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February 28, 2018

Amalia Neidhardt  
DOSH Research and Standards Health Unit  
ANeidhardt@dir.ca.gov

**Re: Comments to California Division of Occupational Safety and Health (Cal/OSHA) Proposed State Standard, Title 8, Division 1, Chapter 4, § 5148. Prohibition of Smoking in the Workplace.**

Dear Ms. Neidhardt,

The Tobacco Education and Research Oversight Committee (TEROC) is a legislatively mandated oversight committee that monitors the use of Proposition 99 and Proposition 56 tobacco tax revenues for tobacco control prevention, education, and tobacco-related research in California. (Health & Safety Code §§ 104365-104370, Rev. & Tax. Code § 30130.56(e)) TEROC advises the California Department of Public Health (CDPH); the University of California (UC); and the California Department of Education (CDE) with respect to policy development, integration, and evaluation of tobacco education programs funded by Proposition 99 and Proposition 56. 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. TEROC's 2018-2020 Master Plan, *New Challenges, New Promises for All* lays out a vision for a tobacco-free California, including a recommendation to protect workers' health from all forms of secondhand smoke exposure.

**TEROC supports Cal/OSHA's proposed addition of "cannabis or cannabis products" to state regulations prohibiting smoking in the workplace in order to prevent secondhand smoke exposure from these products.** This is an important action as public perception about the low health risk of cannabis is discordant with available evidence in an increasingly permissive environment toward its use. Cannabis secondhand smoke contains many of the same chemicals and carcinogens as tobacco secondhand smoke; contains tar, ammonia, and hydrogen cyanide at higher levels than in tobacco secondhand smoke; and impaired vasodilation in a rat study (Moir, 2008; Wang, 2016).

The passage of Proposition 64, the Adult Use of Marijuana Act, in 2016 legalized use of cannabis for adults at least 21 years of age and created a licensing structure for retail sales that launched January 1, 2018. While Proposition 64 prohibits cannabis smoking in locations where tobacco smoking is prohibited, explicit inclusion of "cannabis or cannabis products" in the above referenced regulations extends Cal/OSHA's current authority over protecting workplaces from tobacco secondhand smoke to cannabis secondhand smoke.

In order to be clear and eliminate confusion among employers, workers and the general public about what products are covered by Cal/OSHA's proposal, TEROC recommends defining "cannabis" and "cannabis products" the same as it is in California's cannabis law in the Business & Professions Code. This law defines "cannabis" to include all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*; and "cannabis products" includes concentrated cannabis, or an edible or topical product containing cannabis or concentrated cannabis. In addition, TEROC recommends technical amendments to update



Amalia Neidhardt, DOSH Research and Standards Health Unit

Page 2

February 28, 2018

references to Labor Code Section 6404.5 and the inclusion of covered parking lots in the “enclosed space” definition, resulting from the passage of Assembly Bill 7-X2 (Stone) in 2016.

In California, 11.4% and 14.5% of adults and high school students, respectively, currently use marijuana (2017 Online California Adult Tobacco Survey and 2017 California Student Tobacco Survey). With expected increases in marijuana use, legal marijuana could potentially undermine existing laws regarding clean indoor air, as well as renormalize smoking. Among adult marijuana users, 80.2% smoke it and 31.3% vaporize it (2017 Online California Adult Tobacco Survey). Additionally, one-third of adults have reported exposure to secondhand marijuana smoke within the past two weeks (2017 Online California Adult Tobacco Survey). TEROC is concerned not only with the secondhand exposure of marijuana smoke and aerosol emissions, but with how the convergence of marijuana, tobacco, and electronic smoking devices are rapidly changing the “smoking” landscape and will likely affect the workplace. It is critical that Cal/OSHA address the [Triangulum of tobacco, marijuana and electronic smoking devices](#) to protect worker health and safety, the latter being delivery device to aerosolize not only nicotine, but also marijuana and other drugs.

For these reasons, TEROC supports Cal/OSHA’s proposal to add “cannabis or cannabis products” to smoke-free workplace regulations. For your reference, please see below for TEROC’s recommended amendments to the regulations.

Please feel free to contact me directly at (310) 794-0154 or via email at [mong@mednet.ucla.edu](mailto:mong@mednet.ucla.edu) if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael K Ong", enclosed in a thin black rectangular border.

Michael K Ong, MD, PhD  
Chairperson

**TEROC Recommended Amendments to Title 8, Division 1, Chapter 4, § 5148. Prohibition of Smoking in the Workplace.**

(c) For purposes of this section:

(1) "Enclosed space" includes ***covered parking lots***, lounges, waiting areas, elevators, stairwells, and restrooms that are a structural part of the building and not specifically defined in subdivision (c)(2).

(2) "Place of employment" does not include any of the places listed in Labor Code section 6404.5, subsections ~~(d)(1) through (d)(6), and (d)(9) through (d)(14)~~ ***(e)(1) through (e)(7)***.

(3) "Smoking" has the same meaning as in Business and Professions Code section 22950.5(c).

(4) "Tobacco product" means a product or device as defined in Business and Professions Code section 22950.5(d).

***(5) "Cannabis" has the same meaning as in Business and Professions Code section 26001(f).***

***(6) "Cannabis Products" has the same meaning as in Business and Professions Code section 26001(i).***

~~(5)~~ ***(7)*** "Cannabis or cannabis products" in accordance with Health and Safety Code section 11362.3 shall not be smoked in a location where smoking tobacco is prohibited.