

27 June 2024

## Submission to Health, Environment and Agriculture Inquiry into the Vaping Bill

Thank you for inviting AMA Queensland to provide a submission to the Health, Environment and Agriculture Committee's inquiry into the Tobacco and Other Smoking Products (Vaping) and Other Legislation Amendment Bill 2024 (the 'Vaping Bill').

Given the short timeframe for responses, AMA Queensland resubmits its original feedback provided to Queensland Health in May (refer attachment) but provides the following brief comments in addition:

- **Australian Government reforms:** The Committee will be aware of this week's decision by the Australian Government to remove the requirement for adults to obtain a prescription for vaping products, meaning persons aged over 18 years will be able to simply purchase them from pharmacies. The Committee's consideration of the Vaping Bill must incorporate these developments given Queensland's legislation is tied to the Commonwealth's and the broader frameworks encompassing vaping reform across the country. If it does not, it is highly likely the Vaping Bill will not achieve the Act's purpose, being 'to improve the health of members of the public by reducing their exposure to tobacco and other smoking products'.
- **Risk of legitimising vaping and smoking products:** AMA Queensland has remained concerned about the potential for the government's prescription- and pharmacy-only approach to inadvertently legitimise vaping and other smoking products as proven cessation therapies when no such reliable evidence exists. Doctors consistently advise they reject vapes as either legitimate or proven health products and would be unlikely to prescribe them at all, particularly given there are far more effective, proven, reliable and safe alternatives readily available. These concerns remain and the Committee is urged to consider them thoroughly, particularly the risks these reforms will play into the hands of the Big Tobacco lobby.
- **Allowing children to vape:** Queensland Health met with AMA Queensland about our original submission and advised of the circumstances in which the matters raised regarding the presentation of the proposal for the prescribing and dispensing of vapes for young people occurred. Whilst AMA Queensland accepts Queensland Health's explanation, it reiterates its concerns and rejection of the proposal to enable prescribing or dispensing of vaping products to persons aged under 18 years.

AMA Queensland also emphasises the policy incoherence of enabling children to vape when the Queensland Parliament has just recently amended the same Act to ban smoking in and around schools and at organised children's activities and to prohibit children from being in designated outdoor smoking areas. The Committee is urged to reject any amendments that enable children to access vaping and other smoking products.

13 May 2024

# Queensland Health Consultation Paper: Proposed changes to the *Tobacco and Other Smoking Products Act 1998* – vaping reforms

AMA Queensland thanks Queensland Health for the opportunity to provide feedback on its proposed amendments to the *Tobacco and Other Smoking Products Act 1998* (TOSPA) to support certain aspects of the Australian Government's recent vaping reforms.

Whilst AMA Queensland welcomes the bulk of the proposed reforms it is extremely concerned about the inclusion of the following proposal and how it is presented in the consultation paper:

## *2.8 Other minor amendments*

*To ensure young people can seek treatment for nicotine addiction and improve the effective operation of TOSPA it is proposed to:*

...

*Ensure that young people who are nicotine addicted may be prescribed and dispensed vaping products for smoking cessation treatment.*

It is proposed to amend TOSPA as necessary to ensure that young people may be prescribed and dispensed legal, therapeutic vaping products for smoking cessation treatment, with any other supply of a smoking product to a child to remain prohibited.

This aligns with the Commonwealth ban on vaping products, which does not apply to therapeutic vaping products dispensed by a pharmacist on prescription.

AMA Queensland submits the proposed reform has no rational policy basis in that it:

- does not support the Commonwealth vaping reforms but is, in fact, inconsistent with and will serve to undermine them by creating a loophole by which children can continue vaping, despite the claim that it 'aligns with the Commonwealth ban on vaping products';
- runs against the current evidence and recommendations for smoking cessation treatment, especially for children (i.e. patches, gum, lozenges and not vaping products);
- creates different treatment pathways for children using vapes versus children using cigarettes without any evidence-base or adequate policy rationale;
- inherently jeopardises the effectiveness of and ability to implement the Queensland Government's own recent reforms to the TOSPA to ban smoking in and around schools and at organised children's activities and to prohibit children from being in designated outdoor smoking areas (DOSAs);
- unfairly mandates prescribers and dispensers as the government's gatekeepers of ongoing vape use by children – a problem created by governments themselves through delay and inaction despite increasingly urgent warnings from health practitioners; and

- places prescribers and dispensers at risk of targeting by unscrupulous Big Tobacco tactics and undue pressure from, and conflict with, nicotine addicted children, young people and their families to enable ongoing vape use, noting that the vast majority of doctors do not accept vaping as a legitimate therapeutic product.

Aspects of these issues are discussed further below.

## Policy incoherence

AMA Queensland highlights that the main driver of legislative reforms at both the state and federal levels has been the alarming and rapid rise in vaping amongst children. Parents, teachers, doctors and the community have clamoured for urgent action to protect children from vape use.

Nicotine addiction is harmful to the developing brain and the range of chemicals and other substances contained within vapes may have long-term and devastating health effects, particularly for children. It is, therefore, incomprehensible that the Queensland Government is considering a legislative carve-out to enable prescribing and dispensing for children and it is wholly rejected by AMA Queensland.

In addition, the Queensland Government has only very recently amended this very legislation – the TOSPA – to prohibit smoking in places children frequent, including schools and organised children’s activities and to ban children from being in DOSAs on the basis that such reforms were vital to protect children from the harms of smoking, especially vapes. Queensland Health’s current proposal will completely undermine those reforms by deliberately making vapes available to children.

Even more astonishingly, it presents a situation in which those reforms may need to be repealed so children prescribed vapes due to addiction could lawfully smoke them whilst at school or in other locations they necessarily regularly frequent. The implications of such an amendment are clearly nonsensical and must not be rendered possible by the current proposal.

Whilst AMA Queensland notes the Royal Australian College of General Practitioners (RACGP) has a provisional draft for consultation that includes a short statement about vaping in people aged under 18 years, it does not support that draft in its current form and submits that the prescription of vapes to anyone, including children, currently lacks a sufficient evidence base. AMA Queensland submits that RACGP’s provisional draft cannot be used by Queensland Health to justify the current proposed reforms not only because it is still under consultation but also because such changes are not endorsed by independent scientific research.

## Adequacy of presentation

Queensland Health’s presentation of the proposal is inadequate given the ramifications of the amendments. The consultation paper mischaracterises the change as a ‘minor amendment’ and obfuscates it by placing it in the last dot point on the final page under ‘2.8 Other minor amendments’. The proposal – to enable children to vape – is undeniably not minor and, in fact, represents a major policy inconsistency with both the Australian Government reforms and Queensland Government policy on vaping as stated above.

Similarly, there is no group that will benefit from such an ill-considered amendment other than vape manufacturers and retailers, raising questions about the origin of the proposal and possible influence

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of Big Tobacco. The Queensland Government must explain the history of the proposal, including all stakeholders who have lobbied for the policy and legislative change.

AMA Queensland completely rejects all proposed amendments in the consultation paper that would enable vape prescribing or dispensing to children. It does, however, support the remaining changes that enable enforcement of the recent Commonwealth ban on vaping products.