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17th Surgeon General of the United States (2002-2006)

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Members of Senate Standing Committee on Health:

It was suggested that I reach out to you specifically regarding my concerns about the state of New York taking the New York City smoking ban statewide. I think doing so may hamper, rather than aid public health efforts by impeding the chance for harm reduction with electronic cigarettes.

As a native New Yorker having been honored to be able to serve as the nation's 17th U.S. Surgeon General, I understand the complexity and multifaceted aspects of electronic cigarettes that have generated much discussion and divided the scientific community. In addition, I know we share the same goals of eradicating tobacco use and enhancing cessation opportunities. , Therefore, I'm writing to ask you to delay the inclusion of electronic cigarettes in New York's Smoke Free Air Act. I am extremely concerned, as set forth below, that such legal action, if successful, may do tremendous harm to what may be the most promising weapon yet in the fight against tobacco-related illness and death in the last several decades.

While we recently celebrated the 50th anniversary of the first Surgeon General's Report linking smoking and cancer, the plague of tobacco-caused death and disability still persists, killing nearly half a million Americans per year, while disabling millions more with preventable chronic diseases at a cost of hundreds of billions of dollars annually.

During my tenure as Surgeon General, my colleagues and I published reports detailing the preventable harm done by tobacco, spoke frequently to the public and to Congress about the catastrophic health damage caused by tobacco, and even participated as an expert witness in the federal government's case against the tobacco industry. I am particularly proud of my authorship of the 2006 Surgeon General's report on secondhand smoke, in which I wrote: "The debate is over. The science is clear: secondhand smoke is not a mere annoyance, but a serious health hazard that causes premature death and disease in children and non-smoking adults."

Yet despite my actions and those of my predecessors like Surgeon General C. Everett Koop, high cigarette taxes, Food and Drug Administration (FDA)-approved smoking cessation therapies, and the best educational efforts by public health professionals, nearly 20% of the adult population and one-third of our military service members continue to smoke. The Centers for Disease Control (CDC) reports that adult smokers usually know they are engaged in harmful behavior and 69% would like to reduce or quit smoking. However, each year only 6% of smokers succeed in quitting, and new smokers replace those who successfully quit. The history and data suggest that we need more viable alternatives in this fight against tobacco. If we continue to limit ourselves only to the tobacco control efforts we've utilized in the past, we'll continue to see almost half a million Americans die prematurely every year from smoking-related disease.

I believe that one such alternative is the electronic cigarette. Electronic cigarettes do not exist in competition with traditional tobacco control efforts, but they present an opportunity to enhance existing efforts and finally put an end to deadly combustible tobacco cigarettes. Despite their unfortunate name, electronic cigarettes are not actually cigarettes. They contain no tobacco but rather deliver nicotine without all of the toxic, carcinogenic, and other disease-causing products of tobacco combustion. (For example, they produce no carbon monoxide (a particularly lethal constituent of secondhand tobacco

smoke) and produce no sidestream emissions (a source of 85% of secondhand tobacco smoke). It is increasingly recognized that there may be a significant role for electronic cigarettes in tobacco harm reduction strategies, since they provide smokers both with the nicotine they crave and the smoking rituals that they have grown accustomed to. See David Abrams, "*Promise and Peril of e-Cigarettes Can Disruptive Technology Make Cigarettes Obsolete?*" *Journal of the American Medical Association*, Vol. 311:2, 135-136 (2014); Sally Satel, "*How e-cigarettes could save lives*," *The Washington Post*, February 14, 2014. Respected Wall Street analysts have opined that, within a decade, electronic cigarette sales could overtake tobacco sales. I recently joined the board of NJOY, the leading independent (non-tobacco-affiliated) electronic cigarette company, because its ambitions are even higher – to obsolete the tobacco cigarette entirely.

I absolutely recognize the good intentions behind the present effort to include electronic cigarettes in the Smoke Free Air Act. However, I am extremely concerned that a well-intentioned but scientifically unsupported effort like the current proposal could constitute a giant step backward in the effort to defeat tobacco smoking. This regulation, if passed, would disincentivize smokers from switching to electronic cigarettes, since research indicates that many initially switch for reasons of convenience. It would also send the unintended message to smokers that electronic cigarettes are as dangerous as tobacco smoking, with the result that many will simply continue to smoke their current toxic products. Legislative action that would keep smokers smoking would obviously have serious health consequences – and could cost lives. Worse still, it could lead to the adoption of similar ordinances in other states, creating a domino effect that would further magnify the potential public health danger in this scientifically unsupported approach.

I will also observe that the concerns expressed about the possibilities that electronic cigarettes could addict non-smokers, condemning them to a lifetime struggle with nicotine addiction, echo concerns expressed about nicotine gums and patches when these first were introduced to the market decades ago. We have seen clearly, however, that such products did not have that affect. At the same time, while gums and patches have helped a small minority of smokers successfully quit smoking, it is clear to those of us who have been engaged in this battle that we need more impactful solutions to the continuing problem of tobacco smoking, and that is where we see electronic cigarettes playing a central role.

I know that we all share the same vision of a world without tobacco-related illness and disease. I fervently believe that to achieve that goal, we need to distinguish between the problem (tobacco smoking and tobacco secondhand smoke) and one extremely promising solution (electronic cigarettes). I strongly encourage you to resist calls to include electronic cigarettes in New York's smoking ban, which I believe would be a major step backward in the effort to achieve this aim. At a minimum, I'd encourage you to move slowly and prudently and wait for input from the FDA before beginning consideration of such a proposal. As a physician, I approached health problems with the first assurance that my actions would do no harm to the patient. In the case of regulating electronic cigarettes, doing too much to limit familiarity with, and access to these products for adult smokers may actually be more dangerous to public health than moving slowly, prudently and scientifically as the FDA is attempting to do.

Thank you for your consideration and, of course, I would be happy to discuss this issue further with you.

Sincerely,



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