



HAWAII HEALTH SYSTEMS
C O R P O R A T I O N

"Quality Healthcare For All"

Senate Committee on Health
Senator Josh Green, Chair
Senator Glenn Wakai, Vice Chair

February 13, 2015
Conference Room 414
1:35 p.m.
Hawaii State Capitol

**Testimony Supporting Senate Bill 305,
Relating To Use of Tobacco Products and E-Cigarettes on
Hawaii Health Systems Corporation Premises.
Prohibits the use of tobacco products and e-cigarettes on the premises of the
Hawaii Health Systems Corporations facilities.**

Linda Rosen, M.D., M.P.H.
Chief Executive Officer
Hawaii Health Systems Corporation

As a supplement to testimony submitted on February 11, 2015 in support of SB 305, Hawaii health systems corporation respectfully requests that this Committee amend SB 305 consistent with the attached proposed Draft. The Draft contains the following changes:

- Replaces the term "e-cigarette" with the new term "electronic smoking device" and adopts the definitions of "electronic smoking device" and "tobacco product" contained in other relevant bills (including SB 1109) for the sake of consistency;
- Deletes the provision in Section 2 stating, "This section shall not be subject to chapter 328J" because such language is confusing and unnecessary to give SB 305 its proper effect; and
- Given the existing language stating that, "*Pursuant to section 89-9(d)*, the tobacco and [electronic smoking device] use prohibitions under this section shall not be subject to collective bargaining[,]" adds a new "Section 3" to include corresponding language in Haw. Rev. Stat. §89-9(d) that HHSC's prohibition on tobacco and electronic smoking device use is a management right.

Thank you for your consideration of the foregoing proposed amendments.

A BILL FOR AN ACT

RELATING TO USE OF TOBACCO PRODUCTS AND ~~E-CIGARETTES~~ELECTRONIC SMOKING DEVICES ON HAWAII HEALTH SYSTEMS CORPORATION PREMISES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that the facilities
2 within the Hawaii health systems corporation are committed to
3 providing quality healthcare for the people of Hawaii and taking
4 steps to reduce the occurrence of preventable disease.
5 Consistent with this commitment, the corporation must not permit
6 the use of tobacco and other potentially dangerous substances on
7 the campuses of its health facilities. Allowing such use would
8 not only expose vulnerable patients, employees and visitors to
9 the perils of harmful substances, but would also demonstrate a
10 shortcoming in the corporation's goal of reducing the occurrence
11 of preventable disease.

12 The purpose of this Act is to protect patients, employees
13 and all other visitors to the health facilities within the
14 Hawaii health systems corporation from exposure to second-hand
15 smoke and other potentially harmful substances as well as to
16 promote positive health practices by prohibiting any person from
17 using tobacco products or ~~e-cigarettes~~electronic smoking devices

S.B. NO.305

1 on the premises of any Hawaii health systems corporation
2 facility and making tobacco-cessation programs available to
3 public health facility employees.

4 SECTION 2. Chapter 323F, Hawaii Revised Statutes, is
5 amended by adding a new section to be appropriately designated
6 and to read as follows:

7 "§323F- Tobacco and ~~e-cigarette~~electronic smoking device
8 use prohibited. (a) The Hawaii health systems corporation shall
9 prohibit the use of any tobacco product or ~~e-cigarette~~electronic
10 smoking device by any person on the premises of all facilities
11 operated by the corporation within the State, to the extent not
12 prohibited by federal law and regulation.

13 (b) The corporation shall provide tobacco cessation
14 programs for public employees at the corporation's health
15 facilities who are interested in participating; provided that
16 issues relating to the costs of the program shall be subject to
17 collective bargaining.

18 ~~(c) This section shall not be subject to chapter 328J.~~

19 ~~(d)~~(c) Pursuant to section 89-9(d), the tobacco and ~~e-~~
20 ~~igarette~~electronic smoking device use prohibitions under this
21 section shall not be subject to collective bargaining.

22 The corporation shall be responsible for educating all health
23 facility personnel, contractors, patients, and all other

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1 visitors to the corporation's health facilities regarding the
2 prohibitions under this section. The corporation shall
3 prominently display signs stating that "tobacco and e-
4 cigaretteelectronic smoking device use is prohibited" at all
5 entrances to the corporation's health facilities and at other
6 conspicuous locations throughout the outdoor premises of each
7 health facility."

8 (e)(d) For the purposes of this section:

9 "Electronic smoking device" means any electronic product
10 that can be used to aerosolize and deliver nicotine or other
11 substances to the person inhaling from the device, including but
12 not limited to an electronic cigarette, electronic cigar,
13 electronic cigarillo, electronic pipe, hookah pipe, or hookah
14 pen, and any cartridge or other component of the device or
15 related product, whether or not sold separately. ~~"E-cigarette"~~
16 ~~means any electronic oral device, such as one composed of a~~
17 ~~heating element, battery, or electronic circuit, or more than~~
18 ~~one of these, which provides a vapor of nicotine or any other~~
19 ~~substances for inhalation. The term shall include any such~~
20 ~~device, whether manufactured, distributed, marketed, or sold as~~
21 ~~an e-cigarette, e-cigar, e-pipe, or under any other product name~~
22 ~~or descriptor, but does not include any product specifically~~

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~~approved by the United States Food and Drug Administration for use in medical treatment, such as an asthma inhaler.~~

"Premises" means all indoor and outdoor areas within the state-designated property boundary lines of each of the corporation's health facilities and shall include all employee and visitor parking lots.

"Tobacco or e-cigaretteelectronic smoking device use" does not include mere possession or storage of the same for use in locations outside the premises of the corporation's health facilities.

"Tobacco product" means any product made or derived from tobacco, that contains nicotine or other substances, and is intended for human consumption or is likely to be consumed, whether smoked, heated, chewed, absorbed, dissolved, inhaled, or ingested by any other means, including, but not limited to, a cigarette, cigar, pipe tobacco, chewing tobacco, snuff, snus, or an electronic smoking device. "Tobacco product" does not include drugs, devices, or combination products approved for sale by the U.S. Food and Drug Administration, as those terms are defined in the Federal Food, Drug and Cosmetic Act."

~~"Tobacco product" means any substance containing tobacco leaf, including but not limited to cigarettes, cigars, pipe tobacco, hookah tobacco, snuff, chewing tobacco, dipping tobacco, bidis,~~

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~~blunts, clove cigarettes, or any other preparations of tobacco;
and any product or formulation of matter containing biologically
active amounts of nicotine that is manufactured, sold, offered
for sale, or otherwise distributed with the expectation that the
product or matter will be introduced into the human body; but
does not include any cessation product specifically approved by
the United States Food and Drug Administration for use in
treating nicotine or tobacco dependence."~~

SECTION 3. Section 89-9, Hawaii Revised Statutes, is
amended by adding a new sub-section to be appropriately
designated and to read as follows:

"(d) Excluded from the subjects of negotiations are
matters of classification, reclassification, benefits of but not
contributions to the Hawaii employer-union health benefits trust
fund, recruitment, examination, initial pricing, and retirement
benefits except as provided in section 88-8(h). The employer
and the exclusive representative shall not agree to any proposal
which would be inconsistent with the merit principle or the
principle of equal pay for equal work pursuant to section 76-1
or which would interfere with the rights and obligations of a
public employer to:

(1) Direct employees;

(2) Determine qualifications, standards for

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work, and the nature and contents of
examinations;

(3) Hire, promote, transfer, assign, and retain
employees in positions;

(4) Suspend, demote, discharge, or take other
disciplinary action against employees for
proper cause;

(5) Relieve an employee from duties because of
lack of work or other legitimate reason;

(6) Maintain efficiency and productivity,
including maximizing the use of advanced
technology, in government operations;

(7) Determine methods, means, and personnel by
which the employer's operations are to be
conducted;

(8) Take such actions as may be necessary to
carry out the missions of the employer in
cases of emergencies; and

(9) In the case of the Hawaii health systems
corporation, prohibit the use of tobacco
products and e-cigarettes on the premises of
all health facilities operated by the
corporation within the State.

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1 This subsection shall not be used to invalidate provisions of
2 collective bargaining agreements in effect on and after June 30,
3 2007, and shall not preclude negotiations over the procedures
4 and criteria on promotions, transfers, assignments, demotions,
5 layoffs, suspensions, terminations, discharges, or other
6 disciplinary actions as a permissive subject of bargaining
7 during collective bargaining negotiations or negotiations over a
8 memorandum of agreement, memorandum of understanding, or other
9 supplemental agreement. Violations of the procedures and
10 criteria so negotiated may be subject to the grievance procedure
11 in the collective bargaining agreement."

12 SECTION 4. New statutory material is underscored.

13 SECTION 45. This Act shall take effect upon its approval.

14
15 INTRODUCED BY: _____

16 BY REQUEST

17

18

S.B. NO.305

Report Title:

Hawaii Health Systems Corporation

Description:

Amends HRS Chapter 323F to prohibit the use of Tobacco products and E-cigarettes at Hawaii health systems corporation facilities.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.



Friday, February 13, 2015 – 1:35 p.m.
Conference Room #414

Senate Committee on Health

To: Sen. Josh Green, MD, Chair
Sen. Glenn Wakai, Vice Chair

From: George Greene
President & CEO
Healthcare Association of Hawaii

Re: **Testimony in Support**
SB305 — Relating to Use of Tobacco Products and E-Cigarettes on Hawaii Health Systems Corporation Premises

The Healthcare Association of Hawaii's 160 member organizations include all of the acute care hospitals in Hawaii, all public and private skilled nursing facilities, all the Medicare-certified home health agencies, all hospices, all assisted living facilities, durable medical equipment suppliers and home infusion/pharmacies. Members also represent other healthcare providers from throughout the continuum including case management, air and ground ambulance, blood bank, dialysis, and more. In addition to providing quality care to all of Hawaii's residents, our members contribute significantly to Hawaii's economy by employing over 20,000 people statewide.

Thank you for the opportunity to testify in **support** of SB305, which prohibits the use of tobacco products and e-cigarettes on premises of facilities operated by HHSC, and requires HHSC to offer tobacco cessation programs to its employees.

All across the country, more and more hospitals and healthcare facilities are adopting 100% smoke-free policies, reinforcing their steadfast commitment to creating and sustaining healthy communities. HHSC, in keeping with this trend, should be permitted to improve its campuses by allowing its patients, employees and visitors to enjoy the benefits of a healthy, smoke-free environment.

Thank you for the opportunity to testify in support of SB305.



THE QUEEN'S HEALTH SYSTEMS

SB 305, Relating to Use of Tobacco Products and E-Cigarettes on Hawaii Health Systems Corporation Premises
Senate Committee on Health
Hearing—February 13, 2015 at 1:35 PM

Dear Chairman Green and Members of the Senate Committee on Health:

My name is Paula Yoshioka, and I am a Senior Vice President at The Queen's Health Systems (QHS). We would like to express our support for SB 305, relating to the use of tobacco products and e-cigarettes on Hawaii Health Systems Corporation (HHSC) premises.

In 2006, QHS instituted a ban on the use of tobacco products on our premises. This move was consistent with our mission to provide a safe, clean and healthy community environment for our staff, patients and families. Tobacco products have been proven to be harmful to the health of both the participant and bystanders. The use of tobacco products, including e-cigarettes, is inconsistent with our mission.

We believe that extending the ban on tobacco products and e-cigarettes on HHSC is consistent with each individual hospital's mission and reflects their commitment to improve the health of the people of Hawaii. That is why we ask for your support of SB 305.

Thank you for your time and consideration of this matter.

The mission of The Queen's Health Systems is to fulfill the intent of Queen Emma and King Kamehameha IV to provide in perpetuity quality health care services to improve the well-being of Native Hawaiians and all of the people of Hawai'i.



To: The Honorable Josh Green, Chair, Committee on Health
The Honorable Glenn Wakai, Vice Chair, Committee on Health
Members, Senate Committee on Health

From: Lyndsey Garcia, Policy & Advocacy Director

Date: February 12, 2015

Hrg: Senate Committee on Health; Friday, February 13, 2015 at 1:35PM, Room 414

Re: **Support with comments for SB 305, Relating to the Use of Tobacco Products and E-Cigarettes on Hawai'i Health Systems Corporation Premises**

Thank you for the opportunity to offer testimony in **support** of Senate Bill 305, which amends Chapter 323F, Hawaii Revised Statutes, to prohibit the use of tobacco products and e-cigarettes on the premises of all health facilities operated by the Hawai'i health systems corporation. This Bill also makes available tobacco-cessation programs for public employees of health facilities.

The Coalition for a Tobacco Free Hawai'i (Coalition) is a program of the Hawai'i Public Health Institute working to reduce tobacco use through education, policy and advocacy. Our program consists of over 100 member organizations and 2,000 advocates that work to create a healthy Hawai'i through comprehensive tobacco prevention and control efforts.

The Coalition supports a system-wide smoke-free and tobacco-free policy for all health systems facilities in Hawai'i as well as tobacco cessation programs for public employees of health facilities.

Smoking and tobacco use contribute to a wide range of institutional costs. These costs include employee absenteeism, extensive health care costs and increased medical insurance costs, fire risk, negative environmental impacts, and increased cleaning and maintenance costs.

Furthermore, secondhand smoke is dangerous; the 50th Anniversary U.S. Surgeon General Report released on January 17, 2014 states that any level of exposure to secondhand smoke is dangerous and can be harmful and over 2.5 million people have died from secondhand smoke. The International Agency for Research on Cancer and the U.S. Environmental Protection Agency both note that environmental tobacco smoke (or secondhand smoke) is carcinogenic to humans. Secondhand smoke contains 7,000 identifiable chemicals, 69 of which are known or probable carcinogens.

By passing SB 305 exposure to secondhand smoke will decrease, creating a healthy environment for all residents and tourists in the state.

The Coalition recommends amending the definitions of "tobacco product" and "e-cigarette" to be consistent with SB 1109 and HB 940.



To provide continuity and avoid disparities among definitions in the Hawaii Revised Statutes, the Coalition recommends amending the proposed definitions of “tobacco product” and “e-cigarette” to the definitions for “tobacco product” and “electronic smoking device” in SB 1109 and HB 940. SB 1109 and HB 940 are companion bills introduced as part of the Administration’s Legislative Package relating to the regulation of tobacco products.

Thank you for the opportunity to testify on this matter.

Respectfully,



Lyndsey Garcia
Policy and Advocacy Director

From: mailinglist@capitol.hawaii.gov
To: [HTHTestimony](#)
Cc: chevyriderhhh@gmail.com
Subject: *Submitted testimony for SB305 on Feb 13, 2015 13:35PM*
Date: Tuesday, February 10, 2015 6:04:27 PM

SB305

Submitted on: 2/10/2015

Testimony for HTH on Feb 13, 2015 13:35PM in Conference Room 414

Submitted By	Organization	Testifier Position	Present at Hearing
Chris Wells	Individual	Oppose	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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Subject: *Submitted testimony for SB305 on Feb 13, 2015 13:35PM*
Date: Tuesday, February 10, 2015 6:18:01 PM

SB305

Submitted on: 2/10/2015

Testimony for HTH on Feb 13, 2015 13:35PM in Conference Room 414

Submitted By	Organization	Testifier Position	Present at Hearing
Naomi C. Liu	Individual	Oppose	No

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Cc: awatanabe67@gmail.com
Subject: *Submitted testimony for SB305 on Feb 13, 2015 13:35PM*
Date: Wednesday, February 11, 2015 8:38:32 AM

SB305

Submitted on: 2/11/2015

Testimony for HTH on Feb 13, 2015 13:35PM in Conference Room 414

Submitted By	Organization	Testifier Position	Present at Hearing
Alan Watanabe	Individual	Oppose	No

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Cc: antonchris10@gmail.com
Subject: Submitted testimony for SB305 on Feb 13, 2015 13:35PM
Date: Wednesday, February 11, 2015 10:47:47 AM

SB305

Submitted on: 2/11/2015

Testimony for HTH on Feb 13, 2015 13:35PM in Conference Room 414

Submitted By	Organization	Testifier Position	Present at Hearing
Chris Anton	Individual	Oppose	No

Comments: This shouldn't include electronic smoking.

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Cc: konaking@live.com
Subject: *Submitted testimony for SB305 on Feb 13, 2015 13:35PM*
Date: Wednesday, February 11, 2015 12:56:01 PM

SB305

Submitted on: 2/11/2015

Testimony for HTH on Feb 13, 2015 13:35PM in Conference Room 414

Submitted By	Organization	Testifier Position	Present at Hearing
Jeff Stevens	Individual	Oppose	No

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To: [HTHTestimony](#)
Cc: kathyk323@hotmail.com
Subject: *Submitted testimony for SB305 on Feb 13, 2015 13:35PM*
Date: Wednesday, February 11, 2015 2:38:46 PM

SB305

Submitted on: 2/11/2015

Testimony for HTH on Feb 13, 2015 13:35PM in Conference Room 414

Submitted By	Organization	Testifier Position	Present at Hearing
Kathy Kim	Individual	Oppose	No

Comments:

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Cc: tandemadams@gmail.com
Subject: *Submitted testimony for SB305 on Feb 13, 2015 13:35PM*
Date: Wednesday, February 11, 2015 6:06:06 PM

SB305

Submitted on: 2/11/2015

Testimony for HTH on Feb 13, 2015 13:35PM in Conference Room 414

Submitted By	Organization	Testifier Position	Present at Hearing
Patrick Adams	Foodland Supermarkets Ltd	Support	No

Comments:

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Cc: 1hawaii4me@gmail.com
Subject: *Submitted testimony for SB305 on Feb 13, 2015 13:35PM*
Date: Thursday, February 12, 2015 7:27:08 AM

SB305

Submitted on: 2/12/2015

Testimony for HTH on Feb 13, 2015 13:35PM in Conference Room 414

Submitted By	Organization	Testifier Position	Present at Hearing
Mark Dietrich	Individual	Oppose	No

Comments:

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From: mailinglist@capitol.hawaii.gov
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Cc: mikenakas@hotmail.com
Subject: *Submitted testimony for SB305 on Feb 13, 2015 13:35PM*
Date: Thursday, February 12, 2015 9:15:17 AM

SB305

Submitted on: 2/12/2015

Testimony for HTH on Feb 13, 2015 13:35PM in Conference Room 414

Submitted By	Organization	Testifier Position	Present at Hearing
Michael S. Nakasone	Individual	Oppose	No

Comments:

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To: [HTHTestimony](#)
Cc: wintersnicholas@rocketmail.com
Subject: Submitted testimony for SB305 on Feb 13, 2015 13:35PM
Date: Thursday, February 12, 2015 1:15:28 PM

SB305

Submitted on: 2/12/2015

Testimony for HTH on Feb 13, 2015 13:35PM in Conference Room 414

Submitted By	Organization	Testifier Position	Present at Hearing
Nicholas Winters	Individual	Oppose	No

Comments: Why Electronic Smoking Devices? The product is basically just vapor that's not dangerous. If this product is banned then more people will smoke. Passing sb757 will harm public health.

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197 Sand Island Access Rd, Suite #213
Honolulu, Hawaii 96819
1-866-866-6370
support@volcanoecigs.com

February 12, 2015

TO: GREEN, BAKER, CHUN OAKLAND, HARIMOTO, RUDERMAN, WAKAI, Espero, Gabbard, Ihara, Keith-Agaran, Riviere, Shimabukuro

From: Scott Rasak, VOLCANO Fine Electronic Cigarettes® Vice President

RE: SB305 – oppose.

Thank you for the opportunity to submit testimony.

VOLCANO Fine Electronic Cigarettes® is the largest manufacturer and retailer of vapor products and vaping accessories in the State of Hawaii. We currently own and operate 11 locations statewide and employ over 100 full-time workers to support sales of our products not only here in Hawaii, but to all 50 states as well as Japan and the UK. We stand in opposition to SB305 for the following:

- Vapor products contain no tobacco, produce no smoke, and have not been demonstrated to have the detrimental effects of combustible tobacco products. In fact, the FDA has taken appropriate and proportional regulation seriously and to date has not issued regulations for the product because they seemingly understand the potential this product has to switch people over from actual tobacco, which kills 480,000 people per year. Further, Mitch Zeller, Director of the Center for Tobacco Products at the FDA recently stated:
 - "If a current smoker, otherwise unable or unwilling to quit, completely substituted all of the combusting cigarettes that they smoked with an electronic cigarette at the individual level, that person would probably be significantly reducing their risk."



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(<http://thedianerehmshow.org/shows/2014-01-21/new-health-risks-cigarette-smoking/transcript>)

- In sharp contrast to indoor smoke free policies/laws (which are largely self enforced because of broad public support), please note that it is also impossible to enforce an e-cigarette usage ban (since the products can be used discreetly without anyone else knowing). By simply waiting a few seconds before exhaling, no visible vapor is exhaled by e-cigarette users, and as such, nobody will know that anyone is even using an e-cigarette. Despite widespread usage in cities and states that have banned e-cigarette use where smoking is banned, there is no record of any fine or citation being given. Enacting unwarranted and unenforceable regulations carries the risk of unintended consequences like sending former smokers back to combustible tobacco products; harming their health and undermining the mandate of the state to promote viable alternatives to known killers.
- The Food and Drug Administration (FDA) has wisely taken its time on developing regulations for the vapor product industry and has not determined that these products are in fact tobacco products . At this time, with the exception of youth access laws targeted at keeping electronic cigarettes out of the hands of those below the age of 18, we feel that any action by state legislatures with regard to electronic cigarettes is premature.
- Over the years that we have been in business in the state, we have provided a product that tens of thousands of customers use every day to greatly reduce their tobacco use or quit smoking altogether. This has improved the lives of smokers and ex-smokers in this state. The removal of secondhand smoke has helped non-smokers as well and has cut down



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on the amount of butt discard in our community.

- Numerous studies conducted on e-cigarettes have found that e-cigarettes emit no hazardous levels of any constituents, and that levels of nitrosamines in e-cigarettes are nearly identical (i.e. very little if any) to those in nicotine gums and patches. Those studies are attached to this presentation.
- Burstyn, I. Peering through the mist: What does the chemistry of contaminants in electronic cigarettes tell us about health risks? BMC Public Health. January 2014. (concluding that there is no risk to bystanders exposed to electronic cigarette vapor)

<http://www.biomedcentral.com/1471-2458/14/18/abstract>

- Goniewicz ML, et al. Levels of selected carcinogens and toxicants in vapour from electronic cigarettes. Tobacco Control. March 2013. (testing of the vapor from twelve different electronic cigarettes, cigarette smoke, and the aerosol of the FDA-approved nicotine inhaler revealed that electronic cigarette vapor contains 9-450x less toxicants and chemicals when compared to secondhand smoke, with the authors noting that the trace levels present were comparable to what is released from the nicotine inhaler)

<http://tobaccocontrol.bmj.com/content/early/2013/03/05/tobaccocontrol-2012-050859.abstract>

- Siegel, M, et. al. Electronic cigarettes as a harm reduction strategy for tobacco control:

A step forward or a repeat of past mistakes. Journal of Public Health Policy.



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December 2010. (reviewing the evidence and concluding that there is no evidence electronic cigarettes pose risks to users and bystanders that is in any way comparable to cigarettes)

<http://www.palgrave-journals.com/jphp/journal/v32/n1/full/jphp201041a.html>

- Trehy, et. al. Analysis of electronic cigarette cartridges, refill solutions, and smoke for nicotine and nicotine related impurities. August 2011. (finding no harmful levels of any chemical in electronic cigarettes)

<http://www.tandfonline.com/doi/abs/10.1080/10826076.2011.572213>

Thank you for your time and consideration. If you have any questions, please feel free to contact me or Volcano's representative Celeste Nip at nipfire@me.com.

Sincerely,

Scott Rasak ,Vice President

VOLCANO Fine Electronic Cigarettes®