



October 30, 2017

The Honorable Mitch McConnell
Senate Majority Leader
United States Senate
Washington, DC 20510

The Honorable Charles Schumer
Senate Minority Leader
United States Senate
Washington, DC 20510

The Honorable Paul Ryan
Speaker of the House
United States House of Representatives
Washington, DC 20515

The Honorable Nancy Pelosi
Democratic Leader
United States House of Representatives
Washington, DC 20515

Dear Majority Leader McConnell, Speaker Ryan, Minority Leader Schumer and Democratic Leader Pelosi:

As negotiations continue on the fiscal year 2018 appropriations bills, we urge you to oppose inclusion of either of two policy riders originally included in the House Appropriations Committee's Agriculture, Rural Development, Food and Drug Administration, and Related Agencies appropriations bill that would weaken FDA's authority to oversee tobacco products.

Tobacco use remains the leading preventable cause of death in the United States. Every year, it kills more than 480,000 Americans and is responsible for an estimated \$170 billion in health care costs. More than 60 percent of these health care costs are paid by government programs such as Medicare and Medicaid.

Last year, FDA took an important step to protect children and public health by using its authority under the Family Smoking Prevention and Tobacco Control Act to issue a final rule, known as the deeming rule, to enable the agency to oversee cigars, e-cigarettes, and other tobacco products

that were previously outside FDA's authority. The need for FDA oversight of these products could not be clearer. E-cigarettes are the tobacco product most commonly used by youth, and high school boys smoke cigars at a slightly higher rate than cigarettes. The prevalence of youth usage of these products is a direct result of their marketing with candy and fruit flavors designed to appeal to young people. Unfortunately, the FDA recently announced that it will significantly delay enforcement of the requirement in the rule that e-cigarettes and cigars introduced to the market after February 15, 2007, undergo a scientific review by FDA to determine their impact on public health. FDA also announced it will again seek public comment as to whether some cigars should be excluded from FDA oversight.

The policy riders in the House Agriculture Appropriations bill would go beyond FDA's recent announcement delaying enforcement of the product review provisions of the deeming rule and would further weaken FDA's ability to protect children from egregious, kid-friendly e-cigarettes and cigars. One of the House riders seeks to completely exclude "large and premium cigars" from FDA oversight. During consideration of the rule, FDA specifically examined whether these so-called premium cigars should be excluded from FDA oversight and concluded that there was no appropriate public health justification for doing so. FDA's scientific review found that all cigars pose serious negative health risks, including about 9,000 premature deaths a year, and that all cigars are potentially addictive. We are also concerned that the rider defines "large and premium cigars" so broadly that it creates a loophole that invites tobacco companies to modify their products to qualify for this exemption – a loophole that tobacco companies will surely exploit to exempt some cheap, machine-made, flavored cigars that appeal to youth.

The second House rider would change the Tobacco Control Act "grandfather date" to entirely exempt e-cigarettes, cigars, and other tobacco products now on the market from an FDA review to determine their impact on public health. Whereas FDA's recent announcement will delay review of these products for several years, changing the "grandfather date" will ensure that these products will never undergo such a review. As a result, FDA's ability to protect children from thousands of fruit and candy flavored e-cigarettes and cigars that have entered the market in recent years would be weakened. Moreover, new tobacco products that come onto the market in future years will need only to prove that they are substantially equivalent to the most egregious grandfathered tobacco products currently on the market. Cotton candy and gummy bear e-cigarettes will be the standard by which future products will be judged.

As you finalize appropriations legislation for fiscal year 2018, we urge you to protect kids and reduce tobacco-caused disease by rejecting the House tobacco policy riders which would weaken FDA's final rule on e-cigarettes and cigars.

Sincerely,

Academy of General Dentistry
Action on Smoking & Health
Allergy & Asthma Network
American Academy of Family Physicians
American Academy of Oral and
Maxillofacial Pathology
American Academy of Oral Medicine
American Academy of Otolaryngology—
Head and Neck Surgery
American Academy of Pediatrics
American Association for Cancer Research
American Association for Dental Research
American Association for Respiratory Care
American Cancer Society Cancer Action
Network
American College of Cardiology
American College of Physicians
American College of Preventive Medicine
American Congress of Obstetricians and
Gynecologists
American Dental Association
American Heart Association
American Lung Association
American Medical Association
American Psychological Association
American Public Health Association
American School Health Association
American Society of Addiction Medicine
American Society of Clinical Oncology
American Thoracic Society
Americans For Nonsmokers Rights
Association of Maternal & Child Health
Programs

Association of Schools and Programs of
Public Health
Association of State and Territorial Health
Officials
Association of Women's Health, Obstetric
& Neonatal Nurses
Big Cities Health Coalition
Campaign for Tobacco-Free Kids
ClearWay Minnesota
Community Anti-Drug Coalitions of
America
Eta Sigma Gamma – National Health
Education Honorary
Lung Cancer Alliance
March of Dimes
National African American Tobacco
Prevention Network
National Association of County and City
Health Officials
National Association of Pediatric Nurse
Practitioners
National Center for Health Research
National Hispanic Medical Association
National Network of Public Health Institutes
Oncology Nursing Society
Society for Cardiovascular Angiography and
Interventions
Society for Public Health Education
Society for Research on Nicotine & Tobacco
Students Against Destructive Decisions
The Society of State Leaders of Health and
Physical Education
The Society of Thoracic Surgeons
Trust for America's Health