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Hawaii state legislator views on e-cigarettes and likelihood of legislative action

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Abstract

Objective—To examine perspectives on e-cigarette use and regulations in Hawaii through key informant interviews with state legislators.

Background—E-cigarette use is rapidly increasing, with sales in 2013 topping \$1 billion in the United States, but e-cigarettes are still a largely unregulated industry. Although e-cigarettes are thought by most to be a healthier alternative to traditional cigarettes, long-term health effects are not yet known.

Methods—Semistructured key informant interviews were conducted with Hawaii state legislators (n = 15).

Results—We found a lack of consensus among legislators, which suggests that substantial legislative action is unlikely in the upcoming session. However, most legislators believe that some type of incremental legislation will pass, such as enactment of a small tax, limitations on advertising to protect adolescents, or regulations concerning where people can use e-cigarettes.

Conclusion—Legislators eagerly await further research to clarify the overall benefits and harms of e-cigarettes at both the individual and population levels.

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Developed in China in 2004, e-cigarettes convert a mixture of pure nicotine and propylene glycol into an inhaled vapor. Recently, e-cigarette use has greatly expanded, doubling in a year from 3.3% to 6.8%.¹ Since their introduction in the United States in 2007, sales of e-cigarettes have climbed to \$1 billion and are expected to reach \$3 billion by 2015, as several large tobacco manufacturers are launching products.² E-cigarette use in Hawaii exceeds national averages, with use among adolescents estimated to be three times the national average.³ An estimated 13% of smokers in Hawaii have tried e-cigarettes to stop smoking.⁴ Moreover, a new rule went into effect on July 1, 2015, making the University of Hawaii at Manoa smoke-free. Because this ban does not apply to e-cigarettes, use of e-cigarettes may increase considerably among college-aged students.⁵

The appeal of e-cigarettes is largely based on a perception that they are not as harmful as traditional cigarettes and may be used as a smoking cessation tool.^{6,7} Given that smoking traditional cigarettes results in an estimated 480,000 premature deaths per year in the United States, e-cigarettes may have a positive impact on health if they can aid in smoking cessation.

Inhaling nicotine and other small chemically laced particles in the vapor, however, may lead to respiratory and other health problems.^{8,9} If e-cigarettes are being used by people who have never smoked, are not helping smokers to quit, or are even encouraging use of tobacco products, their impact on health would be negative. A recent study estimated that 250,000 never-smoking youth had tried e-cigarettes, and e-cigarette use was associated with an increased intention to smoke cigarettes.¹⁰ These findings are of particular concern because nicotine has been shown to have a negative impact on adolescent brain development.¹¹

Most professional associations, including the American Pharmacists Association and American Medical Association, support regulating nicotine-delivery products.^{12,13} Moreover, the World Health Organization (WHO) called for prohibiting sales of e-cigarettes to children and banning indoor use.¹⁴

The U.S. Food and Drug Administration (FDA) has proposed restrictions on the sale and distribution of e-cigarettes to those younger than 18 years and requires full disclosure of all ingredients on package labels. In the absence of federal regulation, 34 states have laws regulating e-cigarettes that focus primarily on limiting youth access (22 states) or creating smoke-free environments (12 states).^{15,16} Minnesota imposes an excise tax on e-cigarettes.

Along with 40 other states, Hawaii prohibits the sale of e-cigarettes to persons younger than 18 years. In a recent bill banning flavored tobacco, e-cigarettes were exempted because issues around e-cigarettes were believed to be more complex.¹⁷ The Hawaii County City Council last spring prohibited sales of e-cigarettes to those younger than 21 years and recently passed a bill that would ban e-cigarette use in public places, such as beaches and parks.¹⁸ Through administrative action, Hawaii also prohibits the use of e-cigarettes throughout the state on public buses, at public high schools, in state buildings where traditional cigarettes are banned (offices, lobbies, covered walkways, and 20 feet from entrances and exits), and at Aloha Stadium.¹⁹ Moreover, some pharmacies such as CVS have banned sales.²⁰

Several bills in prior sessions addressed e-cigarette use, including a ban on e-cigarettes as flavored tobacco, restricting use in public places, and applying regulations similar to those for traditional cigarettes. Most of these bills did not make it out of committee.

Objective

The goal of this study was to examine perspectives on e-cigarette use and the likelihood of regulations in Hawaii through key informant interviews with state legislators. Our findings will further an understanding of legislative reasoning, which is a missing piece of the puzzle on this hotly debated topic.

Agenda setting

This study interprets evidence from key informant interviews in the context of agenda-setting frameworks. Kingdon theorized that agenda setting occurs through the interaction of three independent streams: problems, policies, and politics.²¹ Others have suggested that agenda setting is characterized by periods of stability and rapid transformation.²² Often, policy changes may be incremental. When provoked by catalytic events, however, policymakers may enact more comprehensive changes.

Methods

Key Hawaii state legislators from the House and Senate were interviewed (n = 15) to examine their attitudes toward e-cigarettes and the likelihood of their passing legislation in four policy areas: (1) sales, (2) marketing, (3) use, and (4) taxation. Legislators were selected for interviews based on their involvement with prior e-cigarette initiatives and/or their committee assignments, including Commerce and Consumer Protection and Health. Interviews occurred between June and December of 2014, before the January 2015 legislative session.

Seven interviews were face-to-face. Directly after each interview, the note-taker created a written summary highlighting some verbatim phrases or comments that exemplify critical issues legislators had raised. We attempted to reduce potential interviewer bias by having two interviewers at every session review the interview summaries and identify themes and relevant quotations. The other eight legislators completed an online survey administered via REDCap (Research Electronic Data Capture, Vanderbilt University, Nashville, TN) because they lived on neighbor islands or were otherwise unable to meet in person.

The online surveys and face-to-face interviews asked the same questions (Table 1). For Questions 1, 6, and 7, interviewees were prompted with a response set (e.g., “Would you say it is very likely, somewhat likely, somewhat unlikely, or not at all likely?”). If the interviewee did not directly choose one of the responses, investigators used their judgment to classify the response. Responses were summarized according to the following themes: type of evidence needed, likelihood of passage, specific policy approach, and optimal way to regulate. This study was deemed exempt by the University of Hawaii Institutional Review Board.

Results

Legislators reported being somewhat ($n = 11$), very ($n = 3$), or extremely ($n = 2$) familiar with e-cigarette issues. Perspectives varied widely on the sufficiency of existing evidence, potential impact on health, and need for legislative action. While almost all of the legislators advocated some form of regulation, the type of regulation varied considerably, from restricting use relative to age or place, to regulating advertising, to taxation.

Evidence of impact on health

Only 2 of the 15 legislators stated that there was sufficient evidence of the impact of e-cigarettes on health to enact comprehensive legislation. Specific quotes included the following:

- “[E-cigarette use] is similar to smoking but not quite smoking. For us to proceed based on risk, there needs to be verification that this is a health risk.”
- “Not enough evidence, but I believe it is not good to breathe vapor in lungs of any kind over a long period of time.”

Several legislators mentioned that at legislative hearings last session, many users testified that e-cigarettes helped them quit smoking. One legislator stated, “What a large number of e-cig users have represented at legislative hearings is that they have been able to reduce their nicotine intake significantly over time using e-cigarettes.”

Most legislators expressed a need for more evidence, in general, on the impact of e-cigarettes on health ($n = 13$), particularly long-term effects ($n = 3$). Legislators also wanted to know more about secondhand vapor ($n = 5$). “The most important issue for me is that of secondhand vapor, as that determines what reasonable restrictions should be placed,” stated one legislator.

Likelihood of passage

Most legislators believed e-cigarette legislation was somewhat likely to pass next session ($n = 11$), while only two believed it was not at all likely:

- “Anything of substance takes 5 years to pass.”
- “Unlikely. Every year we have 3,000 bills and [fewer than] 300 make it to the Governor’s desk.”

Specific approaches to e-cigarette regulations

Table 2 contains legislators’ views on specific approaches. While none strongly supported a complete ban, several supported a ban in public places or restrictions on age limits. Restrictions on advertising were not a high priority, but a few legislators supported restrictions on advertising to children. Some legislators supported some form of taxation ($n = 7$), while others strongly opposed it ($n = 2$).

Optimal regulations

Of the 15 legislators, 4 felt e-cigarettes should be regulated similarly to traditional cigarettes. Comments included the following:

- “Taxation.”
- “Ideal way to have a national policy. That helps the industry comply with restrictions, but that does not mean we cannot be ahead of the curve.”
- “The overall optimal way to regulate would depend on the health risk evidence, possibly to make it comparable to how we treat cigarettes.”
- “I think they should be treated more as an over-the-counter medical device. Moves to make them more attractive with flavoring, coloring, fancy labeling, and marketing should be looked at closely. I think that we don’t have enough information to regulate these products strictly. I suspect there will be a lot of heat with little light.”

Discussion

This study used key informant interviews to examine legislators’ attitudes toward e-cigarettes and the likelihood of regulatory legislation. To our knowledge, this was the first study to conduct key informant interviews with state legislators concerning e-cigarettes. The interviews revealed divergent opinions on the nature of the problem, particularly to what extent e-cigarettes pose a health risk. Almost all of the Hawaii state legislators interviewed felt more evidence was needed for the impact of e-cigarettes on health.

These findings are of interest to practicing pharmacists for several reasons. Pharmacists are considered some of the most accessible health care providers, and most are certified in smoking cessation. Even though CVS has banned the sale of e-cigarettes, they are still sold at other pharmacies, as well as at grocery and chain stores. Moreover, even if pharmacies do not sell e-cigarettes, pharmacists need to be aware of their use so they can ask appropriate questions of people trying to quit tobacco use. Patients will ask for consultations on the safety or use of e-cigarettes as a smoking cessation aid. Understanding critical issues governing the debate over e-cigarettes is crucial in providing customers with comprehensive answers to their questions.²³ Knowledge about these products is critical because pharmacists could play a key role in disseminating information as it becomes available to other health care providers, consumers, and legislators. Of particular relevance are the impacts on health, effectiveness as a smoking cessation tool, the danger of secondhand vapor inhalation, and the best way to titrate the amount of nicotine downward over a reasonable amount of time for smoking cessation.

Limitations

There are several limitations to our study. First, the key informants interviewed may not necessarily be representative of the entire legislature. Second, only legislators in one state were interviewed, so results may not generalize to other locations. Also, information that was gathered provided little basis for quantification, so the results were all qualitative.

Finally, key informant interviews may be subject to interviewer bias wherein an interviewer may be more likely to pick up on comments that support their preconceived notions.

Conclusion

As a result of divided public opinion, limited evidence on clinical outcomes, and the lack of a catalytic or focusing event such as a well-publicized adverse event resulting from e-cigarette use, it is unlikely that there will be substantial regulatory changes for e-cigarettes.

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Key Points

Background

- Sales of e-cigarettes in the United States are expected to reach \$3 billion in 2015.
- In 2014, the U.S. Food and Drug Administration proposed regulations that would extend its authority over e-cigarettes, but currently they are largely unregulated.
- State and municipal legislatures across the country have begun implementing legislation regulating and taxing e-cigarettes.

Findings

- Hawaii state legislator opinions diverged on the need for e-cigarette regulation and the form it should take if needed. Most believed that more evidence is needed to demonstrate health risks before enacting substantial legislation.
- Our findings should be of interest to pharmacists and managed care professionals, as e-cigarette use is rapidly expanding and receiving substantial media coverage.
- Pharmacists need to learn more about the issues surrounding e-cigarettes so they can play a key role in disseminating information to other health care providers, patients, and legislators.

Table 1

Questions for legislators

Introduction: The goal of our study is to explore what type of policy changes are being considered that might affect use of e-cigarettes.
1. How familiar are you with issues around e-cigarettes?
2. Do you believe there is enough evidence to determine the effects of e-cigarettes on health?
3. If so, what do you believe are the impacts on health of e-cigarettes?
4. In what areas do we need more information about e-cigarettes?
5. Do you believe e-cigarettes should be regulated or taxed?
6. How strongly would you support each of these types of regulation?
a. Banning e-cigarettes
b. Restricting advertising
c. Restricting sales
d. Taxation
7. How likely do you think it is for the state to support e-cigarette legislation in the upcoming session?
8. What type of legislation would be most likely to pass next session?
9. Overall, what do you think is an optimal way to regulate e-cigarettes, if any?
10. Comments

Table 2

Legislator comments on specific policy options

Banning
Hard to ban; not enough evidence. Also hard to tell what is in the e-cigarette; does it need to have nicotine?
Banning all use is not practical. We don't ban a lot of things that are harmful.
Banning use in public areas may make sense because there is the argument of secondhand smoke. Use the precautionary principle—even though we do not have all the facts, err on the side of caution. Enclosed public areas may require a ban right now.
Do not believe in ban on anything. I'm for choice. Don't restrict advertising. Don't restrict sales. If an individual business wants to restrict, that is fine.
Advertising restrictions
We are careful regarding what youth are exposed to. I could see legislation passing that would limit advertising to children due to our concern for children.
Ban advertising to youth—same as [for] cigarettes.
Taxation
I think we could get there with better evidence of health risk. If a risk were demonstrated, [we] could regulate similar to cigarettes, but it would have to be different, maybe a tax on cartridges.
Problem is [that] hurts local businesses; can just buy online without taxation.
We are already taxing e-cigarettes through the General Excise Tax.