPH, through a contractual arrangement with CMS, is the designated State Survey Agency that participates in the Medicare and Medicaid survey and certification process. A survey must be conducted by DPH in order for a facility to become certified by CMS. DPH surveys activities in various health care facilities to ensure compliance with federal conditions of participation, meaning those health and safety standards that an organization must meet in order to participate in the Medicare and Medicaid programs. These conditions are the foundation for improving quality and protecting the health and safety of residents.

Surveys are conducted at PRTF's, on average, every four to five years and upon receipt of significant complaints or reports of serious incidents. However, unlike other certified health care entities for which a comprehensive review of care and services is conducted and multiple conditions of participation are reviewed, certification activities for a PRTF are limited to reviewing one condition of participation - restraint and seclusion. This presents many challenges, particularly when reviewing care and services for a very complex patient population. Implementing state licensure of the Solnit Center will enable DPH staff to review a broader range of health and safety conditions in the PRTF units.

The Governor's proposed midterm budget provides DPH with funding to support one additional Nurse Consultant needed to conduct licensure and complaint investigation activities.

Residential Care Home Discharge Process

The Department also supports Section 12 of this bill, which will allow a residential care home (RCH) to qualify as a home and community-based setting. Over 260 individuals currently reside in RCHs and receive services under the Connecticut Home Care Program for Elders waiver. It is imperative that the State ensure that RCHs can be considered a home and community-based setting under federal regulations to ensure that these residents will not have to move to another setting to retain their home and community-based services.

Pursuant to 42 CFR 441.301, residents living in home and community-based settings must have comparable protections regarding an involuntary discharge to those provided to tenants under the state's landlord tenant law. Section 12 contains provisions enhancing the appeal rights of RCH residents who are notified of a pending transfer or discharge. The Governor's midterm budget adjustments support an additional half-time Staff Attorney to accommodate the proposed enhancements.

DPH has been collaborating with the Department of Social Services, the Office of Policy and Management, the State Long Term Care Ombudsman and representatives of the RCHs to revise the current language in the bill to address concerns raised. The agencies will be providing the Public Health Committee with substitute language for their consideration in the near future.

Thank you for your consideration of this information.

²Tobacco Control, "Adolescents' Interest in Trying Flavoured e-Cigarettes". 2016.

³Ambrose, etal, Journal of the American Medical Association: "Flavored Tobacco Product Use Among US Youth Aged 12-17 Years, 2013-2014" 2015.

⁴Department of Health and Human Services, Centers for Disease Control and Prevention "E-Cigarette Use Among Youth and Young Adults: A Report of the Surgeon General" 2016

⁵Park, etal; (*Harvard T.H. Chan School of Public Health*), Scientific Reports; "Transcriptomic response of primary human airway epithelial cells to flavoring chemicals in electronic cigarettes." February 1, 2019.

⁶Tierney, etal; BMJ Journal of Tobacco Control, "Flavour chemicals in electronic cigarette fluids", 2016.

⁷Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, "VitalSigns: Tobacco Use by Youth is Rising; E-Cigarettes are the main reason", February 2019. Available at www.cdc.gov/vitalsigns/youth-tobacco-use

⁸Yuan, etal, The Journal of Physiology: Neuroscience, *Nicotine and the Adolescent Brain*, 2015. Accessible via <http://onlinelibrary.wiley.com/doi/10.1113/JP270492/epdf>.

⁹Jeffrey Willett, etal; BMJ Journal of Tobacco Control "Recognition, use and perceptions of JUUL among youth and young adults" April 2018; Accessible via <http://dx.doi.org/10.1136/tobaccocontrol-2018-054>

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