

The Non-Smokers' Rights Association

National Forum on Waterpipe Use

Introduction

The popularity of waterpipe smoking has been steadily increasing since the 1990s, and public health practitioners from across Canada have taken notice. Hookah establishments are popping up from coast to coast and there is widespread availability of tobacco and “herbal” shisha at retail as well as on the internet. Recognizing the significance of this emerging issue, the Non-Smokers' Rights Association (NSRA) convened a national forum in February 2012. The goal of this 1.5 day meeting was to bring interested parties together to discuss the problem and to explore possible options for curbing the trend. Forty-three participants from BC, AB, SK, ON, QC, NS and NL attended, representing tobacco control and public health organizations, the Royal Canadian Mounted Police (RCMP), provincial governments, universities and Health Canada.

An overview of the issue was presented, followed by a review of the evidence regarding health effects and patterns of use. Using the number of hookah establishments in various jurisdictions as a rough gauge, “hot spots” were identified across the country and presenters were asked to provide a snapshot of the situation in each jurisdiction in terms of the number of establishments, enforcement challenges, legislative or policy responses, and ideas moving forward. The RCMP also weighed in on the issue, clarifying its enforcement role and providing general information regarding its key partners and identified challenges. The RCMP emphasized that from their perspective, more important than a loss of tax revenue to the government is the concern that profits from contraband tobacco shisha are possibly being used to fund organized crime involving drugs and weapons. Other presenters also offered their enforcement perspectives, both in terms of the importance of working with partners to enforce current laws, as well as presenting ideas to address the legislative gaps that exist federally, provincially and locally.

Identified challenges and solutions

Despite the fact that each province has its own smoke-free legislation, there were some common challenges identified as well as ones unique to various jurisdictions. For this report, challenges are grouped under the following headings: evidence/data, public awareness, enforcement, political climate and resources. The solutions listed for each section are not in priority sequence and do not necessarily reflect group consensus.

Evidence/Data

There was general agreement among participants that in the eyes of decision makers, tobacco (even in shisha form) is already addressed in provincial tobacco legislation and that what is needed to include herbal shisha in legislation is evidence regarding its health effects. Some participants felt that despite

there not yet being a body of evidence on the health effects of “herbal” shisha specifically, there is likely already enough related to combustion and smoke exposure generally. These participants reasoned that all that’s therefore needed is for the current evidence to be compiled into one document by an authoritative health agency. Others disagreed, citing the need for more research. A participant cautioned that the level of evidence needed today for legislative change is higher than what was considered sufficient in the 1990s. Moreover, it was suggested a degree of elitism exists, where research from elsewhere—currently the situation for waterpipe—is not considered as good as research from North America, and that local evidence is both highly regarded and necessary to effect local change. All participants agreed that there are gaps in the Canadian annual current data relating to waterpipe smoking, in terms of prevalence, number of hookah establishments, websites, vendors, charges, shisha importers/manufacturers (market data), public awareness, public opinion, illegal market, etc.

Evidence/Data: Solutions

- ▶ Compilation and summarization of the existing evidence on the health effects of smoking “herbal” shisha by an authoritative health organization (Ontario Tobacco Research Unit agreed to do this);
- ▶ Endorsement of the current evidence by other respected bodies such as the Canadian Medical Association (CMA), Canadian Public Health Association (CPHA);
- ▶ An integrated research agenda to close the evidence/data gaps, identifying who is doing what research and in what timelines;
- ▶ A database of market data, including imports from select countries including Egypt, UAE, etc. (Health Canada, with input from the Canada Border Services Agency (CBSA)?);
- ▶ Pooled resources for a national public opinion survey on waterpipe use in Canada, or perhaps provincial surveys with funds permitting;
- ▶ The inclusion of hookah questions in municipal bylaw consultations;
- ▶ The identification of hookah establishments and shisha vendors municipally or regionally, perhaps a project suitable for summer students;
- ▶ The inclusion of waterpipe questions on the Canadian Tobacco Use Monitoring Survey (CTUMS) (data will be released September 2012), the Youth Smoking Survey (YSS), and perhaps the Ontario Student Drug Use and Health Survey (OSDUHS), the Rapid Risk Factor Surveillance System (RRFSS) and the Canadian Community Health Survey (CCHS);
- ▶ The improvement of existing tobacco information gathering tools (like the “Tobacco Inspection System” in Ontario) to track hookah-related tobacco charges;
- ▶ A standardized data collection tool for the inspection of hookah establishment that can be shared (Ottawa Public Health);
- ▶ Funding for research and the collection of local data such as the University of Alberta medical student survey (May 2012) and the upcoming Vancouver Island Health Authority study on “herbal” shisha and the use of an electric element instead of charcoal;
- ▶ The inclusion of standardized waterpipe questions on provincial student surveys (to be shared among jurisdictions);

- ▶ The inclusion of waterpipe in Smokers' Helpline interview questions;
- ▶ A linkage with Leave The Pack Behind, an organization which has begun to educate post-secondary students in Ontario about waterpipe use.

Public Education

There was unanimous agreement among participants that more public education about the dangers of waterpipe smoking is needed to debunk the common myths that exist. Some participants shared anecdotal comments about an observed lack of awareness even among health professionals, and emphasized the importance of also educating decision-makers and opinion leaders on the issue. There is currently no Canadian resource geared for a general audience that addresses the health consequences of waterpipe use, risk of communicable diseases, risk of use becoming a gateway to other drugs, cultural practice versus social activity of youth, occupational health & safety, and tobacco shisha as contraband (taxes not paid, products not stamped).

Public Education: Solutions

- ▶ A fact sheet geared to the general public to dispel the myths about waterpipe smoking (NSRA agreed to this);
- ▶ The education of health professionals—the issue needs to be raised with the CMA, provincial medical associations, medical officers of health through the Urban Public Health Network and the Council of Ontario Medical Officers of Health (COMOH), as well as with other health professions;
- ▶ Use of the media, including Tobacco Info/Info Tabac (for example, when new data such as YSS or CTUMS results are released) and collaboration with enforcement officers;
- ▶ Partnerships with youth groups;
- ▶ The identification of multicultural local champions;
- ▶ The education of decision-makers and opinion leaders.

Enforcement

All provinces except Quebec have smoke-free legislation that pertains only to tobacco (Quebec introduced a regulation in 2008 stating that any product that does not contain tobacco and is intended to be smoked is considered to be tobacco). There was a high level of agreement among participants that provincial smoke-free laws are being subverted by hookah establishments claiming to serve only “herbal” shisha. Quebec’s problem is different, in that its legislation has grandfathered approximately 30 “cigar or pipe lounges” that offer hookah smoking, yet there are an estimated additional 150 establishments operating illegally. Despite the issuance of written warnings and fines, these illegal establishments continue to operate with impunity. Participants also described the challenges of locating and keeping track of hookah establishments in their jurisdictions—businesses are sometimes in non-traditional locations and non-traditional advertising is often used.

To counter the “herbal” claims in Ontario, shisha samples are routinely sent to the CBSA for analysis so that tobacco charges can be laid. Concerns were raised that Ontario tobacco enforcement officers

(TEOs) do not have the power to search for samples which hinders enforcement efforts. TEOs agreed that 95% - 98% of the tested samples come back positive for tobacco (which makes the need for evidence related to the health effects of “herbal” shisha something of a red herring). It was reported that testing is costly and slow and the need for a field test kit that could triage samples was emphasized. Other than Vancouver, which will start sampling shisha in early March, no other jurisdictions in Canada are currently expending resources on testing. Participants also discussed the value of testing the indoor air quality in hookah establishments, using particulate matter (PM) and carbon monoxide (CO) as markers. However, there is no standardized approach or data collection tool presently available.

Concern was also raised regarding the fact that tobacco shisha is being sold without graphic health warnings. No province in Canada has labelling regulations that go above and beyond what is required federally, so this is a problem in all jurisdictions. It was clarified by Health Canada that not all federal tobacco regulations apply to all tobacco products, and that the current regulations pertaining to graphic health warnings and reporting requirements do not cover tobacco shisha.

Finally, participants discussed a perceived lack of awareness among customs and other officers regarding the importation of shisha into Canada (there are no known domestic manufacturers). The RCMP reported that much of the tobacco shisha is being falsely declared at the border as food and that tobacco taxes are not being paid. Moreover, with sparse ingredient lists (and not always listed in English or French), a possible role for the Canadian Food Inspection Agency (CFIA) was queried.

Enforcement: Solutions

- ▶ Legislative amendments to broaden the scope of provincial smoke-free laws everywhere except Quebec—this solution would eliminate the need for testing shisha for the presence of tobacco;
- ▶ Draft wording for provincial legislation and municipal bylaws with a focus on ‘lit’, ‘heated’ and ‘other weeds and substances’ (NSRA);
- ▶ In Quebec, legislative measures may be needed to pursue the injunctive process to shut down illegal establishments after a set number of offences (unpaid fines); this would require resources and political will;
- ▶ The creation of a field test kit for the presence of nicotine in shisha samples—considered an interim solution (CBSA);
- ▶ A bulk testing formal agreement/memorandum of understanding with the CBSA to reduce costs and streamline shisha testing in the pursuit of tobacco convictions (MOHs to initiate the discussion, work with COMOH);
- ▶ Partnerships between TEOs, environmental health officers and public health inspectors to test for CO, PM, nicotine in shisha, etc., and ideally using a standardized data collection tool;
- ▶ The provision of search authority for TEOs in Ontario (including for contraband in plain view) and other jurisdictions where it is an issue;
- ▶ The issue addressed at the federal inter-departmental task force on contraband;
- ▶ Better sharing of information and cooperation among agencies;
- ▶ A complaint filed with the Competition Bureau about the misleading labelling of “herbal” shisha;

- ▶ Monitoring of social media sites to obtain information about the location and dealings of hookah establishments;
- ▶ A consultation with Health Canada, or perhaps a legal opinion, about the need for a legislative or regulatory amendment to require graphic health warnings on tobacco shisha;
- ▶ An investigation to see how section 5 (packaging and labelling) of the *Smoke-Free Ontario Act* can be used to pursue convictions;
- ▶ An investigation to see if there might be a role for the CFIA in enforcement efforts.

Resources and Political Climate

There was general agreement at the meeting that a belief exists among at least some elected officials that “tobacco has been done” and that it’s time to move onto other chronic diseases. Participants spoke about the uncertainty surrounding a renewal of the Federal Tobacco Control Strategy and cited a lack of political will or capacity to deal at the same time with emerging issues such as waterpipe use. A similar theme also emerged at the provincial level involving cutbacks and budgetary limitations. Some participants spoke of working within a prevailing anti-regulatory climate. Additional challenges identified include competing priorities within enforcement agencies, and the added complication of most tobacco shisha being contraband.

Solutions: Resources and Political Climate

The group did not spend much time discussing possible solutions to address political challenges and concomitant dwindling resources. Rather, the following points were emphasized:

- ▶ The need for partnerships to pool limited resources and to maximize results;
- ▶ Addressing the other challenges, such as a lack of public awareness about waterpipe smoking, will help to indirectly address the political challenges;
- ▶ A preference for adequate legislation to address the problem—an emphasis on enforcement and testing of “herbal” shisha is costly and resource-intensive.

Conclusion

The NSRA thanks all participants who attended the forum and gave their valuable input. Thanks also go to the presenters for their excellent presentations and to Health Canada for providing the funds for the forum. The meeting was informative and productive, with various strategies and policy options identified to address this emerging public health issue at all levels of government. It is hoped that the experiences shared between provinces can help to inform future policy and enforcement decisions. Urgent action is required to halt the rapid spread of waterpipe smoking and to protect the health of Canada’s young people.