

# REPORT OF THE BOARD OF TRUSTEES

B of T Report 08-A-24

Subject: Annual Update on Activities and Progress in Tobacco Control: March 2023 through February 2024

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1 This report summarizes trends and news on tobacco usage, policies, and tobacco control advocacy  
2 activities from March 2023 through February 2024. The report is written pursuant to American  
3 Medical Association (AMA) Policy D-490.983, “Annual Tobacco Report.”

## 4 5 TOBACCO USE AT A GLANCE

6  
7 In the 1960s the adult smoking rate was at its highest at 42 percent.<sup>1</sup> Today that rate has been cut  
8 by more than half to an all-time low in 2022 of 11 percent. Despite this decline, tobacco use  
9 remains the leading cause of preventable disease, disability, and death in the United States.  
10 According to the Centers for Disease Control and Prevention (CDC) cigarette smoking accounts for  
11 more than 480,000 deaths every year, or about 1 in 5 deaths. More than 16 million Americans live  
12 with a smoking-related disease.<sup>2</sup>

13  
14 An annual review of tobacco use among adults, published in the May 5, 2023, Morbidity and  
15 Mortality Weekly Report (MMWR), summarizes National Health Interview Survey (NHIS) data to  
16 assess recent national estimates of commercial tobacco use among U.S. persons aged  $\geq 18$  years.  
17 NHIS is an annual, nationally representative household survey of the noninstitutionalized U.S.  
18 civilian population. Current smokers are defined as people who reported smoking at least 100  
19 cigarettes during their lifetime and who, at the time they participated in a survey about this topic,  
20 reported smoking every day or some days. This analysis found an estimated 46 million U.S. adults  
21 (18.7 percent) reported currently using any tobacco product, including cigarettes (11.5 percent), e-  
22 cigarettes (4.5 percent), cigars (3.5 percent), smokeless tobacco (2.1 percent), and pipes (including  
23 hookah) (0.9 percent). Although cigarette smoking decreased, e-cigarette use increased, from 3.7  
24 percent in 2020 to 4.5 percent in 2021, largely driven by higher prevalence in use among persons  
25 aged 18–24 years.<sup>3</sup>

26  
27 Nearly one in five adults who currently used tobacco products used two or more products, with  
28 nearly one third of these individuals (31.4 percent) reporting use of cigarettes and e-cigarettes.  
29 Dual use of tobacco products may have overlapping adverse health effects. While smoking and  
30 vaping may share similar harmful cardiovascular effects, each appears to cause some potentially  
31 damaging effects that the other does not. This suggests that dual product use may be more harmful  
32 than using either product alone.<sup>3,4</sup>

33  
34 The CDC and FDA analyzed data from the 2023 National Youth Tobacco Survey (NYTS) to assess  
35 tobacco product use patterns among U.S. middle school (grades 6–8) and high school (grades 9–  
36 12) students. This analysis was published in the November 3, 2023, MMWR.<sup>5</sup> The NYTS is a  
37 cross-sectional, school-based, self-administered web-based survey of U.S. middle and high school  
38 students. A stratified, three-stage cluster sampling procedure was used to generate a nationally  
39 representative sample of U.S. students attending private or public middle (grades 6–8) and high

1 (grades 9–12) schools. In 2023, data were collected during March 9–June 16; a total of 22,069  
2 students from 179 schools participated, with an overall response rate of 30.5 percent.

3  
4 Current use of any use of any tobacco product by high school students declined by an estimated  
5 540,000, from 2.51 million in 2022 to 1.97 million in 2023. Declines were also reported for current  
6 e-cigarette use among high school students during that same period from 14.1 percent to 10.0  
7 percent. While these declines demonstrate the effectiveness of tobacco control legislation and  
8 regulations, there is still cause for concern. E-cigarette products were the most used tobacco  
9 product of middle and high school students with 7.7 percent reporting current e-cigarette use  
10 followed by cigarettes at 1.6 percent. Among students who had ever used an e-cigarette, 46.7  
11 percent reported current use and 89.4 percent of them used flavored products and 25.2 percent used  
12 an e-cigarette daily. Given the number of middle and high school students that use tobacco  
13 products, sustained efforts to prevent initiation of tobacco product use among young persons and  
14 strategies to help young tobacco users quit are critical to reducing U.S. youth tobacco product  
15 use.**Error! Bookmark not defined.**

### 16 17 *Sales Use of E-Cigarettes Dominated by Flavored Products*

18  
19 E-cigarette unit sales increased by 46.6 percent during January 2020–December 2022 according to  
20 a study released by the truth initiative®. The study E-cigarette Unit Sales by Product and Flavor  
21 Type, and Top-Selling Brands, United States, 2020–2022 was published in the June 23, 2023,  
22 MMWR.<sup>6</sup> From January 26, 2020, to December 25, 2022, unit shares of tobacco-flavored and  
23 mint-flavored products decreased (from 28.4 percent to 20.1 percent and from 10.1 percent to 5.9  
24 percent, respectively), whereas shares of other flavor sales increased (from 29.2 percent to 41.3  
25 percent).<sup>6</sup>

26  
27 The study authors also looked at types of e-cigarettes. Disposable e-cigarettes are the preferred  
28 delivery device for vaped tobacco. Sales of fruit- and mint-flavored disposable products saw a  
29 significant rise compared to refillable cartridge devices. During the study period, January 2020–  
30 December 2022, sales of prefilled cartridges decreased from 75.2 percent to 48.0 percent, and  
31 disposable e-cigarette sales increased from 24.7 percent to 51.8 percent. The authors attributed this  
32 to an announcement in January 2020 by the U.S. Food and Drug Administration (FDA) that the  
33 agency would prioritize enforcement against prefilled e-cigarettes in flavors other than tobacco and  
34 menthol based on the prevalence of use of these products by youth.

35  
36 In the United States, the prevalence of e-cigarette use is markedly higher among youths and young  
37 adults than it is among adults overall. In 2021, 4.5 percent of all adults aged  $\geq 18$  years (an  
38 estimated 11.1 million) and 11.0 percent of young adults aged 18–24 years (an estimated 3.1  
39 million) currently ( $\geq 1$  day during the previous 30 days) used e-cigarettes; during 2022, 14.1 percent  
40 of high school students (an estimated 2.14 million) currently used e-cigarettes. The unit share of  
41 menthol-flavored product sales remained relatively stable, while non-menthol flavor unit shares  
42 changed.<sup>6</sup>

### 43 44 EFFORTS TO ADDRESS TOBACCO CONTROL

#### 45 46 *AMA Litigation Center joins with public health groups to protect tobacco regulation*

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48 In the courts, the AMA has continued to be very active in supporting efforts to further regulate and  
49 limit tobacco products and electronic nicotine delivery systems (ENDS). The AMA has joined  
50 numerous amicus briefs around the country in cases involving the federal government’s efforts to  
51 regulate and remove flavored ENDS from the market, which have contributed to favorable

1 outcomes in several federal circuit courts. In addition, the AMA has supported state and local  
2 governments with friend-of-the-court briefs after their laws banning flavored tobacco products and  
3 ENDS have been challenged by the tobacco and vaping industry. Finally, the AMA continues to  
4 monitor the federal government's efforts to eliminate the manufacture and sale of tobacco products  
5 with characterizing flavors, including menthol, as the AMA was one of the named plaintiffs in a  
6 lawsuit requiring the FDA to take long-overdue action on this issue.

7  
8 The AMA Litigation Center joined amicus briefs in Oregon supporting the ability of two counties  
9 to regulate flavored tobacco products beyond the state-level restrictions. The court cases centered  
10 on whether a county ordinance banning the sale of flavored tobacco products conflicts with a state  
11 law regulating the sale of tobacco and nicotine. One of the counties received a favorable ruling, and  
12 the other matter remains pending.

13  
14 The Litigation Center also joined an amicus brief supporting the use of graphic warnings on  
15 tobacco products. The issue in *R.J. Reynolds v. FDA* is whether an FDA rule regarding graphic  
16 warnings on cigarettes is lawful. That case remains pending.

17  
18 *AMA urged the FDA to investigate violations of federal law in California*

19  
20 In December 2022 California's law prohibiting the sales of menthol cigarettes and other flavored  
21 tobacco products prevailed despite legal challenges. California became the largest state in the  
22 country banning these products and became the target for release of new products designed to  
23 circumvent the law. R.J. Reynolds announced two new brands, Camel Crisp Non-Menthol and  
24 Camel Crush Oasis Non-Menthol Capsule.

25  
26 The Tobacco Control Act, which gives the FDA authority to regulate the tobacco industry prohibits  
27 the introduction of new products that have not undergone remarket review by the FDA. The  
28 introduction and marketing of the R.J. Reynolds products and others as "substitutes" for menthol  
29 cigarettes rather than "new" products suggests that the industry believes it has found a loophole.

30  
31 In March 2023 the AMA joined by other medical, public health and community organizations  
32 urged the FDA to use its authority and begin an investigation.

33  
34 *Helping Tobacco Users Quit Act would expand and ensure cessation coverage*

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36 In July 2023 Congresswoman Lisa Blunt Rochester (D-Del.) and Congressman Brian Fitzpatrick  
37 (R-Penn.) introduced the Helping Tobacco Users Quit Act. This bi-partisan bill, supported by the  
38 AMA, calls for expanded comprehensive Medicaid tobacco cessation coverage in every state with  
39 no cost-sharing or access barriers for beneficiaries. The bill would also help states conduct outreach  
40 campaigns to educate providers and beneficiaries about Medicaid's coverage of cessation services.

41  
42 The bill was referred to the House Energy and Commerce Subcommittee on Health waiting for a  
43 hearing and further consideration. Medicaid enrollees smoke at twice the rate of those with private  
44 insurance, meaning that expanding cessation coverage in Medicaid would improve health outcomes  
45 while lowering government spending.<sup>7</sup>

46  
47 *American Lung Association Releases its 2024 State of Tobacco Report*

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49 The American Lung Association's 2024 "State of Tobacco Control" report reveals the continued  
50 impact of tobacco use, including menthol cigarettes, on individuals and families across the country,  
51 and underscores the urgent need for the White House to finalize the rules to end the sale of menthol

1 cigarettes and flavored cigars to save lives.<sup>8</sup> The report highlighted the tobacco industry and its  
2 allies' influence to successfully convince the White House to delay finalizing the menthol  
3 cigarettes and flavored cigars rules.

4 Since the 1950s, Black individuals have been successfully targeted by aggressive marketing  
5 campaigns. According to a study in the 2023 April issue of *Nicotine & Tobacco Research*, an  
6 estimated 80 percent of Black individuals in the U.S. who smoke prefer menthol cigarettes. The  
7 authors also noted that target marketing was having an impact on Hispanic adults. During the study  
8 period the use of menthol went from 34 percent in 2008 to 51 percent in 2020.<sup>9</sup>

9  
10 At the local level, Chicago, IL and Milwaukee, WI were highlighted in the report for actions taken  
11 to restrict where new tobacco retailers can locate. This legislative action takes aim at the increased  
12 concentration of tobacco product retailers in low-income neighborhoods.

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<sup>1</sup> Giovino GA, Schooley MW, Zhu BP, Chrismon JH, Tomar SL, Peddicord JP, et al. Surveillance for Selected Tobacco-Use Behaviors - United States, 1900–1994. Centers for Disease Control and Prevention. CDC Surveillance Summaries, 1994. MMWR. 1994;43(SS-3):1–50

<sup>2</sup> [https://www.cdc.gov/tobacco/data\\_statistics/fact\\_sheets/adult\\_data/cig\\_smoking/index.htm](https://www.cdc.gov/tobacco/data_statistics/fact_sheets/adult_data/cig_smoking/index.htm) (accessed February 19, 2024)

<sup>3</sup> Cornelius, M. E., Loretan, C. G., Jamal, A., Davis Lynn, B. C., Mayer, M., Alcantara, I. C., & Neff, L. (2023). Tobacco product use among adults – United States, 2021. *MMWR. Morbidity and Mortality Weekly Report*, 72(18), 475–483. <https://doi.org/10.15585/mmwr.mm7218a1>

<sup>4</sup> Mohammadi, L., Han, D. D., Xu, F., Huang, A., Derakhshandeh, R., Rao, P., Whitlatch, A., Cheng, J., Keith, R. J., Hamburg, N. M., Ganz, P., Hellman, J., Schick, S. F., & Springer, M. L. (2022). Chronic e-cigarette use impairs endothelial function on the physiological and cellular levels. *Arteriosclerosis, Thrombosis, and Vascular Biology*, 2022;42(11), 1333–1350. <https://doi.org/10.1161/atvbaha.121.317749>

<sup>5</sup> Birdsey, J., Cornelius, M., Jamal, A., Park-Lee, E., Cooper, M. R., Wang, J., Sawdey, M. D., Cullen, K. A., & Neff, L. (2023). Tobacco product use among U.S. middle and high school students — National Youth Tobacco Survey, 2023. *MMWR. Morbidity and Mortality Weekly Report*, 72(44), 1173–1182. <https://doi.org/10.15585/mmwr.mm7244a1>

<sup>6</sup> Ali, F. R., Seidenberg, A. B., Crane, E., Seaman, E., Tynan, M. A., & Marynak, K. (2023). E-cigarette unit sales by product and flavor type, and top-selling brands, United States, 2020–2022. *MMWR. Morbidity and Mortality Weekly Report*, 72(25), 672–677. <https://doi.org/10.15585/mmwr.mm7225a1>

<sup>7</sup> Creamer MR, Wang TW, Babb S, Cullen KA, Day H, Willis G, Jamal A, Neff L. Tobacco product use and cessation indicators among adults—United States, 2018. [PDF – 219 KB] *MMWR Morb Mortal Wkly Rep* 2019;68:1013-1019

<sup>8</sup> <https://www.lung.org/research/sotc> (accessed February 22, 2024)

<sup>9</sup> Renee D Goodwin, Ollie Ganz, Andrea H Weinberger, Philip H Smith, Katarzyna Wyka, Cristine D Delnevo, Menthol Cigarette Use Among Adults Who Smoke Cigarettes, 2008–2020: Rapid Growth and Widening Inequities in the United States, *Nicotine & Tobacco Research*, Volume 25, Issue 4, April 2023, Pages 692–698, <https://doi.org/10.1093/ntr/ntac214>