

# Electronic Cigarettes Protocol, 2018

Population and Public Health Division,  
Ministry of Health and Long-Term Care

**Effective: January 1, 2018**

## Preamble

The Ontario Public Health Standards: Requirements for Programs, Services, and Accountability (Standards) are published by the Minister of Health and Long-Term Care under the authority of section 7 of the *Health Protection and Promotion Act* (HPPA) to specify the mandatory health programs and services provided by boards of health.<sup>1,2</sup> The Standards identify the minimum expectations for public health programs and services. Boards of health are accountable for implementing the Standards including the protocols and guidelines that are referenced in the Standards. Protocols are program and topic-specific documents incorporated into the Standards which provide direction on how boards of health shall operationalize specific requirement(s) identified within the Standards.

## Purpose

The purpose of this protocol is to provide direction to each board of health. The board of health shall enforce the *Electronic Cigarettes Act, 2015* (ECA) including all the requirements with respect to the:

- Prohibition on selling or supplying electronic cigarettes (e-cigarettes) to persons under age 19;
- Posting of signs; and
- Prohibiting on selling e-cigarettes in vending machines.<sup>3</sup>

Ontario Regulation 337/15<sup>4</sup> made under the ECA is relevant to this protocol.

The *Electronic Cigarettes Protocol, 2018* (or as current) aligns with the Ministry of Health and Long-Term Care's (the "ministry") comprehensive approach to tobacco control which includes addressing e-cigarettes, other substances, and emerging products. More information on comprehensive tobacco control to support chronic disease prevention can be found within the *Chronic Disease Prevention Guideline, 2018* (or as current) and the *Substance Use Prevention and Harm Reduction Guideline, 2018* (or as current).<sup>5,6</sup>

## Reference to the Standards

This section identifies the standards and requirements to which this protocol relates.

### Effective Public Health Practice

**Requirement 9.** The board of health shall publicly disclose results of all inspections or information in accordance with the *Electronic Cigarettes Protocol, 2018* (or as current); the *Food Safety Protocol, 2018* (or as current); the *Health Hazard Response Protocol, 2018* (or as current); the *Infection Prevention and Control Complaint Protocol, 2018* (or as current); the *Infection Prevention and Control Disclosure Protocol, 2018* (or as

current); the *Infection Prevention and Control Protocol, 2018* (or as current); the *Recreational Water Protocol, 2018* (or as current); the *Safe Drinking Water and Fluoride Monitoring Protocol, 2018* (or as current); the *Tanning Beds Protocol, 2018* (or as current); and the *Tobacco Protocol, 2018* (or as current).

### Substance Use and Injury Prevention

**Requirement 4.** The board of health shall enforce the *Electronic Cigarettes Act, 2015*, in accordance with the *Electronic Cigarettes Protocol, 2018* (or as current).

## Operational Roles and Responsibilities

### Inspection

The board of health shall enforce the ECA at all e-cigarette retail locations.<sup>3</sup>

The ECA regulates the sale and supply of e-cigarettes to protect the people of Ontario, especially youth, from the potential harms of e-cigarettes. The board of health shall inspect all e-cigarette retailers in its public health unit area to assess compliance with youth access restrictions under the ECA. For the purpose of conducting the inspection, the board of health shall hire youth test shoppers who are less than 19 years of age to attempt a purchase of e-cigarette products. The board of health shall ensure one test shop is conducted annually on each vendor for compliance with the ban on sale to persons under 19.<sup>3</sup>

The board of health shall respond to all complaints about non-compliance with the ECA and take compliance or enforcement action, as appropriate.<sup>3</sup>

### Signs

The board of health shall inspect for compliance with the signage requirements in the ECA.<sup>3</sup>

### Enforcement Activity

The board of health shall use a compliance strategy that employs a balance of education, inspection, and progressive enforcement. “Progressive enforcement” means the use of warnings and graduated charging options to reflect the frequency and severity of the level of non-compliance.

### Data Collection and Reporting

The board of health shall collect and maintain up-to-date inspection and enforcement data using the Tobacco Inspection System (TIS) or as otherwise directed by the ministry.<sup>7</sup> The board of health shall ensure a record of every enforcement activity conducted for the purpose of determining compliance with the ECA, including education

visits, inspections, warnings issued and charges laid, is recorded and synchronized in TIS.<sup>3,7</sup>

## Authority of an Inspector

The ministry administers the appointment of inspectors under the ECA.<sup>3</sup>

The board of health shall recommend the appointment of inspectors under the ECA to the ministry.<sup>3</sup>

The board of health shall ensure that inspectors comply with any restrictions set in the ECA or their appointment.<sup>3</sup>

## Education and Training

The board of health shall ensure that all appointed inspectors under the ECA are trained with ministry sanctioned training within one year of appointment.<sup>3</sup>

## Public Disclosure of Inspection Results

The board of health shall publicly disclose a summary report on each ECA conviction involving a retailer.<sup>3</sup>

The board of health shall ensure that reports are posted on the board of health's website in a location that is easily located by the public within two weeks of the conviction. The board of health shall ensure reports must be posted for two years.

The format of reports can be adapted to match the visual style of the board of health's websites. Boards of health are encouraged to integrate the required content areas listed below to existing public disclosure programs.

Reports shall contain:

- a) The name and address of the premises where the offence was committed (including street number, street name, city, postal code);
- b) The date of the conviction; and
- c) The type of offence (e.g., ECA Section 2(1) Sell electronic cigarette to a person who is less than 19 years old).<sup>3</sup>

In cases where convictions are appealed the board of health shall revise the posted report with additional information or post a subsequent report.

The board of health shall ensure that all posted reports are compliant with relevant legislation including the *Accessibility for Ontarians with Disabilities Act* (AODA), the *French Language Services Act* (FLSA) (if applicable), and *Municipal Freedom of Information and Protection of Privacy Act* (MFIPPA).<sup>8-10</sup>

## References

1. Ontario. Ministry of Health and Long-Term Care. Ontario public health standards: requirements for programs, services, and accountability, 2018. Toronto, ON: Queen's Printer for Ontario 2018; Available from: [http://www.health.gov.on.ca/en/pro/programs/publichealth/oph\\_standards](http://www.health.gov.on.ca/en/pro/programs/publichealth/oph_standards).
2. *Health Protection and Promotion Act*, RSO 1990, c H.7. Available from: <https://www.ontario.ca/laws/statute/90h07>
3. *Electronic Cigarettes Act, 2015*, SO 2015, c 7, Sched 3. Available from: <https://www.ontario.ca/laws/statute/15e07>
4. *GENERAL*, O Reg 337/15. Available from: <https://www.ontario.ca/laws/regulation/150337>
5. Ontario. Ministry of Health and Long-Term Care. Chronic disease prevention guideline. Toronto, ON: Queen's Printer for Ontario 2018; Available from: [http://www.health.gov.on.ca/en/pro/programs/publichealth/oph\\_standards/protoc\\_olsguidelines.aspx](http://www.health.gov.on.ca/en/pro/programs/publichealth/oph_standards/protoc_olsguidelines.aspx).
6. Ontario. Ministry of Health and Long-Term Care. Substance use prevention and harm reduction guideline, 2018. Toronto, ON 2018: Queen's Printer for Ontario; Available from: [http://www.health.gov.on.ca/en/pro/programs/publichealth/oph\\_standards/protoc\\_olsguidelines.aspx](http://www.health.gov.on.ca/en/pro/programs/publichealth/oph_standards/protoc_olsguidelines.aspx).
7. Ontario. Ministry of Health and Long-Term Care. Tobacco Inspection System (TIS) [Internet]. Toronto, ON: Queen's Printer for Ontario; [2006] [cited 2017 Nov 7]. Available from: <https://tisuat.moh.gov.on.ca/WebClient/LoginPage.aspx>
8. *Accessibility for Ontarians with Disabilities Act, 2005*, SO 2005, c 11. Available from: <https://www.ontario.ca/laws/statute/05a11>
9. *French Language Services Act*, RSO 1990, c F.32. Available from: <https://www.ontario.ca/laws/statute/90f32>
10. *Municipal Freedom of Information and Protection of Privacy Act*, RSO 1990, c M.56. Available from: <https://www.ontario.ca/laws/statute/90m56>

