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January 15, 2016

Office of General Counsel  
Department of Housing and Urban Development  
451 7<sup>th</sup> Street SW, Room 10276  
Washington, DC 20410

**RE: TOBACCO EDUCATION AND RESEARCH OVERSIGHT  
COMMITTEE's RESPONSE TO DOCKET NO. FR 5597-P-02 INSTITUTING  
SMOKE-FREE PUBLIC HOUSING**

To Whom It May Concern:

The Tobacco Education and Research Oversight Committee (TEROC) is a legislatively mandated oversight committee (California Health and Safety Code Section 104365-104370) that monitors the use of Proposition 99 tobacco tax revenues for tobacco control, prevention education, and tobacco-related research in California. TEROC advises the California Department of Public Health, the University of California, and the California Department of Education with respect to policy development, integration, and evaluation of tobacco education programs funded by Proposition 99. TEROC is also responsible for the development of a master plan for the future implementation of tobacco control and tobacco-related research, and making recommendations to the State Legislature for improving tobacco control and tobacco-related research efforts in California.

On November 17, 2015, the United States Department of Housing and Urban Development's (HUD) published the Smoke-free Public Housing proposed rule in the Federal Register. HUD's proposed rule would require public housing agencies (PHA) to design and implement a policy prohibiting the use of lit tobacco products in all living units and interior common areas, as described, and in outdoor areas within 25 feet from public housing and administrative office buildings (24 CFR part 965, subpart G, § 965.653).

TEROC supports HUD's effort to require all PHAs to implement a smoke-free policy. **To bolster HUD's stated intent to improve indoor air quality in public housing and the health of PHA residents and staff, reduce the risk of fires, and lower maintenance costs, TEROC recommends that HUD prohibit the use of "electronic smoking devices" and "hookah" (water pipes) by including definitions in the final rule that are consistent with model policy language used in California and throughout the United States. The Committee also recommends that HUD explicitly describe support provided to PHAs for effective implement the smoke-free policy.**

HUD introduces the term "lit tobacco products" in the proposed rule and defines it as "those that involve the ignition and burning of tobacco leaves,

such as cigarettes, cigars, and pipes” in section 965.653. This term is very limited and does not adequately protect PHA residents, staff, and visitors from involuntary exposure to chemicals emitted from electronic smoking devices and water pipes. **Therefore to provide protection from all smoking-related harms, TEROC recommends that the final rule remove the term “use of lit tobacco products” and replace it with “smoking.” “Smoking” should be broadly defined as inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, or pipe, or any other lighted or heated tobacco or plant product intended for inhalation, including hookah and marijuana, whether natural or synthetic, in any manner or in any form. “Smoking” should also include the use of an electronic smoking device which creates an aerosol or vapor.**

TEROC recommendations for HUD’s final rule are aligned with the Committee’s official position on electronic smoking devices, adopted at our December 8, 2015 meeting, which states:

***“TEROC supports inclusion of electronic smoking devices in any regulation of cigarettes or other tobacco products to reinforce decades of progress in making smoking less attractive; discourage youth initiation of tobacco use; and to protect the health and safety of all Californians from the harms of all tobacco use. Furthermore, regulation should take a comprehensive public health approach by encompassing any electronic smoking device without limitation to the substance that it delivers, including but not limited to marijuana-related or marijuana substitute products.***

***In addition, TEROC is aligned with the U.S. Preventive Services Task Force, which concluded that the current evidence is insufficient to recommend electronic smoking devices for tobacco cessation. (USPSTF, Ann Intern Med., 2015) Furthermore, the U.S. Food and Drug Administration has not approved any electronic smoking device as a cessation aid.”***

As such, TEROC further recommends that the final rule define “electronic smoking devices” as any product containing or delivering nicotine or any other substance intended for human consumption that can be used by a person to simulate smoking through inhalation of vapor or aerosol from the product. The definition should include any such device, whether created, manufactured, distributed, marketed, sold, or intended for use as an e-cigarette, e-cigar, e-pipe, e-hookah, vape pens, vape pipes, or any other product name or descriptor that can be defined as an electronic smoking device. TEROC deliberately recommends use of “electronic smoking device” terminology instead of the narrower term “electronic nicotine delivery

system,” that HUD requested public comments on, since these products are used to deliver multiple substances (e.g., marijuana-related products) beyond nicotine. Inclusion of electronic smoking devices in the final rule will resolve HUD’s concern, as expressed in the proposed rule, that these products present additional enforcement challenges for PHAs implementing smoke-free policies due to the appearance of smoking cigarettes. A uniform policy prohibiting all “smoking” will reduce confusion and facilitate compliance among PHA residents, staff, and visitors.

While electronic smoking devices have only recently emerged in the United States and are continuously evolving, emerging research has TERO concerned that continued use of these devices and exposure to its aerosol will cause health harms, renormalize smoking, and place youth at risk of nicotine dependence. First, studies are finding that electronic smoking devices do not emit “harmless water vapor;” rather, the aerosol emitted contains at least ten toxic chemicals, including nicotine, on California’s Proposition 65 list of chemicals known to cause cancer, birth defects, or other reproductive harm, as well as emit fine particulate matter.<sup>1-3</sup> Second, studies are also finding that unregulated liquid solutions used in electronic smoking devices (e-liquids) contain varying amounts of nicotine, detectable levels of carcinogens, and other toxic chemicals found in combustible tobacco products.<sup>2,4-7</sup> Lastly, use of electronic smoking devices is exponentially rising among youth and adults. The Centers for Disease Control and Prevention’s 2011-2014 National Youth Tobacco Survey showed that e-cigarette use among United States high school students tripled from 4.5 percent in 2013 to 13.4 percent in 2014. Among adults, ever e-cigarette use more than tripled among current (9.8% to 36.5%) and former (2.5% to 9.6%) cigarette smokers ( $p < 0.05$ ) from 2010 to 2013.<sup>8</sup> Although electronic smoking devices are not marketed as a cessation aid, consumption of nicotine at unknown amounts is inhibiting smokers from quitting the smoking behavior and is reintroducing former smokers to nicotine dependence.<sup>9-11</sup>

The home is the primary source of secondhand smoke exposure and studies show that individuals living in low-income housing and multiunit housing are among those at the greatest risk of exposure.<sup>12-15</sup> Therefore, in addition to the dangers from exposure to secondhand smoke from cigarettes and aerosol emissions from electronic smoking devices, TERO is also concerned about secondhand smoke exposure resulting from use of water pipe devices.

There is a general public misconception that water pipe devices are a safer method of smoking as compared to combustible tobacco products. However, studies show that smoking tobacco or other products using these devices also emits toxic chemicals and carcinogens that are strongly associated with the same tobacco-related health risks as

using other combustible tobacco products.<sup>16-23</sup> Burning charcoal to heat the tobacco during water pipe smoking also results in inhalation of carbon monoxide, which increases the risk of cardiovascular and respiratory illness.<sup>16,24</sup>

While the research on using water pipe devices inside households is limited, TEROC is concerned that using water pipe devices to smoke will contribute to nicotine dependence. Studies show that hookah smoking at home by a parent or sibling increases the risk of males and younger adults initiating hookah smoking within the household.<sup>25</sup> A study on daily and occasional use of hookah in homes with children found that hookah use in homes also presents threat to children's long-term health.<sup>26</sup>

Other studies examining duration of water pipe smoking sessions found that this type of smoking sessions last significantly longer (average of 45 minutes) than it takes to smoke a traditional cigarette (an average of 7 minutes).<sup>20,27,28</sup> These longer smoking sessions make water pipe smoking an effective system for delivering nicotine with the capacity to create nicotine dependence as well as create prolonged periods of secondhand smoke exposure.<sup>29,30</sup> Prolonged water pipe smoking also produces third-hand smoke (tobacco residue on surfaces), which contributes to smoking-related maintenance and turnover costs borne by PHAs.<sup>26</sup>

Prohibiting use of water pipe devices is important to this rule because it protects non-smokers within the unit and neighboring units from exposure to secondhand smoke, it discourages youth initiation, and it reduces maintenance and turnover costs from tobacco smoke residue. For these and the above reasons, **TEROC recommends that the final rule extend to "hookah," and define the term as a water pipe and any associated products and devices which are used to produce fumes, smoke, and/or vapor from the burning of material including, but not limited to, tobacco, shisha, or other plant matter.**

TEROC's recommended definitions reflects smoke-free policy standards designed to maximize the public health benefits from implementing clean indoor air laws.<sup>31</sup> The above definitions for "smoking," "electronic smoking devices," and "hookah" (also referred to as a water pipe device) provide uniformity with existing policy standards comprehensively protect public health. Including electronic smoking devices and water pipe devices in the final rule also removes the burden of having to differentiate between the use of combustible products, electronic smoking devices, and water pipe devices by housing tenants and management who are exposed to smoking and/or while reporting smoking violations. Application of model policy language and practices into the final rule, as recommended above, will ensure nonsmokers in public housing, especially

children or those whose health may be fragile, are protected from exposure to the toxic chemicals emitted from all smoking-related products, as well as dissuade youth use and addiction to nicotine or other substances.

Finally, **TEROC recommends that HUD provides support to PHA staff, residents, and by extension their visitors throughout implementation of the rule and annually thereafter.** Providing support and disseminating information about the rule is crucial to compliance, and promotes understanding of PHA's expectations about the smoke-free rule among staff and tenants. PHAs should disseminate information about available smoking cessation resources to help nicotine dependent residents and staff quit, including free telephone counseling from the California Smokers' Helpline (1-800-NO-BUTTS) and the national quit line 1-800-quitnow. Integrating HUD support in the final rule will also enable staff and residents to connect the long-term health and property benefits to HUD's smoke-free public housing rule.

TEROC recommends that HUD use its own guidance found in its publication, *Change is in the Air: An Action Guide for Establishing Smoke-free Public Housing and Multifamily Properties*, as the foundation for providing support to residents and staff. This document provides guidance on lease termination, referrals to smoking cessation services, and efforts to help smokers with mental and physical disabilities address nicotine dependence. **TEROC recommends that HUD provides education and training annually to staff and tenants regarding 1) HUD's smoke-free rule, 2) policy compliance, policy consequences from non-compliance, and enforcement protocol, and 3) signage and lease agreements. TEROC also urges HUD to establish an annual timeline for PHAs to disseminate updates about the HUD's smoke-free policy, tobacco use prevention, and smoking cessation resources available to tenants and staff.**

HUD should also be sensitive to the diverse populations served by PHAs. Many housing populations may have many non-English speaking residents. Therefore, tools for implementation, enforcement, and cessation aids should be provided in multiple languages to assist the PHA in educating its residents.

TEROC believes that using well accepted definitions (rather than introducing new terms such as "lit tobacco products") will allow PHAs to guard against potential allegations of discriminatory policies or practices as well as any potential evictions due to the tenants' inability to comply with HUD's final smoke-free rule. For these reasons, TEROC recommends that HUD integrate the above recommendations to strengthen the proposed rule in order to protect California's public housing residents from the dangers

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of secondhand smoke exposure, smoking-related fire hazards, and the health harms associated with the smoking behavior.

TEROC appreciates the opportunity to comment on the proposed rule. If you have any questions regarding this subject, please do not hesitate to contact me at [MOng@Mednet.ucla.edu](mailto:MOng@Mednet.ucla.edu).

Sincerely,

A handwritten signature in blue ink, appearing to read "Michael Ong", written in a cursive style.

Michael Ong, M.D., Ph.D.  
Chairperson

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