



COMMUNITY RELATIONS & ADVOCACY COMMITTEE
Wednesday, May 3, 2023
4:00 P.M.

2012 West 25th Street, United Bank Building / 6th Floor - Ohio Room

Committee Mission Statement: *To establish mental health and addiction as a permanent civic priority, enhance the public's perception of people with mental illness and addiction, increase community support and future funding opportunities, and broaden communication, cooperation and partnerships with people living with mental illness and addiction, family members, organizations, other governments and the public.*

AGENDA

- 1. Call to Order** – *Patricia James-Stewart, M.Ed., LSW, Committee Chair*
- 2. Public Comment on Agenda Items** – *Patricia James-Stewart, M.Ed., LSW*
- 3. Approval of Minutes:** March 1, 2023 – *Patricia James-Stewart, M.Ed., LSW*
- 4. Legislative Update** – *Clare Rosser, Chief of Strategic Initiatives / Scott Osiecki, Chief Executive Officer*
 - **House Bill (HB) 33 – House Budget Bill – "Establishes operating appropriations for fiscal years 2024-2025"**
 - **Senate Bill (SB) 105 – Ohio Revised Code (ORC) Chapter 340 Bill – "Regards ADAMH boards; recovery housing residences"**
 - **Letter of Support for City of Cleveland Legislation Banning Flavored Tobacco** (*Action Requested*)
- 5. May is Mental Health Awareness Month Upcoming Trainings and Opportunities Update** – *Carole Ballard, Director of Education and Training*
- 6. Problem Gambling Campaign and Crisis Campaign Updates** – *Beth Zietlow-DeJesus, Director of External Affairs*
- 7. Media Tracking Report** – *Beth Zietlow-DeJesus*
- 8. Social Media and Website Tracking Reports** – *Beth Zietlow-DeJesus*
- 9. New Business**
- 10. Follow-up**
- 11. Public Comment Period**
- 12. Upcoming May and June Board Meetings:**
 - Planning & Oversight Committee Meeting: May 10, 2023
 - Finance & Operations Committee Meeting: May 17, 2023
 - General Meeting: May 24, 2023
 - Faith-based Outreach Committee Meeting: June 7, 2023
 - Planning & Oversight Committee Meeting: June 14, 2023
 - Finance & Operations Committee Meeting: June 21, 2023
 - General Meeting: June 28, 2023

Community Relations & Advocacy Committee

Patricia James-Stewart, M.Ed., LSW, Chair; Ashwani Bhardwaj, Committee Vice Chair
Reginald C. Blue, Ph.D.; Gregory X. Boehm, M.D.; Erskine Cade, MBA;
Sadigoh Galloway, MSW, LIW, LICDC-CS; Rev. Benjamin F. Gohlstin, Sr.;
Katie Kern-Pilch, MA, ATR-BC, LPC-S; Sharon Rosenbaum, MBA; Harvey A. Snider, Esq.

ALCOHOL, DRUG ADDICTION & MENTAL HEALTH SERVICES BOARD OF CUYAHOGA COUNTY

COMMUNITY RELATIONS & ADVOCACY (CR&A) COMMITTEE

MARCH 1, 2023

Committee Members Present: Patricia James-Stewart, M.Ed., LSW, Committee Chair, Ashwani Bhardwaj, Rev. Benjamin F. Gohlstin, Sr., Katie Kern-Pilch, MA, ATR-BC, LPC-S, Harvey A. Snider, Esq.

Absent: Reginald C. Blue, Ph.D., Gregory X. Boehm, M.D., Erskine Cade, MBA, Sadigoh C. Galloway, MSW, LSW, LICDC-CS, Sharon Rosenbaum, MBA

Board Staff Present: Scott Osiecki, Chief Executive Officer, Carole Ballard, Anthony Henderson, Woo Jun, Linda Lamp, Clare Rosser, Jessica Saker, Starlette Sizemore, Beth Zietlow-DeJesus

1. Call to Order

Ms. Patricia James-Stewart, Committee Chair, called the meeting to order at 4:03 p.m. Ms. Katie Kern-Pilch read into the record the Committee Mission Statement: *“To establish mental health and addiction as a permanent civic priority, enhance the public's perception of people with mental illness and addiction, increase community support and future funding opportunities, and broaden communication, cooperation and partnerships with people living with mental illness and addiction, family members, organizations, other governments and the public.”*

2. Audience Input on Agenda Items

No audience input regarding agenda items was received.

3. Approval of Minutes

The minutes from the January 4, 2023 Community Relations & Advocacy Committee were approved as submitted.

[Rev. Benjamin F. Gohlstin, Sr., entered]

4. Milestones Autism Resources Healthcare Worker Training Program

Ms. Carole Ballard, Director of Education and Training, introduced Ms. Mia Buchwald Gelles, Operations Director at Milestones Autism Resources. Ms. Buchwald Gelles reported that Milestones Autism Resources' mission is aligned with the Alcohol, Drug Addiction and Mental Health Services (ADAMHS) Board of Cuyahoga County in the following ways:

- Importance of providing accessible mental health care across diverse communities in Cuyahoga County
- Dedication to cultural humility and trauma informed care
- Value of providing training and education as a means to increase access and reduce barriers

Coordinated autism and mental health education is important in health care and behavioral health care because of a lack of awareness of significant overlap in diagnosis of mental health challenges amongst autistic individuals. There also exists a lack of training by new and veteran healthcare professionals, a disparity in diagnosis in communities of color and inadequate behavioral health access to communities of color.

Ms. Buchwald Gelles reported that autism is a neurological disorder that affects executive functioning, communication, social interaction and sensory processing. Characteristics begin prior to the age of three, and one in 44 U.S. children have been identified with Autism Spectrum Disorder (ASD). ASD impacts every socioeconomic and cultural population, almost four times more common among boys and half “missed” and half “new” cases. The genetic link has been identified by parental age and weight, identical twins, relative/sibling with ASD and more often in people with certain genetic conditions.

The following co-occurring conditions exist in autistic individuals:

- Attention Deficit Hyperactivity Disorder (ADHD)
- Anxiety Disorders

- Obsessive Compulsive Disorder (OCD)
- Sleep Disorders
- Eating Disorders
- Depression
- Fragile X Syndrome
- Gastrointestinal Issues/Bowel Diseases
- Post-traumatic Stress Disorder (PTSD)
- Seizures
- Tourette's Syndrome

Milestones Autism Resources has a number of services. They provide an Annual Conference, Helpdesk, online resources and consultations and agency training. The Annual Conference has world-class speakers, networking and support, provides Continuing Education Units (CEUs) in 12 disciplines and over 1,000 professionals, families and autistic individuals attend. The Helpdesk offers free personalized, customized guidance to trusted resources. They also have a Spanish Helpdesk. On the online resource, www.milestones.org, 1,400 educational, therapeutic, medical and recreational resources in Ohio are identified. The Milestones Autism Planning tool and community calendar is also shared. Lastly, through consultations and agency training, families, autistic individuals and organizations can obtain training.

Ms. Buchwald Gelles reported that Milestones Autism Resources' goals for Diversity, Equity and Inclusion are identified as:

- Remove barriers to accessing information
- Improve diagnosis
- Increase early intervention
- Build awareness and educate professionals and first responders

She highlighted that fewer children of color get diagnosed and access services – 10% more likely among White versus Black children, 20% more likely among White versus Hispanic children and 10% more likely among Black versus Hispanic children. The latest data from the Centers for Disease Control and Prevention (CDC) show better diagnosis rate versus past but still not equitable. The Barriers include diagnostic tools inherently biased, stigma, socioeconomic status, access to healthcare and language.

Ms. Buchwald Gelles shared that caregivers are far more likely to place the needs of their disabled loved ones before their own. Neglecting their own medical and mental health needs will lead to long-term deficits. Caregivers of individuals with autism and similar disabilities have the same rate of PTSD as combat veterans. However, through a collaborative effort of increasing training and education of behavioral healthcare workers, medical students and residents serving minority communities in the dual care of autism and mental health support, more adequate services would be directed at caregivers to decrease the risk of significant mental health issues. Ms. Buchwald Gelles responded to questions from the Board Directors. (The PowerPoint presentation is attached to the original minutes stored in the Executive Unit.)

5. Legislative Update

Mr. Scott Osiecki, Chief Executive Officer, reported that letters of congratulations and partnership were sent to Cuyahoga County legislators who hold significant leadership positions in the new 135th General Assembly. The ADAMHS Board works extensively with these Senators. The outreach to them reiterated our position as a resource for mental health and addiction expertise. Letters went to: Senator Nicki Antonio, Minority Leader; Senator Kent Smith, Minority Whip, and Senator Matt Dolan, Finance Committee Chair.

The State is currently in its budget process for State Fiscal Year (SFY) 2024 & 2025. The Governor's proposed budget – House Bill (HB) 33 is being considered in the House Finance Committee. With federal and General Revenue funds, the full funding recommendation for Fiscal Year 2024 for the Ohio Department of Mental Health and Addiction Services (OhioMHAS) is \$1.3 billion (or a 10.7% increase from FY 2023). Funding for FY 2025 is \$1.2 billion (or a 12.4% decrease from FY 2024). For OhioMHAS, crisis and workforce is a major priority in this budget. The Ohio Association of County Behavioral Health Authorities (OACBHA) supports all of the increases to behavioral health community services:

- \$20 million for 988 in SFY2024.
- \$25 million for 988 in SFY2025.

The question remains as to how this funding will be distributed since there are 19 call centers in Ohio.

There is \$90 million for crisis, which is being split into two buckets – and all crisis funds will run through the Boards; and must be used by the end of September 2025. \$45 million will be split between six regions which is \$7.5 million per region for the development of an Adam – Amanda Center. There will be at least one center per region, and it must be open to all Boards in the region. These are one-time capital dollars – and there is a 10% match requirement. The other \$45 million is per region – \$7.5 million – however – Boards do not have to work together as a full region, but at least two Boards must work together. This funding is a one-time grant that can be used by the region to hire a consultant, develop a crisis center, mobile crisis team, etc.

Additional highlights from the recommended budget include:

- \$20 million for allocations to ADAMHS Boards for local priorities in prevention, early intervention, and suicide prevention;
- \$20.5 million to improve community treatment and recovery supports for Ohioans living with severe mental illness, including expanding the Clubhouse model; and
- \$16 million for forensic services to protect the needs of people with mental illness in the criminal justice system.

The Governor is also recommending \$110 billion in American Rescue Plan Act (ARPA) funding for research on behavioral health best practices. Mr. Osiecki reported that no one is sure what this exactly means, by it looks like a university would bring up a new research arm. The National Alliance on Mental Illness (NAMI) supports it, and the Suicide Prevention Foundation supports it but questions the amount of money being spent. OACBHA is staying neutral at this time.

Policy Changes that are also recommended in the Budget Bill include:

- Recovery Housing Certification.
- Indigent Driver Alcohol Treatment (IDAT) funding being more flexible for use by the courts.
- Medication reimbursement for Medication Assisted Treatment (MAT) and psychotropic medications in jail.

Work is still continuing on Ohio Revised Code (ORC) 340 modernization:

- OACBHA has been meeting with various legislators, including Rep. Sweringen – the sponsor of last session's efforts.
- He said that he will be reintroducing something – perhaps in the budget bill.
- There are some other representatives who also support the efforts but might introduce a separate bill.
- The focus remains on the removal of the 120-day notice, data and certification of providers.

Mr. Osiecki reported that Dr. Fowler, Ms. Clare Rosser, Chief of Strategic Initiatives, and he will be participating in a joint Legislative Advocacy Day with OACBHA, NAMI Ohio and the Suicide Prevention Foundation on Wednesday, March 29, 2023. He noted that since this is a combined legislative day, participation is limited. The day will start with organizing a meeting in the morning, a recognition luncheon, a meeting with our individual legislators, and end with a legislation reception. Board staff will also participate in the Mental Health & Addiction Advocacy Coalition (MHAC) Virtual Advocacy Week from March 27 to March 31, 2023. Ms. Rosser will share more information about this and how to register at a later date.

Besides the budget, there were some new bills introduced that Board Staff are following:

- **HB 1 Property, Income Tax Changes:** To modify the law regarding property taxation and income tax rates, which may have an effect on levies.

- **HB 8 Parental Notification Requirements School Curriculum:** To enact the "Parents' Bill of Rights" to require public schools to adopt a policy on parental notification on student health and well-being and instructional materials with sexually explicit content.
- **HB 37 Increase penalties for Operating a Vehicle Impaired (OVI) and aggravated vehicular homicide** (Johnson-R, Miller-R) To increase the financial penalties for OVI and to increase the financial penalties and prison term for aggravated vehicular homicide under specified circumstances.
- **HB 38 School Mental Health Days:** To allow school districts to permit students K-12 to take up to three excused mental health days away from school each school year.
- **Senate Bill (SB) 9 Medical Marijuana:**
 - Changes disqualifying offenses.
 - Creates "marijuana cultivation areas" where medical marijuana is cultivated.
 - Adds categories to "qualifying medical conditions" including opioid use disorder as well as any condition that a physician finds would be relieved by medical marijuana or that the person would benefit from medical marijuana.
 - Creates Division of Marijuana Control within the Department of Commerce.
 - Establishes the Medical Marijuana Oversight Commission to develop and oversee the Division of Marijuana Control.
 - Requires retail dispensary employee training and registration of patients and caregivers and requirements to be eligible for registration to be established.
 - Expands forms of medical marijuana that may be dispensed including oral strips and topical sprays and lotions.
 - Provides a new formula for the number of retail dispensary licenses permitted at one time.
 - Increases the permissible tetrahydrocannabinol (THC) content of extracts, from not more than 70% to 90%.
- **SB 26 Operating a vehicle, watercraft under marijuana influence:** To change the laws pertaining to operating a vehicle or watercraft while under the influence of marijuana and the admissibility of evidence for purposes of OVI statutes.
- **SB 60 Licensed certified mental health assistants:** To allow the state medical board to license certified mental health assistants and to amend the version of section 4755.48 of the Revised Code that is scheduled to take effect December 29, 2023, to continue the change on and after that date.

6. **2023 Advocacy Action Agenda**

Ms. Beth Zietlow-DeJesus, Director of External Affairs, reported the Advocacy Action Agenda is designed to inform the Board, community and system providers of the advocacy goals for each year to advance important behavioral health issues. This agenda was developed with the overarching goal of promoting recovery of individuals living with mental illness and substance use disorders by adopting and acting on the six 2021-2025 Strategic Plan Goals, which align with the Recovery Oriented System of Care principles and are overlaid in the Diversity, Equity and Inclusion Strategic Implementation Plan:

1. Strengthening Service Delivery System
2. Measuring Impact
3. Maximizing Available Funding
4. Maintaining a High-Performing Organization
5. Strengthening Behavioral Health Workforce
6. Sharing Information

The Advocacy Action Agenda is in addition to the advocacy and collaboration that the ADAMHS Board provides on a daily basis through its work of ensuring that mental health, addiction treatment and prevention and recovery services and

supports are available to help children and adults reach and sustain recovery. This year's agenda has five new advocacy goals.

Motion to recommend acceptance of the CY2023 Advocacy Action Agenda to the full Board. MOTION: H. Snider / SECOND: K. Kern-Pilch / AYES: A. Bhardwaj, B. Gohlstin, K. Kern-Pilch, H Snider / NAYS: None / ABSTAIN: None / **Motion passed.**

7. Problem Gambling and Suicide Prevention Awareness Activities and Campaign

Ms. Zietlow-DeJesus reported that while most can safely and responsibly gamble, the existence of individuals negatively impacted by gambling cannot be denied. Ohio's statewide survey showed that nearly one in 10 Ohioans who gamble are currently experiencing or are at risk of developing a gambling problem; roughly one in five pathological gamblers attempt suicide, a rate higher than that of any other addiction disorder. The Cuyahoga County Problem Gambling Coalition advocates for individuals who are negatively impacted by gambling and works with The Problem Gambling Network of Ohio to ensure any gambling expansion includes consumer protections to mitigate harm and funding for prevention, intervention, and treatment services.

At the beginning of 2023, online sports betting was launched in Ohio and our local community was being exposed to massive advertising campaigns. Problem gambling experts know that there will be an increase in individuals who are negatively affected by gambling and online sports betting because of the increase that was seen in other states that launched similar sports betting. To help combat an increase of individuals with gambling disorders and create education related to safe betting practices and how to connect with treatment, Ohio for Responsible Gambling worked with Origo Branding to develop the Ohio Problem Gambling Helpline and a multi-media prevention campaign specifically targeting sports betting. The campaign is called "Pause Before You Play" and is part of the greater "Get Set Before You Bet" problem gambling awareness campaign. Calls to the Problem Gambling Helpline have doubled (to 1,500 calls) since the launch of sports betting in January, with the largest jump in calls coming from individuals ages 18-34.

ADAMHS Board staff collaborated with the local Problem Gambling Coalition to connect with Origo and develop a partnership to localize the "Pause Before You Play" campaign and target demographics of individuals at-risk for problem gambling in Cuyahoga County. An estimated 137,237 Cuyahoga County adult residents can be categorized as low-risk, moderate-risk, or problem gamblers, which is 13.9% of the general adult population; statewide, the percentage is 10.3% of the general adult population. Men (17.6%), particularly African American males (19.5%), are at higher risk than women for problem gambling. Individuals ages 25-44 (16.8%) are at the highest risk for problem gambling, followed by younger adults ages 18-24 (15.4%).

A collaborative approach is needed to help save lives and connect individuals in need to treatment. It is also necessary to educate treatment providers about problem gambling. The Board and partners propose:

- Awareness Campaign: Utilize the statewide "Pause Before You Play" campaign to target local at-risk populations through a multi-media campaign.
 - Work with Origo to localize the campaign with Cuyahoga County resources and our branding.
 - Purchase digital, streaming, social media, radio, television, print, transit and billboard ads for the localized "Pause Before You Play" campaign and help promote the Problem Gambling Symposium with paid social media, digital, streaming, radio and print ads.
 - Purchase printed materials and promotional items and pay for translation of any materials related to the campaign.
- Support the Cuyahoga County Problem Gambling Symposium that will be hosted on Friday, June 16, 2023, at Tri-C Corporate College to increase treatment provider education about problem gambling. The ADAMHS Board will sponsor this symposium in the amount of \$1,000.

It is important to note that all of the resources inform residents how to connect with care when they are ready for treatment. Based on estimated impressions, hundreds of thousands of individuals will be exposed to the campaign, with millions of impressions. The Problem Gambling Coalition hopes to train hundreds of individuals and local treatment providers through the symposium on June 16, 2023 at Tri-C Corporate College. Mr. Nabil Pervaiz, MS, OCPSA, the Manager of

Prevention Services and Gambling Services Coordinator at Recovery Resources, was present to respond to questions from the Board Directors.

Motion to recommend authorization of the 2023 Problem Gambling and Suicide Prevention Awareness Activities and Campaign and allowing the Chief Executive Officer to enter into multiple vendor contracts not to exceed \$125,000 for the term of March 31, 2023 through December 31, 2023 to the Finance & Operations Committee.

MOTION: K. Kern-Pilch / SECOND: H. Snider / AYES: A. Bhardwaj, B. Gohlstin, K. Kern-Pilch, H Snider / NAYS: None / ABSTAIN: None / **Motion passed.**

8. 2023 Annual Meeting Brunch, Awards Ceremony and Client Art Show

Ms. Zietlow-DeJesus reported that the 2023 Annual Meeting Brunch, Awards Ceremony and Client Art Show is to be held on Monday, May 15, 2023, at the Holiday Inn in Independence. The Annual Meeting has traditionally attracted between 350 and 500 guests and is held during May, which is Mental Health Awareness Month. The ADAMHS Board sells tickets to the event to defray the cost of the food and service charge. The contract we enter into will not exceed \$30,000 and the cost to the Board should be less than \$10,000. The last two Annual Meetings were held at the Cleveland Marriott East. The Holiday Inn in Independence offers a centrally located space with free self-parking and easy highway and bus access and can easily hold up to 500 guests. During the Annual Meeting, the Board provides a yearly update to the community and acknowledges exceptional accomplishments in the community through the presentation of awards to clients, family members, legislators and professionals. It also showcases client art.

Due to inflation, Rev. Gohlstin stated that this amount should be increased to \$35,000 to account for rising costs and inflation. As a result, the Agenda Process Sheet will be amended to reflect this increase.

Motion for authorization of the 2023 Annual Meeting Brunch, Award Ceremony and Client Art Show on Monday, May 15, 2023, and allowing the Chief Executive Officer to contract with Holiday Inn Cleveland South in an amount not to exceed \$35,000 to the Finance & Operations Committee.

MOTION: H. Snider / SECOND: K. Kern-Pilch / AYES: A. Bhardwaj, B. Gohlstin, K. Kern-Pilch, H Snider / NAYS: None / ABSTAIN: None / **Motion passed.**

9. Media Tracking Report

Ms. Zietlow-DeJesus reported that the ADAMHS Board had a total of 37 media mentions between Sunday, January 1, 2023, and Tuesday, February 28, 2023. 36 of these mentions were positive and one was neutral. Ms. Zietlow-DeJesus highlighted that stories in this report were broad and included stories related to the Narcan vending machines, use of the Diversion Center, grassroots harm reduction outreach efforts, Milestones Autism Resources Healthcare Worker Training Program, as well as the Co-responder and Care Response teams.

10. Social Media and Website Tracking Reports

Wednesday, January 4, 2023 to Tuesday, February 28, 2023 Social Media Report

- Ms. Zietlow-DeJesus provided committee members with an overview of the social media statistics. She reported that for the timeframe Wednesday, January 4, 2023, to Tuesday, February 28, 2023, the Board had 291,068 impressions on social media, 416 engagements (likes, comments, retweets, mentions, etc.), gained 84 new followers and 211 post link clicks. Board staff posted nine times and had 14 video views on the Board's social media accounts. Message volume was less than usual during this reporting period primarily due to staff absences.

January 4, 2023 to February 28, 2023 Website Report

- Ms. Zietlow-DeJesus reported that 15,909 people have visited the Board's website since Wednesday, January 4, 2023, for a total of 24,515 times. 83% of the individuals were new visitors to the Board's website; and 17% are returning visitors. There were 55,503 page views and 71% of users came to the site from google searches, 21% came to the site directly meaning they typed it in and the remainder (8%) from social media/referral from another page or email.

Mr. Harvey Snider complimented staff on the Sprout Social handout regarding the Board's social media performance summary. Ms. Katie Kern-Pilch applauded staff efforts relative to the Board's monthly Recovery In Action Newsletter.

11. New Business

Rev. Gohlstin suggested that Board members who participated in the merger of the Cuyahoga County Community Mental Health Board (CCCMHB) and the Alcohol and Drug Addiction Services Board of Cuyahoga County should be recognized for their involvement. Mr. Osiecki referenced archived documents regarding the merger which are located on the Board's website; and reported that staff could recognize Board Directors at the Board's 2023 Annual Meeting Brunch, Awards Ceremony and Client Art Show.

12. Follow-up

No follow-up was received.

13. Public Comment Period

No public comment was received.

14. Upcoming March and April Board Meetings:

- Nominating Committee Meeting: March 8, 2023
- Planning & Oversight Committee Meeting: March 8, 2023
- Finance & Operations Committee Meeting: March 15, 2023
- General Meeting: March 22, 2023
- Faith-based Outreach Committee Meeting: April 5, 2023
- Nominating Committee Meeting: April 12, 2023
- Planning & Oversight Committee Meeting: April 12, 2023
- Finance & Operations Committee Meeting: April 19, 2023
- General Meeting: April 26, 2023

There being no further business, the meeting adjourned at 5:15 p.m.

Submitted by: Linda Lamp, Executive Assistant

Approved by: Patricia James-Stewart, M.Ed., LSW, Community Relations & Advocacy Committee Chair

Agenda Process Sheet
Date: May 3, 2023

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|---|--|
| <input checked="" type="checkbox"/> Community Relations & Advocacy Committee | <input type="checkbox"/> Faith-Based Outreach Committee |
| <input type="checkbox"/> Planning & Oversight Committee | <input type="checkbox"/> Finance & Operations Committee |
| <input type="checkbox"/> Committee of the Whole | <input type="checkbox"/> General Meeting |

Topic: Discussion/Vote: Support Letter for Flavored Tobacco Ban in Cleveland

Contractual Parties: N/A

Term: N/A

Funding Sources: N/A

Amount: N/A

- New Program** **Continuing Program** **Expanding Program** **Other:** Discussion/Vote

Service Description:

- In February of 2023, Cleveland Council President Blaine Griffin and Councilman Kevin Conwell introduced legislation to ban flavored tobacco in Cleveland at the request of the Director of the Cleveland Department of Public Health, Dr. David Margolius.
- Statistics and information outlined in the legislation include:
 - 95% of adult smoker began smoking before age 21, which leads to greater levels of nicotine dependences and persistence of smoking beyond adolescence and through adulthood.
 - Nationally, 11% of US middle and high school students reported current e-cigarette (vape) use, where almost 85% of e-cigarette users reported using flavored products.
 - Locally, 7.8% of Cleveland high school students reported smoking e-cigarettes.
 - Menthol cigarettes have been historically heavily marketed toward Black Americans and the Food and Drug Administration (FDA) notes that a ban on menthol cigarettes would save the lives of 92,000 to 238,000 African Americans.
 - Over 70% of African American smokers prefer menthol cigarettes, compared with 30% of white smokers, which attributed to the tobacco industry’s targeted advertising to the Black urban community.
- The statistics show that flavored tobacco is a health equity issue and leads to increased disparities for the health of the local Black community and our youth, who are targeted to use flavored tobacco.

Background Information:

- A local coalition of leading health care organizations has signed a letter of support in favor of the flavored tobacco ban in Cleveland. The ADAMHS Board has been asked to sign the letter, which you can find in the packet and become a member of the coalition supporting the ban.

Funding Use: N/A

Client & System Impact:

- Signing the letter of support and joining the coalition will help bring awareness to the dangers of flavored tobacco and help pass the legislation banning flavored tobacco, which is harmful and creates increased health disparities in the Black community.

Metrics <i>(How will goals be measured)</i>	<ul style="list-style-type: none">• N/A
Evaluation/ Outcome Data <i>(Actual results from program)</i>	<ul style="list-style-type: none">• N/A

Recommendation to Board of Directors from Board Staff and/or from Board Committee(s):

- Scott Osiecki and staff request the Board review the letter of support in the packet and determine if the Board would like to add its name to the letter to ban flavored tobacco use in Cleveland.



Mayor Bibb and Cleveland City Council Members,

We, the undersigned organizations, ask for your support for an ordinance that ends the sale of all flavored tobacco products including menthol and establishes a Tobacco Retail License (TRL) in the City of Cleveland.

For decades, the tobacco industry has targeted communities of color with flavored tobacco products. Products such as menthol cigarettes and flavored cigars were intentionally developed to mask the harsh taste of tobacco, allowing more frequent use, and resulting in higher addiction rates. The industry's predatory behavior has had a devastating impact. Black communities suffer the greatest burden of tobacco-related death, with black adults 32% more likely to die from heart disease and 45% more likely to die from stroke.

Now the tobacco industry is using the same tactics to addict our children. Kid-friendly flavors like gummy bear, grape crush and cotton candy, often used in non-combustible "e-cigarettes," are designed to hook a new generation of tobacco users. Nearly all (97%) youth e-cigarette users report using flavored products, and the overwhelming majority point to flavored products as their starting point.

In addition to ending the sale of flavored products, the City of Cleveland needs better tools to enforce existing tobacco laws. While the minimum age for tobacco sales was raised to 21 in 2015, enforcement efforts continue to be inadequate in deterring sales to underage youth. In 2019, only 28% (176) of Cleveland's 618 tobacco retailers received a compliance check. Of the 176 inspections performed, 66 or 38% failed inspection. And of the tobacco retailers that failed inspection, 78% received only a warning letter.

A comprehensive Flavored Tobacco and Tobacco Retail License ordinance is needed to:

- End the sale of all flavored tobacco products, including but not limited to menthol cigarettes, flavored cigars/cigarillos, flavored e-cigarettes, flavored smokeless tobacco, flavored shisha/hookah, etc.
- Require every tobacco retailer in Cleveland to get a license and renew annually so the city can know how many tobacco retailers are operating in the city and more effectively enforce local, state, and federal tobacco laws.
- Use the annual tobacco retail license fee to fund robust enforcement efforts, including at a minimum one compliance check per retailer per year.

- Hold retailers accountable for unlawful sales to youth through graduated penalties and license suspension or revocation for repeated violations.

Ending the sale of flavored products addresses decades of predatory marketing on behalf of the tobacco industry directed towards communities of color, as well as recent efforts to hook a generation of youth users with flavored e-cigarettes. Establishing a Tobacco Retail License will allow the City to better enforce laws that keep tobacco products out of the hands of youth. Taken together, these policies give the City the tools needed to lower Cleveland’s startling high smoking rate of 35% (a rate significantly higher than the state and national averages), prevent future tobacco addiction and tobacco-related health outcomes including heart disease, lung cancer and stroke, and reduce the health disparities that confront Cleveland’s Black and Brown communities as a result of decades of racial targeting.

Please put the health of our kids and community first by passing a comprehensive Flavored Tobacco and Tobacco Retail license ordinance that ends the sale of ALL flavored tobacco products in Cleveland and ensures tobacco retailers aren’t selling to underage customers. This policy will go a long way toward addressing racism as a public health crisis in the City of Cleveland.

Sincerely,

Academy of Medicine of Cleveland & Northern Ohio
 American Cancer Society - Cancer Action Network
 American Heart Association
 American Lung Association
 ASIA, Inc.
 A Vision of Change
 Better Health Partnership
 Birthing Beautiful Communities
 Campaign for Tobacco Free Kids
 Care Alliance Health Center
 Case Western Reserve University
 Center for Black Health and Equity
 Center for Health Affairs
 Center for Community Solutions
 Cleveland Clinic
 Cleveland Office of Minority Health
 Cuyahoga Metropolitan Housing Authority
 First Year Cleveland
 Healthy Cleveland BreatheFree Committee
 Hospice of the Western Reserve
 LGBT Community Center Greater Cleveland
 MetroHealth
 Midtown Cleveland Inc.
 Mt. Sinai Health Foundation

National Association for the Advancement of Colored People (NAACP) – Cleveland Branch
 National Coalition of 100 Black Women, Inc. Greater Cleveland Chapter
 Northeast Ohio Black Health Coalition
 Northeast Ohio Neighborhood Health Services, Inc.
 Ohio Public Health Association
 Old Brooklyn Community Development Corporation
 Parents Against Vaping E-Cigarettes
 PFLAG Cleveland
 Preventing Tobacco Addiction Foundation
 See You at the Top (SYATT)
 Signature Health
 Slavic Village Community Development Corporation
 The African American Tobacco Control Leadership Council
 The Gathering Place
 University Hospitals Rainbow Babies & Children's Hospital
 University Hospitals Seidman Cancer Center
 Urban League of Greater Cleveland
 Young Latino Network
 YWCA Greater Cleveland

Ordinance No. 184-2023

**By Council Members Conwell and Griffin
(by departmental request)**

AN EMERGENCY ORDINANCE

To supplement the Codified Ordinances of Cleveland, Ohio, 1976, by enacting new Sections 235A.01 through 235A.11, relating to tobacco retail licensing and to amend Section 607.15 relating to the illegal distribution of cigarettes, other tobacco products or alternative nicotine products.

WHEREAS, it is estimated that 95% of all adult smokers began smoking before age twenty-one (21); and

WHEREAS, an earlier age of initiation is associated with greater levels of nicotine dependence and greater intensity and persistence of smoking beyond adolescence and through adulthood; and

WHEREAS, the parts of the brain most responsible for decision making, impulse control, sensation seeking, and susceptibility to peer pressure continue to develop and change through young adulthood, and adolescent brains are uniquely vulnerable to the effects of nicotine and nicotine addiction; and

WHEREAS, data from the 2021 National Youth Tobacco Survey on the use of e-cigarettes show that over 11% of, or more than two (2) million, U.S. middle and high school students reported current e-cigarette use, where almost 40% used e-cigarettes on a frequent basis and almost 85% of e-cigarette users reported using flavored products; and

WHEREAS, in 2019, 7.8% of Cleveland high school students reported smoking e-cigarettes; and

WHEREAS, menthol cigarettes have been historically heavily marketed toward Black Americans, and the Food and Drug Administration (FDA) notes that a ban on menthol cigarettes would save the lives of 92,000 to 238,000 African Americans; and

WHEREAS, as acknowledged by the Tobacco Free Ohio Alliance, the City also acknowledges racism as a force in determining how these social determinants are distributed, which have an undeniable effect on tobacco use and other factors that influence health at the individual and population level; and

WHEREAS, African American communities suffer health disparities disproportionately from the cigarette industry's aggressive multi-decade targeting

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saturation of urban communities with the health, social, cultural, and environmental ill-effects of menthol and other flavored products; and

WHEREAS, heart disease and cancer, both tobacco-related diseases, are the top two leading causes of death among African Americans. African Americans, and particularly males, have experienced lung cancer at higher rates than Whites for many years; and

WHEREAS, over 70% of African American smokers prefer menthol cigarettes, compared with 30% of White smokers attributed to the tobacco industry's targeted advertising of the Black urban community; and

WHEREAS, a local licensing system for tobacco retailers to help combat the sale of tobacco products to those underage is necessary to protect the public health, safety, and welfare of our residents. A licensing system allows for local enforcement of tobacco-related laws. Licensing laws, when actively enforced, have been effective in reducing the number of illegal tobacco sales to underage persons; and

WHEREAS, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CLEVELAND:

Section 1. That the Codified Ordinances of Cleveland, Ohio, 1976, are supplemented by enacting new Sections 235A.01 through 235A.11 to read as follows:

CHAPTER 235A TOBACCO PRODUCT SALES LICENSING

Section 235A.01 Definitions

For the purpose of this chapter, the following definitions shall apply:

(a) “*Authorized Agent*” means an entity with which the Director has contracted for the community outreach and education provisions contained in this chapter.

(b) “*City*” means the City of Cleveland, Ohio.

(c) “*Department*” means the Department of Public Health of the City or its Authorized Agent.

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(d) “*Director*” means the Director of the Department of Public Health or his or her designee.

(e) “*Distribute*” means giving, providing, or delivering Tobacco Products as defined in this section.

(f) “*Electronic Smoking Device*” means any device that may be used to deliver any aerosolized or vaporized nicotine or any other substance to the person inhaling from the device, including, but not limited to, an e-cigarette, e-cigar, e-pipe, vape pen or e-hookah. Electronic Smoking Device includes any component, part, or accessory of such a device, whether or not sold separately, and also includes any substance intended to be aerosolized or vaporized by such device, whether or not the substance contains nicotine. Electronic Smoking Device does not include drugs, devices, or combination products authorized for sale by the U.S. Food and Drug Administration, as those terms are defined in the Federal Food, Drug and Cosmetic Act.

(g) “*Flavored Shisha Tobacco Product*” means a Flavored Tobacco Product smoked or intended to be smoked in a Hookah. “*Flavored Shisha Tobacco Product*” includes, and may be referred to as, Hookah tobacco, waterpipe tobacco, maassel, narghile, and argileh.

(h) “*Flavored Tobacco Product*” means any Tobacco Product that imparts a taste or smell, other than the taste or smell of tobacco, that is distinguishable by an ordinary consumer either prior to, or during the consumption of, a Tobacco Product, including, but not limited to, any taste or smell relating to fruit, menthol, mint, wintergreen, chocolate, cocoa, vanilla, honey, or any candy, dessert, alcoholic beverage, herb, or spice.

(i) “*Hookah*” means a type of water pipe that is used to smoke Flavored Shisha Tobacco Products, which has a long, flexible tube to draw aerosol through water. This device has components that may include heads, stems, bowls, and hoses.

(j) “*Hookah Bar*” means a restaurant, tavern, brew pub, club, nightclub, bar, or any food service operation or retail food establishment that generates revenue from the sale for on-site consumption of Shisha Flavored Tobacco Products or Tobacco Products used with a Hookah; provided, that the restaurant, tavern, brew pub, club, nightclub, bar, or food service operation or retail food establishment has a valid smoking exemption from the Ohio Department of Health pursuant to section 3794.03 of the Revised Code and rule 3701-52-05 of the Ohio Administrative Code.

(k) “*Purchaser*” means any person who obtains or attempts to obtain a Tobacco Product.

(l) “*Sale*” or “*sell*” means transferring, or offering or attempting to transfer, Tobacco Product, as defined in the section, for money, trade, barter, exchange, or other consideration.

(m) “*Self-Service Display*” means the open display or storage of Tobacco Products in a manner that is physically accessible in any way to the general public without the assistance of the Tobacco Retailer, as defined in this section, or its agent,

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employee, or representative and a direct person-to-person transfer between the purchaser and the Tobacco Retailer or its agent, employee, or representative.

(n) “*Tobacco Product(s)*” means: (1) any product containing, made of, or derived from tobacco or containing any form of nicotine that is intended for human consumption or is likely to be consumed, whether smoked, heated, chewed, dissolved, inhaled, absorbed, or ingested by any other means, including, but not limited to, a cigarette, a cigar, pipe tobacco, chewing tobacco, snuff, or snus; (2) any Electronic Smoking Device as defined in this section and any substances that may be aerosolized or vaporized by such device, whether the substance contains nicotine; or (3) any component, part, or accessory of (1) or (2), whether any of these contains tobacco or nicotine, including, but not limited to, filters, rolling papers, blunt or hemp wraps, or pipes. Tobacco Product does not include drugs, devices, or combination products authorized for sale by the U.S. Food and Drug Administration, as those terms are defined in the Federal Food, Drug and Cosmetic Act

(o) “*Tobacco Retailer*” means any individual, firm, partnership, joint venture, association, joint stock company, corporation, unincorporated business entity, or any other group acting as a unit that owns a business where Tobacco Products are available for sale to the general public. Tobacco Retailer does not mean the employees or agents of an owner of a business where Tobacco Products are available for sale to the general public.

Section 235A.02 Tobacco Retail Sales License Required

(a) Each Tobacco Retailer engaging in the sale of Tobacco Products shall secure a tobacco retail sales license from the Commissioner of Assessments and Licenses for each location where it sells Tobacco Products in the City before engaging or continuing to engage in such business. An application for a tobacco retail sales license shall be made to the Commissioner of Assessments and Licenses and shall contain the full name of the applicant, the applicant’s business and personal address and telephone number, the name of the business for which the tobacco retail sales license is sought, a copy of the applicant’s valid vendor’s license from the Ohio Department of Taxation, if applicable, the signed form described in division (f) below, and any additional information the Commissioner of Environmental Health or the Director deems necessary, such as a certificate of occupancy issued by the City.

The Commissioner of Assessments and Licenses shall transmit the application to the Director for review, investigation, and a determination of compliance after which the Director shall return the application to the Commissioner with a recommendation for approval or disapproval. If such application is approved, the Commissioner shall issue a tobacco retail sales license. If the application is denied, a notice of denial shall be given to the applicant with the reasons for denial and the right to appeal under Section 201.03 of these Codified Ordinances.

(b) An application for a tobacco retail sales license may also be denied for the reasons set forth in division (c) of Section 235A.07.

(c) No Tobacco Retailer shall sell or distribute Tobacco Products without a valid tobacco retail sales license.

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(d) A tobacco retail sales license may be renewed annually upon application made prior to the expiration of the previous license and shall remain valid for a period beginning with the date of issuance of the tobacco retail sales license and ending on the thirty-first day of December following the date of the issuance of the tobacco retail sales license unless sooner revoked under this chapter, unless the Tobacco Retailer has outstanding fines imposed under this chapter, or unless the Tobacco Retailer to whom it was issued discontinues business, in either of which case the holder of the tobacco retail sales license shall immediately return it to the Commissioner of Assessments and Licenses. A tobacco retail sales license shall not be transferred from one Tobacco Retailer to another or from one location to another.

(e) The Tobacco Retailer shall conspicuously display the tobacco retail sales license at all times and shall provide it to any person upon request. In the event of mutilation or destruction of the tobacco retail sales license, a duplicate copy, marked as such, shall be issued by the Commissioner of Assessments and Licenses upon application accompanied by a fee set by the City's Board of Control and updated from time-to-time as necessary.

(f) No tobacco retail sales license shall be issued or renewed to a Tobacco Retailer unless the Tobacco Retailer provides a signed form stating that the Tobacco Retailer has read this chapter and has provided training to all employees regarding the sale of Tobacco Products and restrictions thereto. Such training shall inform employees that the sale of Tobacco Products to persons under twenty-one (21) years of age is illegal, identify the types of identification legally acceptable for proof of age, and explain that sales of Tobacco Products to persons under twenty-one (21) years of age may subject the Tobacco Retailer to penalties as provided in this chapter.

(g) No tobacco retail sales license shall be issued to a person under twenty-one (21) years of age.

Section 235A.03 Tobacco Retail Sales License Fee

(a) The fee for a tobacco retail sales license shall be used to cover the administrative cost for licensing, community outreach, education and training, retail inspections, and compliance checks. The tobacco retail sales license fee should not exceed the cost of the license administration, community outreach, education and training, and enforcement program authorized by this chapter.

(b) The fee for a tobacco retail sales license shall be set by the City's Board of Control and updated from time-to-time as necessary. The fee is due at the time of application and is not refundable.

Section 235A.04 Restrictions on the Sale of Tobacco Products

(a) *Age Restriction.* No Tobacco Retailer or its agent, employee, or representative shall sell or distribute any Tobacco Product to any person under twenty-one (21) years of age, except if a person is participating in a research protocol described in division (e) of Section 607.15 of these Codified Ordinances and meets the requirements therein.

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(b) *Age Verification.* Tobacco Retailers or their agents, employees, or representatives shall verify by means of government-issued photographic identification that the purchaser is at least twenty-one (21) years of age. Verification is not required for a person over thirty (30) years of age; provided however, that the purchaser appeared to be thirty (30) years of age or older shall not constitute a defense to a violation of this section.

(c) *Signage.* Signs reading, “THE SALE OF TOBACCO PRODUCTS TO PERSONS UNDER 21 IS PROHIBITED BY LAW” shall be legibly printed in letters at least one-inch-high and shall be posted clearly and conspicuously in every location where Tobacco Products are sold. Selling Tobacco Products in any place that does not have a sign consistent with this division is prohibited by law and punishable under this chapter.

(d) *Flavored Tobacco Product Sales Prohibition.* It shall be unlawful for a Tobacco Retailer or its agent, employee, or representative to sell or distribute any Flavored Tobacco Product. There shall be a rebuttable presumption that a Tobacco Product is a Flavored Tobacco Product if a Tobacco Retailer, manufacturer, or any employee or agent of a Tobacco Retailer or manufacturer (1) makes a public statement or claim that a Tobacco Product imparts a taste or smell other than the taste or smell of tobacco; or (2) uses text, images, or coloring on the Tobacco Product’s labeling or packaging to explicitly or implicitly indicate that the Tobacco Product imparts a taste or smell other than the taste or smell of tobacco; or (3) takes action directed to consumers that would reasonably be expected to cause consumers to believe that the Tobacco Product imparts a taste or smell other than the taste or smell of tobacco.

(e) *Exception for Flavored Shisha Tobacco Products.* The prohibition under division (d) does not apply to Flavored Shisha Tobacco Products when consumed on-site in a Hookah Bar.

Section 235A.05 Self-Service Display Restrictions

(a) No Tobacco Retailer or its agent, employee, or representative shall sell or distribute Tobacco Products by or from a Self-Service Display except in places where persons under the age of twenty-one (21) are not permitted access.

(b) The Commissioner of Assessments and Licenses, upon the recommendation and order of the Commissioner of Environmental Health, shall suspend the applicable license of a Tobacco Retailer in violation of division (a) until the Tobacco Products have been placed behind a counter or locked doors.

Section 235A.06 Enforcement

(a) This chapter shall be enforced by the Commissioner of Environmental Health and any other officer or employee designated for that purpose by the enforcement of this Health Code.

(b) All Tobacco Retailers must be open to inspection by the Department or its Authorized Agent during regular business hours.

(c) All Tobacco Retailers may be subject to at least two (2) compliance checks

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annually. The Commissioner of Environmental Health, or his or her designee, shall conduct compliance checks by engaging persons between the ages of eighteen (18) and twenty (20) to enter the premises of Tobacco Retailers to attempt to purchase Tobacco Products. Follow-up compliance check(s) of all non-compliant Tobacco Retailers are required within three (3) months of any violation of this chapter.

(d) The results of all compliance checks and inspections are to be published on the Department's web page at least annually.

(e) Any person who desires to register a complaint of an alleged violation of this chapter or Section 607.15 of these Codified Ordinances may do so by contacting the Commissioner of Environmental Health, and the Commissioner shall investigate the alleged violation.

Section 235A.07 Violations and Penalties

(a) The Commissioner of Environmental Health, and any authorized City officer or employee, who upon information or observation ascertains a violation of this chapter or Section 607.15 of these Codified Ordinances, may impose the following civil fines on the Tobacco Retailer:

(1) For a first violation, a fine of \$500.

(2) For a second violation within a thirty-six (36) month period, a fine of \$750 and a seven (7) day suspension of the applicable tobacco retail sales license.

(3) For a third violation within a thirty-six (36) month period, a fine of \$1,000 and a thirty (30) day suspension of the applicable tobacco retail sales license.

(4) For a fourth violation and each violation thereafter within a thirty-six (36) month period, a fine of \$1,000 and the applicable tobacco retail sales license of the Tobacco Retailer shall be revoked.

(b) Each violation, and every day in which a violation occurs or continues, shall constitute a separate offense. The determination that a violation has occurred shall be in writing and mailed to the Tobacco Retailer by the Commissioner of Environmental Health, no later than thirty (30) days from the date of the violation. The written notice shall specify the chapter and section that the Tobacco Retailer violated. A civil penalty imposed under division (a) above may be appealed to the Director in writing within twenty (20) days from the date of the civil penalty. The Director shall have jurisdiction to affirm or reverse. A person aggrieved by a final decision of the Director may further appeal to the Board of Zoning Appeals within thirty (30) days after the Director's written decision.

(c) A tobacco retail sales license issued under this chapter may also be denied, suspended, or revoked by the Commissioner of Assessments and Licenses, upon the recommendation and order of the Commissioner of Environmental Health and through written notice, should the Tobacco Retailer or Tobacco Retailer's agent, employee, or representative directly or indirectly:

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- (1) Sell Tobacco Products without a valid tobacco retail sales license;
- (2) Fail to pay fines issued in accordance with this chapter;
- (3) Have a tobacco retail sales license revoked within the preceding twelve (12) months of the date of application for a tobacco retail sales license;
- (4) Fail to provide required information or provide false or misleading information on the application for a tobacco retail sales license; or
- (5) Violate any federal, state, or local tobacco laws.

(d) All Tobacco Products shall be removed from the premises upon suspension or revocation of a tobacco retail sales license. Failure to remove all Tobacco Products shall constitute a separate violation punishable by a fine of \$500.00 for each and every day of noncompliance.

(e) A Tobacco Retailer that engages in the sale of Tobacco Products without a valid tobacco retail sales license issued pursuant to this chapter shall be guilty of distribution of Tobacco Products without a tobacco retail sales license, a misdemeanor of the first degree and shall be fined not less than one hundred dollars (\$100.00) and not more than one thousand dollars (\$1,000.00). If the offender previously has been convicted of a violation of this section, then the Tobacco Retailer shall be denied a tobacco retail sales license for a period of five (5) years.

(f) A violation of Section 235A.04 is hereby declared to be a nuisance which affects and endangers the public health. The Commissioner of Environmental Health and any authorized City officer or employee who, upon information or by observation ascertains a violation of Section 235A.04, may impose the penalties set forth in this chapter and in Section 201.99 of these Codified Ordinances. Enforcement of this section is in addition to any other method of enforcement provided in these Codified Ordinances and state law.

Section 235A.08 Public Education

The Director, or his or her Authorized Agent, shall engage in a continuing public health education program to explain and clarify the purposes and requirements of this chapter to Tobacco Retailers and the public. The program may include publication of a brochure in writing and online for Tobacco Retailers to explain the requirements of this chapter.

Section 235A.09 Rulemaking Authority

The Director is hereby authorized to promulgate rules and regulations to carry out the purpose and intent of this chapter in order to protect the public health, safety and welfare which shall be effective thirty (30) days after their publication in the *City Record*.

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Section 235A.10 Tobacco Enforcement and Education Fund

All fees and fines collected from licensing and infractions of this chapter are to be deposited into the "Tobacco Enforcement and Education Fund" administered by the Department to cover the administrative costs for licensing, community outreach, education and training, retail inspections, and compliance checks.

Section 235A.11 Severability

The provisions of this chapter are severable, and if any provision, clause, sentence, or paragraph of this chapter or the application thereof to any person or circumstances are held by a court of competent jurisdiction to be unconstitutional or otherwise invalid, such a ruling shall not affect the other parts of this chapter that can be given effect.

Section 2. That Section 607.15 of the Codified Ordinances of Cleveland, Ohio, 1976, as amended by Ordinance No. 737-15, passed December 7, 2015, is amended to read as follows:

Section 607.15 Illegal Distribution of Cigarettes; and Other Tobacco Products or Alternative Nicotine Products

(a) As used in this section:

(1) "Distribute" has the same meaning as in division (e) of Section 235A.01 of these Codified Ordinances.

(2) "Electronic smoking device" has the same meaning as in division (f) of Section 235A.01 of these Codified Ordinances.

(3) "Sale" or "Sell" has the same meaning as in division (l) of Section 235A.01 of these Codified Ordinances.

(4) "Tobacco" or "tobacco product" has the same meaning as in division (n) of Section 235A.01 of these Codified Ordinances.

(5) "Vending machine" has the same meaning as "coin machine" in RC 2913.01.

(1) ~~A. "Alternative nicotine product" means, subject to division (a)(1)B. of this section, an electronic cigarette or any other product or device that consists of or contains nicotine that can be ingested into the body by any means, including, but not limited to, chewing, smoking, absorbing, dissolving, or inhaling.~~

~~B. "Alternative nicotine product" does not include any of the following:~~

~~(i) Any cigarette or other tobacco product;~~

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(ii) ~~Any product that is a "drug" as that term is defined in 21 U.S.C. 321(g)(1);~~

(iii) ~~Any product that is a "device" as that term is defined in 21 U.S.C. 321(h).~~

(iv) ~~Any product that is a "combination product" as described in 21 U.S.C. 353(g).~~

(2) ~~"Child" has the same meaning as in RC 2151.011.~~

(3) ~~"Cigarette" includes clove cigarettes and hand-rolled cigarettes.~~

(4) ~~"Distribute" means to furnish, give, or provide cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes to the ultimate consumer of the cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes.~~

(5) ~~A. "Electronic cigarette" means, subject to division (a)(5)B. of this section, any electronic product or device that produces a vapor that delivers nicotine or any other substance to the person inhaling from the device to simulate smoking and that is likely to be offered to or purchased by consumers as an electronic cigarette, electronic cigar, electronic cigarillo, or electronic pipe.~~

~~B. "Electronic cigarette" does not include any item, product, or device described in division (a)(1)B. of this section.~~

(6) ~~"Tobacco product" means any product that is made from tobacco, including, but not limited to, a cigarette, a cigar, pipe tobacco, chewing tobacco, or snuff.~~

(7) ~~"Vending machine" has the same meaning as "coin machine" in RC 2913.01.~~

(8) ~~"Young adult" means a person who is eighteen (18) years of age or older, but under twenty one (21) years of age.~~

(b) No manufacturer, producer, distributor, wholesaler or retailer of cigarettes, or other tobacco products, ~~or papers used to roll cigarettes,~~ and no agent, employee or representative of a manufacturer, producer, distributor, wholesaler or retailer of cigarettes, or other tobacco products, ~~alternative nicotine products, or papers used to roll cigarettes,~~ and no other person shall do any of the following:

(1) ~~Give, sell or otherwise~~ Sell or distribute cigarettes, or other tobacco products, ~~alternative nicotine products, or papers used to roll cigarettes~~ to any child person under the age of twenty-one (21);

(2) ~~Give, sell or otherwise~~ distribute cigarettes, ~~other~~ Sell or distribute cigarettes or other tobacco products, ~~alternative nicotine products, or papers used to roll cigarettes~~ to any individual who does not demonstrate, through a driver's license or other photographic identification card issued by a government entity or educational institution that the individual is at least ~~eighteen (18)~~ twenty-one (21) years of age, unless the individual ~~reasonably appears to be~~ is at

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least thirty (30) years of age, provided however, that ~~such appearance~~ the individual appeared to be at least thirty (30) years of age shall not constitute a defense in any proceeding alleging the sale of cigarettes, ~~or~~ tobacco products ~~or~~ electronic cigarettes to an individual under ~~eighteen (18)~~ twenty-one (21) years of age;

~~(3)~~ (3) — Sell cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes to any young adult;

~~(4)~~ (4) — Sell cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes to any individual who does not demonstrate, through a driver's license or other photographic identification card issued by a government entity or educational institution that the individual is at least twenty-one (21) years of age, unless the individual reasonably appears to be at least thirty (30) years of age, provided however, that such appearance shall not constitute a defense in any proceeding alleging the sale of cigarettes, tobacco products or electronic cigarettes to an individual under twenty-one (21) years of age;

~~(5)~~ (3) ~~Give away, sell~~ Sell or distribute cigarettes, ~~or~~ other tobacco products, alternative nicotine products, or papers used to roll cigarettes in any business that does not have posted in a conspicuous place a sign, in accordance with division (c) of Section 235A.04 of these Codified Ordinances, rules of the Department of Public Health stating that giving, selling or otherwise distributing cigarettes ~~or~~ other tobacco products, alternative nicotine products or papers used to roll cigarettes to a person under twenty-one (21) years of age is prohibited by law;

~~(6)~~ (4) Knowingly furnish any false information regarding the name, age, or other identification of any person under twenty-one years of age ~~child or young adult~~ with purpose to obtain cigarettes ~~or~~ other tobacco products, alternative nicotine products, or papers used to roll cigarettes ~~for that child or young adult~~ for that person under the age of twenty-one (21);

~~(7)~~ (5) Manufacture, sell, or distribute in this City any pack or other container of cigarettes ~~or~~ alternative nicotine products containing fewer than twenty (20) cigarettes or any package of roll-your-own tobacco containing less than six-tenths (0.6) of one (1) ounce of tobacco;

~~(8)~~ (6) ~~Sell cigarettes or alternative nicotine~~ Sell or distribute cigarettes or other tobacco products in a smaller quantity than that placed in the pack or other container by the manufacturer; or

~~(9)~~ (7) Sell or distribute other tobacco products in a smaller quantity than was intended for retail when the product was packaged by the manufacturer.

~~(c)~~ (c) — No manufacturer, producer, distributor, wholesaler or retailer of cigarettes, other tobacco products, or papers used to roll cigarettes, and no agent, employee or representative of a manufacturer, producer, distributor, wholesaler or retailer of cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes, shall give or otherwise distribute cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes to any young adult.

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~~(d)~~ (c) No person shall sell or offer to sell cigarettes or other tobacco products, ~~or alternative nicotine products~~ by or from a vending machine except in the following locations:

(1) An area either:

A. Within a factory, business, office, or other place not open to the general public; or

B. To which persons under the age of twenty-one (21) years are not generally generally permitted access;

(2) In any other place not identified in division (c)(1) of this section, upon all of the following conditions:

A. The vending machine is located within the immediate vicinity, plain view, and control of the person who owns or operates the place, or an employee of such person, so that all cigarettes or other ~~other~~ tobacco ~~product, and alternative nicotine product purchases~~ products sold from the vending machine will be readily observed by the person who owns or operates the place or an employee of such person. For the purpose of this section, a vending machine located in any unmonitored area, including an unmonitored coatroom, restroom, hallway, or outer waiting area, shall not be considered located within the immediate vicinity, plain view, and control of the person who owns or operates the place, or an employee of such person.

B. The vending machine is inaccessible to the public when the place is closed.

C. A clearly visible notice is posted in the area where the vending machine is located that states the following in letters that are legibly printed and at least one-half inch high: "It is illegal for any person under the age of 21 to purchase tobacco products or alternative nicotine products".

~~(e)~~ (d) The following are affirmative defenses to a charge under division (b)(1) of this section:

(1) The parent, guardian, or legal custodian of ~~the child~~ a person under the age of eighteen (18) has consented in writing to ~~the child~~ a person under the age of eighteen (18) participating in the research protocol, or ~~the young adult~~ a person over the age of eighteen (18), but under the age of twenty-one (21), has consented in writing, on his or her own behalf, to participate in the research protocol.

(2) The person who gave, sold, or distributed cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes to a child or young adult under division (b)(1) of this section is a parent, spouse who is twenty-one (21) years of age or older, or legal guardian of the child or young adult.

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~~(f)~~ (e) It is not a violation of division (b)(1) or (2) of this section for a person to ~~give or otherwise sell~~ or distribute to ~~a child or young adult~~ cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes while ~~the child or young adult~~ a person under the age of twenty-one (21) cigarettes or tobacco products while the person under the age of twenty-one (21) is participating in a research protocol if all of the following apply:

(1) The parent, guardian, or legal custodian of ~~the child~~ a person under the age of eighteen (18) has consented in writing to ~~the child~~ a person under the age of eighteen (18) participating in the research protocol, or ~~the young adult~~ a person the age of eighteen (18) or older, but under the age of twenty-one (21) has consented in writing, on his or her own behalf, to participate in the research protocol.

(2) An institutional human subjects protection review board, or equivalent entity, has approved the research protocol.

(3) ~~The child or young adult~~ The person under the age of twenty-one (21) is participating in the research protocol at the facility or location specified in the research protocol.

~~(g)~~ (f) (1) Whoever violates division (b)(1), (3), (5), ~~(6) or (7), (8), or (9)~~ or ~~divisions~~ division (c) ~~or (d)~~ is guilty of illegal distribution of cigarettes, ~~other or~~ tobacco products, ~~or alternative nicotine products~~. Except as otherwise provided in this division, illegal distribution of cigarettes, ~~other or~~ other tobacco products, ~~or alternative nicotine products~~ is a misdemeanor of the fourth degree. If the offender has previously been convicted of a violation of division (b)(1), (3), (5), ~~(6) or (7), (8), or (9)~~ or ~~divisions~~ division (c) ~~or (d)~~ of this section or divisions (B)(1), (2), (4), or (5) or (C) of RC 2927.02, then illegal distribution of cigarettes, ~~other or~~ other tobacco products, ~~or alternative nicotine products~~ is a misdemeanor of the third degree.

(2) Whoever violates division ~~(b)(6)~~ (b)(4) of this section is guilty of permitting a person under twenty-one years of age to use cigarettes, ~~other tobacco products, or alternative nicotine products~~ or tobacco products. Except as otherwise provided in this division, permitting a person under twenty-one years of age to use cigarettes, ~~other or~~ tobacco products, ~~or alternative nicotine products~~ is a misdemeanor of the fourth degree. If the offender previously has been convicted of a violation of division ~~(4)~~ (b)(4) of this section or division (B)(3) of RC 2927.02, permitting a person under twenty-one years of age to use cigarettes, ~~other or~~ other tobacco products, ~~or alternative nicotine products~~ is a misdemeanor of the third degree.

~~(h)~~ (g) Any cigarettes, ~~other tobacco products, alternative nicotine products,~~ or papers used to roll cigarettes that are sold or distributed to a person under twenty-one years of age in violation of this section and that are used, possessed, purchased, or received by a person under twenty-one years of age in violation of RC 2151.87 are subject to seizure and forfeiture as contraband under RC Chapter 2981.

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Section 3. That existing Section 607.15 of the Codified Ordinances of Cleveland, Ohio, 1976, as amended by Ordinance No. 737-15, passed December 7, 2015, is repealed.

Section 4. That the amendment and repeal of existing Section 607.15 of the Codified Ordinances of Cleveland, Ohio, 1976, as amended by Ordinance No. 737-15, passed December 7, 2015, and the enactment of new Sections 235A.01 through 235A.11, shall be effective one hundred and eighty (180) days after the effective date of this ordinance.

Section 5. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

KR:nl
2-6-2023
FOR: Director Margolius

Ord. No. 184-2023

**REPORT
after second Reading**

By Council Members Conwell and Griffin (by departmental request)

AN EMERGENCY ORDINANCE

To supplement the Codified Ordinances of Cleveland, Ohio, 1976, by enacting new Sections 235A.01 through 235A.11, relating to tobacco retail licensing and to amend Section 607.15 relating to the illegal distribution of cigarettes, other tobacco products or alternative nicotine products.

READ FIRST TIME on FEBRUARY 6, 2023

**and referred to DIRECTORS of Public Health, Finance, Law;
COMMITTEES on Health Human Services and the Arts,
Finance Diversity Equity and Inclusion**

REPORTS

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CITY CLERK

READ THIRD TIME

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CITY CLERK

APPROVED

MAYOR

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**PASSAGE RECOMMENDED BY
COMMITTEE ON
HEALTH, HUMAN SERVICES
and the ARTS**

FILED WITH COMMITTEE

**PASSAGE RECOMMENDED BY
COMMITTEE ON
FINANCE, DIVERSITY, EQUITY
and INCLUSION**

FILED WITH COMMITTEE

The truth about how

MENTHOL HARMS THE BLACK COMMUNITY



American Heart Association.



Menthol: The Basics

- ✓ **Menthol** masks the harshness of inhaling tobacco smoke, which makes it easier to start smoking and develop an addiction to nicotine.
- ✓ In the 1950s, only 5% of Black smokers used **menthols**. After 4 generations of industry targeting, almost 90% of Black smokers use **menthols**.
- ✓ Hundreds of cities have taken most flavored tobacco off the shelves, but few restrict **menthol**, which harms the Black community most.

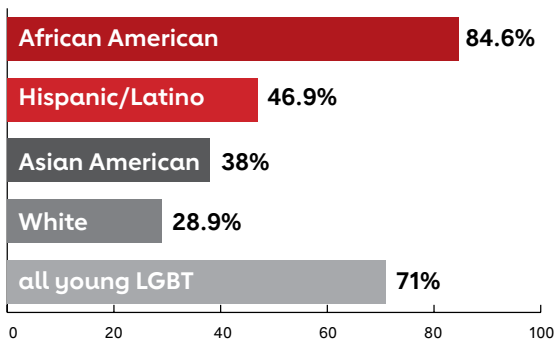
Disparities

TOBACCO use is an independent risk factor for heart disease, linked to **1/3 of all heart disease deaths**.

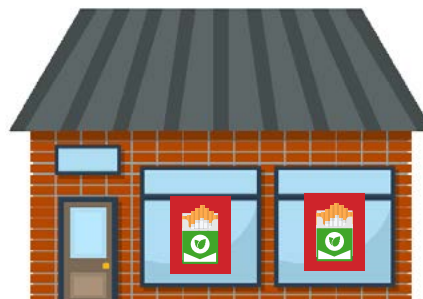
BLACK COMMUNITIES suffer the greatest burden of tobacco-related death of any racial or ethnic group in the United States.

BLACK ADULTS are **32%** more likely to die from heart disease, and **45%** more likely from stroke.

Use of Menthol Tobacco Products



Big Tobacco's shameful record includes targeting youth and adults in black communities with **menthol products resulting in the disproportionately higher use rates by minority smokers:**



Menthol brands spend millions of dollars to keep their highly addictive cigarettes cheap and visible in **Black communities**.

Menthol & Youth

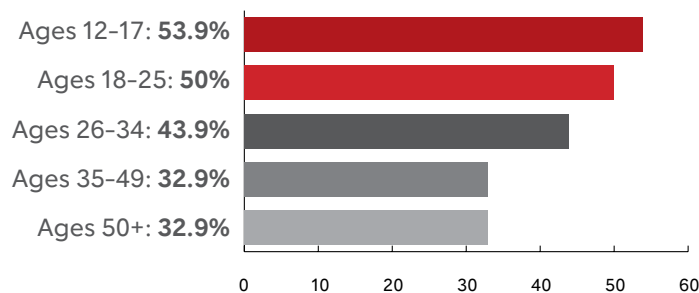
The more **Black children** who live near a store, the more likely it is that **menthol** tobacco products will be advertised near candy displays.

Nearly **65%** of young **menthol** smokers say they would quit if **menthol** cigarettes were banned.

Nearly **60%** of high school students who use e-cigarettes use **mint** or **menthol** flavored products.

With **menthol** e-cigarettes remaining on the market, more kids will gravitate towards them, even as other flavored products come off.

Menthol cigarette use among current smokers in the US by age, 2012-2014:



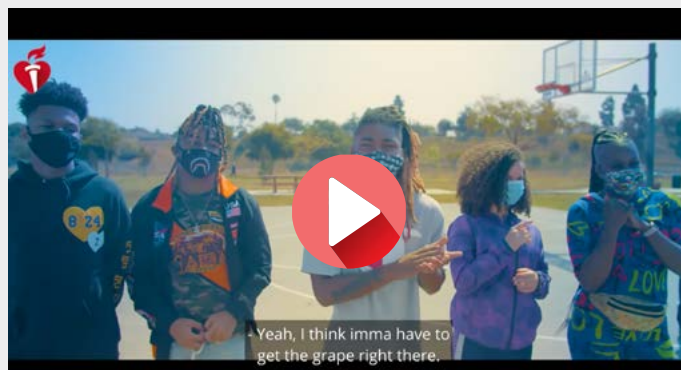
Eliminating Menthol and Flavored Tobacco Products

This policy is only **one** part of a much larger movement to advance justice in health. Other flavored cigarettes were banned in 2011, but the **flavor** that causes the most harm in the Black community was left out. It's time to **act now**.



How Long Will you Target Me?

<https://www.youtube.com/watch?v=gwwH-3Bjaqc>



You Don't Want to Smoke

<https://www.youtube.com/watch?v=4VXVjnJrsS8>

Help us eliminate menthol from all tobacco products.

Text **FLAVORS** to 46839