

# JUST THE Facts

A National Business Group on Health<sup>SM</sup> Publication

November 2013

## Electronic Cigarettes in the Workplace



**National  
Business  
Group on  
Health**

Until more is known, employers should treat electronic cigarettes as they do other tobacco products, banning their use in the workplace and updating relevant policies to explicitly include electronic cigarettes.

### **What are electronic cigarettes (e-cigarettes)?**

Electronic cigarettes, more commonly called “e-cigarettes,” are a type of electronic nicotine delivery system (ENDS). E-cigarettes are battery-operated products designed to deliver nicotine, flavor and other chemicals to the user. Using heat, they turn nicotine and other substances into a vapor that is inhaled.<sup>1</sup> The process of using an e-cigarette is known as “vaping” or “e-smoking.”

### **How common are e-cigarettes?**

According to a survey from the Centers for Disease Control and Prevention (CDC), approximately 6% of all adults reported having tried e-cigarettes in 2011, about double the number from 2010.<sup>3</sup> Created in China and first marketed internationally in 2002, e-cigarettes were available in the U.S. starting in 2006.<sup>4</sup> An estimated 250 different e-cigarette brands are for sale in the U.S., with sales doubling every year

**Neither the U.S. Food and Drug Administration nor the World Health Organization considers e-cigarettes as tobacco cessation devices.<sup>2</sup>**

since 2008.<sup>5,6</sup> Unlike other tobacco products, e-cigarettes can be sold to minors in many places, and can also be bought legally online. Analysts estimate e-cigarette sales in the U.S. will reach over \$1 billion in 2013.<sup>7</sup>

## Are e-cigarettes safe?

The safety of ENDS, including e-cigarettes, has not been scientifically demonstrated.<sup>8</sup> There is also no standard definition of an e-cigarette, since different manufacturers use distinctive designs and incorporate a range of ingredients. Because the safety and efficacy of e-cigarettes has not been fully studied, there is currently no way of knowing:

- Whether e-cigarettes are safe for their intended use;
- How much nicotine or other potentially harmful chemicals are being inhaled or exhaled during use;
- Whether secondhand inhalation has any risks; and
- If there are any benefits associated with using these products.<sup>9</sup>

More research is necessary to determine the risks of e-cigarettes, particularly long-term use.

## What is exhaled in the e-cigarette vapor?

In 2009, the Food and Drug Administration (FDA) conducted limited laboratory studies of certain e-cigarette samples. E-cigarette vapor contained a number of potentially toxic compounds, including cadmium, lead and nickel.<sup>10</sup> Most ENDS products also contain large concentrations of propylene glycol, which is a known irritant when inhaled.<sup>11</sup> Furthermore, formaldehyde, acetaldehyde and acrolein (potentially toxic carbonyl compounds) were detected in the vapor of 12 brands of e-cigarettes.<sup>12</sup>

**“We shouldn’t support any new nicotine delivery product—it just won’t change the culture of smoking. If anything, it glorifies it.”**

— *Thomas Novotny, M.D., medical epidemiologist,  
professor and former Assistant Surgeon General*<sup>13</sup>

## **Are e-cigarettes an acceptable tobacco cessation device?**

E-cigarettes and other ENDS devices are often touted as tobacco replacements, smoking alternatives or smoking cessation aids by their manufacturers. Some proponents argue that if sufficient numbers of smokers could transfer their nicotine dependence from cigarettes to e-cigarettes—which deliver a nicotine vapor without the combustion products that are responsible for many of smoking’s damaging effects—millions of lives could be saved.<sup>14</sup> However, according to the World Health Organization (WHO), there is no scientific evidence that ENDS are a suitable replacement for cigarettes or a means to quit smoking.<sup>15</sup> Also, it has been well established that nicotine is addictive, with potential for negative health consequences.<sup>16</sup> The FDA does not consider e-cigarettes as tobacco cessation devices.<sup>17</sup>

## **What are employers doing about e-cigarettes?**

Generally, private employers have a lot of latitude to set reasonable restrictions on employees’ activities in the workplace.<sup>18</sup> Many private employers, including Comcast Corporation, Ingersoll-Rand Company and Johnson & Johnson Health Care Systems Inc., ban the use of tobacco, smoking and e-cigarettes in their workplaces.<sup>19,20,21</sup> The U.S. Air Force bans the use of e-cigarettes in most of its facilities, based on the categorization by the Surgeon General’s office in 2010 of e-cigarettes as “tobacco products.” Airlines that ban the use of e-cigarettes on planes include American Airlines, Inc.; United Airlines, Inc.; Spirit Airlines, Inc.; JetBlue Airways; and Delta Air Lines, Inc.<sup>22</sup>

## **What policies should employers create or revise to address e-cigarettes?**

Employers should revise their tobacco-free workplace policies to include e-cigarettes as a form of tobacco or a method of smoking. An employer that bans the use of e-cigarettes should indicate that smoking in any form—through the use of tobacco products (pipes, cigars and cigarettes) or “vaping” with e-cigarettes—is prohibited.<sup>23</sup>

Furthermore, because e-cigarettes are not FDA-approved tobacco cessation devices, employees using e-cigarettes are still considered smokers.<sup>24</sup> As a result, they may not be eligible for “non-tobacco user” status for health plans with premium differentials for tobacco users and non-tobacco users. In order for employees to be considered non-tobacco users, they must be free of all tobacco products or enrolled in cessation programs with FDA-approved cessation methods and devices.

## **Does the FDA regulate e-cigarettes?**

Currently, e-cigarettes are not subject to pre-market review requirements of the Family Smoking Prevention and Tobacco Control Act.<sup>25</sup> E-cigarettes were ordered to be regulated under the historic Tobacco Control Act of 2009, but the FDA has been slow to respond to the e-cigarette market, and has not yet put any regulation in place. Once the FDA issues proposed regulations, it is likely that it will allow a lengthy public comment period. It could be many months before the FDA issues final, enforceable regulations.<sup>26</sup>

## **What are federal and state government laws regarding e-cigarettes?**

Laws regarding e-cigarettes vary widely, just as they do for smoking regular cigarettes. There is no federal law prohibiting smoking, but many states have enacted laws that make it illegal to smoke in public places in order to reduce exposure to secondhand smoke. All 50 states and the District of Columbia have laws/policies restricting or prohibiting smoking in certain places. Since there are still states that do not have laws prohibiting smoking in the workplace, many employers have instituted their own workplace policies that prohibit smoking.<sup>27</sup> Currently, no states have completely banned e-cigarettes. However, several cities and states have prohibited e-cigarette sales to minors and included them in their indoor smoking bans.

## **What is being done about the use of e-cigarettes by minors?**

According to a national survey by the CDC, one in 10 high school students said they tried an e-cigarette in 2012, up from one in 20 in 2011.<sup>28</sup> In total, 1.8 million middle and high school students said they tried e-cigarettes in 2012. One of the biggest concerns among health officials is the potential for e-cigarettes to become a path to smoking among young people who otherwise would not have experimented.<sup>29</sup> The smoking age is 18 in most of the country, but some states have made it 19. New York City passed legislation changing the legal age for purchasing cigarettes, cigars, e-cigarettes and cigarillos from 18 to 21 years of age, a law that will go into effect in mid-2014.<sup>30</sup> At least 40 U.S. states are seeking stricter rules about e-cigarette use by children.<sup>31</sup>

## **What are other countries doing about e-cigarettes?**

The WHO convened a Regulatory Consultation on the Safety of ENDS in May 2010. It concluded that “overall, it is evident that there is growing concern internationally about the quality, safety, and ‘regulatory gap’ of these emerging products broadly called ENDS as they continue to penetrate new markets.”<sup>32</sup> In May 2013, French Health Minister Marisol Touraine announced that the ban on smoking in public places would be extended to cover electronic cigarettes, and that they

would be subject to the same controls as tobacco.<sup>33</sup> In July 2013, the WHO released an updated alert on e-cigarettes that recommended, “Until such time as a given ENDS is deemed safe and effective and of acceptable quality by a competent national regulatory body, consumers should be strongly advised not to use any of these products, including electronic cigarettes.<sup>34</sup>”

### **Additional Business Group Member Resources**

- [Creating a Tobacco-free Workforce: An Interview with Johnson & Johnson](#). Global Business Group on Health, 2013.
- [Creating a Tobacco-Free Workforce: An Interview with Ingersoll Rand](#). National Business Group on Health, 2013.
- [Policy Brief: Financial Incentives for Nonsmoking Employees: The Current Legal and Regulatory Environment](#). National Business Group on Health, 2012.

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### About the National Business Group on Health

The Business Group is the only non-profit organization devoted exclusively to representing large employers' perspectives on national health issues and providing solutions to its members' most important health care and health benefits challenges. The Business Group fosters the development of a safe health care delivery system and treatments based on scientific evidence. Members share strategies for controlling costs, improving patient safety and quality of care, increasing productivity and supporting healthy lifestyles.

### Just the Facts

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