



June 29, 2016

The Honorable Mitch McConnell  
Senate Majority Leader  
United States Senate  
Washington, DC 20510

The Honorable Harry Reid  
Senate Minority Leader  
United States Senate  
Washington, DC 20510

The Honorable William Thad Cochran  
Chairman  
Committee on Appropriations  
United States Senate  
Washington, DC 20510

The Honorable Barbara Mikulski  
Vice Chairwoman  
Committee on Appropriations  
United States Senate  
Washington, DC 20510

Dear Majority Leader McConnell, Minority Leader Reid, Chairman Cochran, and Vice Chairwoman Mikulski:

As the full Senate is expected to consider shortly its version of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations bill for fiscal year 2017, on behalf of the American College of Physicians (ACP), I would like to express the College's serious concerns about two provisions or "policy riders" in the House version of the bill that limit the Food and Drug Administration's (FDA) ability to regulate tobacco products. The College strongly urges you to oppose the same or similar provisions as amendments to the Senate version of the bill because the impact of these policies could be detrimental to promoting public health, especially among children. The College is also encouraged that the Senate version currently contains no such provisions or riders.

ACP is the largest medical specialty organization and the second-largest physician group in the United States. ACP members include 143,000 internal medicine physicians (internists), related subspecialists, and medical students. Internal medicine physicians are specialists who apply scientific knowledge and clinical expertise to the diagnosis, treatment, and compassionate care of adults across the spectrum from health to complex illness.

The College strongly supports the FDA's oversight and regulation of tobacco products as authorized by the bipartisan Family Smoking Prevention and Tobacco Control Act of 2009 and is appreciative of the investment in the FDA's Tobacco program made by both the House and Senate versions of the bill. The College commends the House and Senate version's fiscal year 2017 approval of the authorized level under the Tobacco Control Act of user fees for the FDA's oversight of tobacco products; \$635 million for the FDA Tobacco program. This level is an increase of \$36 million above the FY2016 enacted level.

ACP has long advocated for efforts to reduce tobacco use in the United States. ACP has supported authorizing the FDA to regulate tobacco products and efforts to facilitate access to effective smoking cessation aids and has advocated for a comprehensive antismoking legislative agenda. ACP supports FDA's efforts under the Tobacco Control Act to reduce initiation of tobacco product use, decrease the harms of tobacco products, and encourage cessation among tobacco product users. Most recently the College supported the FDA's [proposed rule](#) and [final rule](#) to extend its regulatory authority to include *all* forms of tobacco products, **including premium cigars and electronic nicotine delivery systems (ENDS) (including electronic cigarettes)**.

The College strongly supports regulation of all tobacco products and has developed numerous policy statements calling for comprehensive tobacco control efforts to prevent smoking and tobacco product use among young people and adults. In 2010, the College released the policy paper [Tobacco Control and Prevention](#). The paper included recommendations that state and federal governments work together to implement comprehensive tobacco use prevention and control efforts, that youth tobacco use education and prevention campaigns be initiated, that flavorings—including menthol—be banned in all tobacco products, **and that ENDS (including electronic cigarettes) be regulated by the FDA**. In 2015, as access and use of ENDS products increased dramatically, the College reiterated this policy and made further recommendations in the policy paper [Electronic Nicotine Delivery Systems](#).

Accordingly, ACP has serious concerns about two provisions included in the House version of the fiscal year 2017 bill that prevents the FDA from fully implementing its final rule regulating and reviewing all tobacco products. The first House provision, Section 749, would stop the FDA from enforcing the final rule unless it explicitly excluded large and premium cigars from its oversight. The second House provision, Section 761, would prevent FDA product review of certain tobacco products by changing the date from when products could be reviewed. This House provision would significantly weaken the FDA's ability to regulate electronic cigarettes, cigars, and other currently regulated tobacco products and to prevent youth marketing and sales, such as the restriction of youth-oriented advertising and marketing and providing strong oversight of online sales to ensure age restrictions are being enforced.

The College greatly appreciates that the Senate Appropriations Committee has continued to maintain a clean bill and strongly urges the full Senate to do the same when it considers the fiscal year 2017 Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations bill, on the floor. Thank you for your consideration and the College looks forward to working with Congress as you move forward with the fiscal year 2017 appropriations process.

Sincerely,



Nitin S. Damle, MD, MS, FACP  
President