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TO: Board of Health for the City of Ottawa Health Unit

DESTINATAIRE : Conseil de santé de la circonscription sanitaire de la ville d'Ottawa

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FILE NUMBER: ACS#2014-OPH-HPDP-0001-IPD

SUBJECT: **MAKING HEALTHIER CHOICES ACT, 2014**

OBJET : **LA LOI DE 2014 POUR DES CHOIX PLUS SAINS**

PURPOSE

To inform the Board of Health of the new legislative measures introduced by the Ontario government that aim to help families make healthier lifestyle choices by increasing tobacco control measures and requiring menu labeling at large chain food service premises.

BACKGROUND

On November 24, 2014, the Ontario government introduced new legislation, the *Making Healthier Choices Act, 2014*. This proposed legislation aims to help Ontario residents in making healthier food choices, to protect Ontario residents from the harmful effects of tobacco use, and to take a precautionary approach towards e-cigarettes.

In regards to tobacco controls and e-cigarettes, the proposed legislation includes:

- Banning the sale and supply of e-cigarettes to anyone under the age of 19;
- Prohibiting the use of e-cigarettes in certain places where the smoking of tobacco is prohibited;
- Banning the sale of e-cigarettes in certain places where the sale of tobacco is prohibited;
- Prohibiting the display and promotion of e-cigarettes in places where e-cigarettes or tobacco products are sold, or offered for sale;
- Banning the sale of flavoured tobacco products, with delayed implementation date for menthol-flavoured tobacco products;
- Increasing maximum fines for those who sell tobacco to youth, making Ontario's maximum fines the highest in Canada; and
- Strengthening enforcement to allow for testing of substances used in water pipes (e.g. hookahs, shisha) in indoor public places.

In regards to menu labeling, the proposed legislation includes:

- Requiring calories for standard food and beverage items, including alcohol, to be posted on menus and menu boards in restaurants, convenience stores, grocery stores and other food service premises with 20 or more locations in Ontario;
- Requiring food service operators to post contextual information that would help to educate patrons about their daily caloric requirements; and
- Authorizing public health inspectors to enforce menu labelling requirements.

Should this legislation pass, it is anticipated that some, but not all of the above changes will come into force as early as January 2016.

DISCUSSION

Ottawa Public Health (OPH) welcomes the proposed *Making Healthier Choices Act, 2014*. The wide ranging and broad spectrum of changes align well with OPH's current priorities, the Ottawa Board of Health's [Healthy Eating, Active Living Strategy](#) and the [Let's Clear the Air Strategy](#).

Taking the Next Steps for a Smoke-Free Ontario

These new measures speak to a number of areas that the Board of Health has addressed over the past four years, including emerging concerns about e-cigarettes, challenges with enforcement in water-pipe establishments and issues of flavoured tobacco products and youth initiation.

With respect to e-cigarettes, the proposed changes reflect the government's response to feedback from health units, including the Board of Health for the City of Ottawa. For example in May 2014, the Ottawa Board of Health requested that the Ontario Ministry of Health and Long-Term Care (MOHLTC) and the Ministry of Education prohibit the use of e-cigarettes on all school property. Also in May 2014, OPH supported a resolution put forth by the Association of Local Public Health Agencies (alPHA) to request Health Canada, MOHLTC and its stakeholders to provide for the public health, safety, and welfare of all Ontario residents by ensuring manufacturing consistency of e-cigarettes; conducting research on the long-term health effects of e-cigarettes and exposure to second-hand vapour; and regulating the promotion, sale and use of e-cigarettes in Ontario.

The proposed changes also reflect progress that OPH has made, with partners, in the area of water pipes and flavoured tobacco. OPH worked with City partners to explore expansion of Ottawa's smoke-free regulations to prohibit the use of water-pipes to eliminate enforcement complexities and protect Ottawa residents and workers from the harmful effects of second-hand smoke in enclosed public places and outdoor patios. With feedback from the public regarding water-pipe use in Ottawa, City Council adopted an amendment to the Parks and Facilities By-law in June 2012 to ban water-pipe use on all municipal properties such as parks, playgrounds and beaches. To date, no complaints have been received, and no charges have been issued.

In the area of flavoured tobacco, OPH contributes a youth-led campaign titled “Freeze the Industry” to raise awareness about tobacco industry tactics and advocate for a ban on flavoured tobacco products in Canada. The campaign has collected nearly 3,000 signatures in Ottawa in support of a ban on flavoured tobacco products. In line with OPH’s work, the federal government, in September 2014, announced new proposed regulatory amendments that would further restrict flavoured tobacco products that appeal to youth.

Finally, the *Making Healthier Choices Act, 2014* builds on amendments to the regulations under the *Smoke-Free Ontario Act*, that were announced by the Ministry of Health and Long-Term Care in early November of 2014. The amendments, which come into effect on January 1, 2015, expand smoke-free spaces where children and youth are and further restrict tobacco sales where young adults are present.

Moving Forward On Menu Labeling

The proposed menu labelling supports Ontario’s [No Time to Wait: Healthy Kids Strategy](#), the Board of Health’s advocacy efforts and the direction of OPH programming.

In 2012, the Board of Health’s [Healthy Eating, Active Living Strategy](#) report recommended piloting posting of calories and sodium counts in food premises. The Chair of the Board also wrote a letter to the Ontario Minister of Health and Long-Term Care recommending the development and promotion of menu labeling policies.

The prominent display of calorie content of food items at the point of sale in Ontario restaurants aligns with OPH’s preliminary work to advance healthy food environments in food premises. As part of this work, in 2013 and 2014, OPH developed communication products to raise awareness of menu labelling and provide high level caloric literacy.

OPH also conducted community consultations to assess support for menu labelling. Eighty per cent of Ottawa residents surveyed support calorie and sodium labeling. Seventy-five per cent of restaurant operators surveyed felt responsible for providing information to customers to help them make healthier choices and 45 per cent are interested in working with OPH to implement menu labeling. OPH is currently working with five restaurants (44 locations) in a Voluntary Menu Labelling pilot project. Through

this experience, OPH has learned about some of the opportunities and challenges that will emerge as part of this legislation.

Local Implications for Implementation

As with any legislated change, there are numerous considerations in how the regulations will be implemented. Major communications efforts will be required to ensure stakeholders, such as tobacco retailers, schools, and restaurant operators, are aware of their responsibilities; and inform the public of their rights and responsibilities.

As well, there are significant enforcement implications. In Ottawa, the City's By-law and Regulatory Services enforce the *Smoke-Free Ontario Act* and municipal by-laws. There will be a need to enforce both the new electronic cigarettes legislation as well as the amended provisions of the *Smoke Free Ontario Act*.

Meeting the current Public Health Funding Accountability Agreement (PHFAA) targets is also challenging considering constrained public health inspection resources. Short-term remedial actions, such as overtime and temporary staff reallocations, are being reviewed to meet existing 2014 PHFAA inspection targets. As it is anticipated that the Ministry of Health and Long Term Care will appoint public health inspectors to enforce menu labelling, this requirement could be an additional burden. In addition, tools and mechanisms for enforcing menu labelling would be required.

Staffing, training and reporting could have significant budgetary and operation implications should the legislation be passed.

CONCLUSION

OPH supports these proposed measures to further protect youth from the dangers of tobacco use and the potential harms of electronic cigarettes, and to create supportive food environments which empower Ottawa residents to make healthier food choices. This proposed legislation also complements OPH's current strategic priorities and multi-year strategies. Should the legislation pass, OPH will continue to communicate with the Board regarding the implications of implementing and enforcing the new measures.

‘Original signed by’

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