



October 30, 2017

The Honorable Thad Cochran  
Chairman  
Committee on Appropriations  
United States Senate  
Washington, DC 20510

The Honorable Patrick Leahy  
Vice Chairman  
Committee on Appropriations  
United States Senate  
Washington, DC 20510

The Honorable Rodney Frelinghuysen  
Chairman  
Committee on Appropriations  
United States House of Representatives  
Washington, DC 20515

The Honorable Nita Lowey  
Ranking Member  
Committee on Appropriations  
United States House of Representatives  
Washington, DC 20515

Dear Chairmen Cochran and Frelinghuysen and Vice Chairman Leahy and Ranking Member Lowey:

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. We further request that you reject the House Appropriations Committee's nearly 25% cut to the Centers for Disease Control and Prevention's (CDC) Office on Smoking and Health (OSH) and ensure the office is funded at least at its fiscal year 2017 funding level of \$205 million.

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 of 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 kids 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 deeming 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.

In addition to FDA oversight of tobacco products, the CDC Office on Smoking and Health plays a critical role in preventing young people from using tobacco products and helping current smokers to quit. The \$50 million funding cut for OSH included in the House Labor, Health and Human Services, Education, and Related Agencies appropriations bill is misguided and would lead to more young people using tobacco products, fewer adult tobacco users quitting, and higher future health care costs for treating tobacco-caused disease.

OSH funds the highly successful national media campaign, Tips from Former Smokers, which has motivated about five million smokers to make a quit attempt, helped approximately 500,000 smokers to successfully quit, and saved at least 50,000 people from premature death since its inception in 2012. The campaign is highly cost-effective with a cost of just \$393 per year of life saved, far below the \$50,000 cost-effectiveness standard commonly applied to public health programs. The House's proposed funding cut would likely make it impossible for CDC to continue this vital campaign. This funding cut would also likely mean reduced funding to states for quitlines, which provide telephone-based counseling to help tobacco users quit and, in some states, provide tobacco cessation medications, as well as funding to health departments in all states to help maintain and enhance tobacco prevention and cessation programs at the state and community level.

As you finalize appropriations legislation for fiscal year 2018, we urge you to protect kids and reduce tobacco-caused disease by rejecting efforts to weaken FDA's final rule on e-cigarettes and cigars and funding CDC's Office on Smoking and Health at least at its current \$205 million funding level, as the Senate Appropriations Committee did.

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

CC: United States Senate Committee on Appropriations Members  
United States House of Representatives Committee on Appropriations Members