November 16, 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 Paul Ryan  
Speaker of the House  
United States House of Representatives  
Washington, DC 20515

The Honorable Nancy Pelosi  
Democratic Leader  
United States House of Representatives  
Washington, DC 20515

Dear Majority Leader McConnell, Minority Leader Reid, Speaker Ryan, and Democratic Leader Pelosi:

As negotiations continue on the fiscal year 2017 appropriations bills, we urge you to oppose inclusion of either of two policy riders originally included in the House Appropriations Committee’s Agriculture, Rural Development, Food and Drug Administration, and Related Agencies appropriations bill that would weaken FDA’s authority to oversee tobacco products.

Tobacco use remains the leading preventable cause of death in the United States. Every year, it kills more than 480,000 Americans and is responsible for an estimated $170
billion in health care costs. Nearly 60 percent of these health care costs are paid by
government programs such as Medicare and Medicaid.

Just this May, FDA took an important step to protect children and public health by
issuing a final rule that will enable the agency to begin to oversee cigars, e-cigarettes, and
other tobacco products that had previously been outside of FDA’s authority. The need for
FDA oversight of these products could not be clearer. There has been an alarming
increase in youth use of e-cigarettes with 16 percent of high school students currently
using e-cigarettes. In addition, high school boys now smoke cigars at a slightly higher
rate than cigarettes – 14 percent for cigars and 11.8 percent for cigarettes. The final rule
will enable FDA, for the first time, to oversee the manufacturing, marketing, and sale of
these products, providing the agency with new tools to address the problem of three
million middle and high school students using e-cigarettes and 1.4 million using cigars.

One of the House riders seeks to completely exclude “large and premium cigars” from
FDA oversight. During consideration of the rule, FDA specifically examined whether
these so-called premium cigars should be excluded from FDA oversight and concluded
that there was no appropriate public health justification for doing so. FDA’s scientific
review found that all cigars pose serious negative health risks, including about 9,000
premature deaths a year, and that all cigars are potentially addictive. We are also
concerned that the rider defines “large and premium cigars” so broadly that it creates a
loophole that invites tobacco companies to modify their products to qualify for this
exemption – a loophole that tobacco companies will surely exploit to exempt some cheap,
machine-made, flavored cigars that appeal to youth.

The second House provision would change the so-called “grandfather date” in order to
exempt e-cigarettes, cigars, and other tobacco products now on the market from an
important FDA product review requirement. It would change current law so that
manufacturers of these products are no longer required to provide information to the FDA
and undergo a scientific review of the risks to public health of new tobacco products,
which are defined as products introduced to the market after February 15, 2007.
Changing this date would significantly weaken FDA’s ability to take prompt action to
protect children from thousands of fruit- and candy-flavored e-cigarettes and cigars,
including products in flavors such as cotton candy, gummy bear and fruit punch that
clearly appeal to kids.

As you finalize appropriations legislation for fiscal year 2017, we urge you to protect
kids and reduce tobacco-caused disease by rejecting efforts to weaken FDA’s final rule
on e-cigarettes and cigars.

Sincerely,
Action on Smoking & Health
American Academy of Oral and Maxillofacial Pathology
American Academy of Oral Medicine
American Academy of Otolaryngology—Head and Neck Surgery
American Academy of Pediatrics
American Association for Cancer Research
American Association for Dental Research
American Association for Respiratory Care
American Cancer Society Cancer Action Network
American College of Cardiology
American College of Physicians
American College of Preventive Medicine
American Congress of Obstetricians and Gynecologists
American Heart Association
American Lung Association
American Medical Student Association
American Psychological Association
American Public Health Association
American School Health Association
American Society of Addiction Medicine
American Society of Clinical Oncology
American Thoracic Society
Association of Maternal & Child Health Programs
Association of Women's Health, Obstetric and Neonatal Nurses
Campaign for Tobacco-Free Kids
ClearWay Minnesota
Community Anti-Drug Coalitions of America
Eta Sigma Gamma - National Health Education Honorary
March of Dimes
National African American Tobacco Prevention Network
National Association of County & City Health Officials
National Hispanic Medical Association
National Network of Public Health Institutes
Oncology Nursing Society
Oral Health America
Prevention Institute
Society for Cardiovascular Angiography and Interventions
Society for Public Health Education
The Society for State Leaders of Health and Physical Education
The Society of Thoracic Surgeons
Trust for America’s Health