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DQA Memo 10-014

To: Nursing Homes

NH 05

From: Paul Peshek, Director
Bureau of Nursing Home Resident Care

Via: Otis Woods, Administrator
Division of Quality Assurance

**Changes in 2010 to WI Clean Indoor Air Act and
Its Effect on E-Cigarettes in Nursing Homes**

Background

Effective July 5, 2010 the Wisconsin Clean Indoor Air Act (section 101.123, Wis. Stats.) prohibits smoking in all inpatient health care facilities, including nursing homes, within the state of Wisconsin. Nursing homes with a current policy that allows smoking in designated area(s) within the facility will need to change the policy and notify all residents of the change. Nursing homes that allowed indoor smoking before July 5, 2010 have two options: (1) to allow smoking in an outdoor designated smoking area or (2) to designate the entire campus as non-smoking. More details can be obtained in DQA memo 09-047, located on-line at: http://dhs.wisconsin.gov/rl_DSL/Publications/pdfmemos/09-047.pdf

Nursing homes that may have to change their smoking policies should include the use of e-cigarettes in these policies. Electronic cigarettes are not tobacco products, although they are designed to look and feel like traditional cigarettes. E cigarettes have been marketed as an alternative nicotine delivery device for use in places where smoking is not permitted since they do not produce smoke. A typical e-cigarette consists of three components: a battery, an atomizer and a cartridge containing nicotine. Most replaceable cartridges contain nicotine suspended in propylene glycol and water.

There are claims that these devices are safe to use. However, in limited studies there are concerns that the nicotine that is inhaled may contain carcinogens and other unknown toxic chemicals. There is limited information concerning these devices and whether the inhaled nicotine is safe. Many organizations, including the Department, support banning e-cigarette sales until more is known about the risks of this product. The American Cancer Society Cancer

Action Network, the American Heart Association, the American Lung Association and the Campaign for Tobacco Free Kids have a policy that may provide helpful information to facilities, links provided below.

Due to safety concerns facilities have asked whether e-cigarettes should be banned. As described in DQA memo 09-047, nursing homes fall into one of the following four scenarios with respect to smoking and e-cigarettes:

- *Facility has a policy that currently prohibits smoking within the nursing home and on facility grounds.* The Wisconsin Clean Indoor Air Act will have no impact on these facilities. However these facilities may wish to address e-cigarettes which may not fit under the definition of smoking. Although the changes to the Wisconsin Clean Indoor Air Act [section 101.123(4)(a)1, Wis. Stats.] do not explicitly ban the use of e-cigarettes, facilities may implement specific e-cigarette bans.
- *Facility policy currently allows smoking only in a designated outdoor smoking area and the facility wishes to continue this practice.* These facilities may choose to limit the use of e-cigarettes to the same outdoor designated area. Facilities that implement an e-cigarette ban will need to update their policy to specifically reflect the e-cigarette ban.
- *Facility policy currently allows smoking in designated areas within and outside the facility, and the facility wishes to continue to allow smoking outside.* Effective July 5, 2010, smoking within the nursing home is prohibited for all staff and residents. Current residents may not be grandfathered to allow them to smoke inside the building. Residents and staff may continue to smoke in designated areas outside the facility. As facilities develop, communicate and implement the new smoking policies, a specific e-cigarette ban can be included in such policies.
- *Facility policy currently allows smoking but the facility wishes to become a nonsmoking campus.* If a nursing home changes past policy by prohibiting smoking altogether on facility grounds and includes specifically banning e-cigarettes, this must be clearly stated in a revised admission agreement. The facility should notify the community, potential visitors, referral sources, and current residents of the change in smoking policy and e-cigarette ban. Residents who are admitted on or after the effective date of the policy are subject to the restrictions of the smoking policy and e-cigarette ban. Once again e-cigarettes can be part of the change in the facility policy. Additional guidance for implementing a change in policy can be found in DQA memo 09-047, located on-line at: http://dhs.wisconsin.gov/rl_DSL/Publications/09-047.htm

Facility Smoking and E-cigarette Policies

As facilities consider changes to smoking policies that include e-cigarettes, the Bureau of Nursing Home Resident Care encourages facilities to develop written policies and procedures that clearly identify:

- whether smoking or the use of e-cigarettes is allowed on facility grounds and, if so, where it is allowed;
- what accommodations for smoking and e-cigarettes are provided; and
- the type of staff assistance that will be provided with smoking or with the use of e-cigarettes.

These policies and procedures should be clearly explained orally and in writing to all new or prospective admissions. A facility policy that clearly articulates smoking and e-cigarette bans or restrictions will allow potential residents considering admission to determine if they can abide by the conditions of the policy. An explicit policy will also help deter or settle issues that might arise concerning smoking or the use of e-cigarettes.

Smoking Cessation Programs

See DQA memo 09-047 at: http://dhs.wisconsin.gov/rl_DSL/Publications/09-047.htm

If you have questions, please contact your Regional Field Operations Director (RFOD) at the location and phone number below.

- Southern Regional Office – Juan Flores RFOD (608) 266-9422
- Southeastern Regional Office - Jean Rucker, RFOD (414) 227-4563
- Northeastern Regional Office – Dolores Zwiers, Interim RFOD (920) 983-3185
- Northern Regional Office - Jessica Radtke, Interim RFOD (715) 365-2801
- Western Regional Office - Kathy Lyons, Interim RFOD (715) 836-3030

[Action of Smoking \(ASH\) Health Briefing](#)
[American Heart Association and American Lung Association Policy Guidance Document Regarding E-Cigarettes](#)