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Research Protocol for CityHealth: Flavored Tobacco Restrictions

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CITYHEALTH: FLAVORED TOBACCO RESTRICTIONS
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Research Protocol

I. **Dates of Protocol:** July 2022; August 2022; November 2022; December 2022; December 2023.

II. **Scope:** Compile statutes and ordinances on flavored tobacco restrictions across the 75 largest cities, their respective counties, 32 states and the District of Columbia. The purpose of the CityHealth project is to collect important public health policies and determine what makes a healthy city. For a particular health policy, the goal is to display the state, county, and city law involved in shaping this policy at the city level. This dataset contains coding questions examining laws prohibiting all retailers from selling flavored tobacco products. This is a cross-sectional dataset originally capturing effective law valid through June 1, 2023, and crediting laws passed prior to final publication with future effective dates.

III. **Primary Data Collection**

   a. **Project dates:** January 1, 2023 – December 5, 2023

   b. **Dates covered in the dataset**: March 5, 1996 – January 1, 2024 (future effective date credited)

   c. **Data collection methods**: The team building this dataset consisted of three team members: two legal researchers ("Researchers") and one supervisor ("Supervisor") overseeing the quality control process.

   d. **Databases used**: Searches conducted using Westlaw Next and HeinOnline; the laws were then collected from state-specific legislature websites. County and city laws were collected from official government websites, municode.com and amlegal.com.

   e. **Search terms**: flavored tobacco restrictions; flavored tobacco; flavored e-cigarettes; menthol; pup laws; pup provisions; flavored smoking

      i.   Key word searches were supplemented by examination of the table of contents of each relevant section of the law identified.

      ii. Once all the relevant laws were identified in each jurisdiction, a master sheet was created for each jurisdiction that summarized the relevant laws within the scope at each jurisdictional level. This summary included the statutory history for each law and the effective date for that version of the law.

   f. **Information about initial returns and additional inclusion or exclusion criteria**:

      i.   This dataset only captures statutes, regulations, ordinances, and final orders or policies. It does not credit guidance documents or city plans that are not binding in nature.

ii.   This dataset does not capture temporary COVID-19 emergency laws**.**

IV.   Coding

a.   **Development of coding scheme**: The Center for Public Health Law Research (CPHLR) worked with the CityHealth team to develop scoring criteria for this policy. Based on that scoring criteria and the accompanying definitions detailed during that process, CPHLR developed a set of coding questions to identify the information more efficiently in the state, county, and city laws for this assessment. This set of coding questions was reviewed by the CityHealth team.

CPHLR and the CityHealth team worked with subject matter experts from the Campaign for Tobacco Free Kids to determine the following coding rules:

1.   Laws with category-specific exemptions, such as an exemption for hookah bars, should not be considered as covering "all retailers."
2.   Laws that include a "PUP" provision (i.e., making it unlawful for youth to purchase, use, or possess flavored tobacco products) but do not actually assess a penalty for violation of the law should not be coded for the three penalty questions.

b.   **Coding methods:** The Researchers were responsible for coding all 75 cities, including the respective state and county laws for each of the cities. Both Researchers independently coded their assigned jurisdictions in the MonQcle software platform.

Following the quality control process for the coding (described below), the Supervisor used the final data results to apply the coding for each jurisdiction to the scoring criteria to determine the final medal score for each city. These medal results were compiled into a score overview spreadsheet and reviewed by the CityHealth team.
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c.   **Quality control:**

i.   **Original coding review:** The Supervisor oversaw the quality of the data by downloading the data from the MonQcle into Microsoft Excel and reviewing it to find caution flags, missing citations, and errors in the coding. Issues in the coding were discussed by the Researchers in coding meetings and resolved accordingly.

ii.   **Redundant coding review:** The Supervisor assigned 100% of the original coding records containing flavored tobacco restrictions laws for redundant coding. This meant that 14 jurisdictional records were independently redundantly coded by a second researcher.

1.   The Supervisor reviewed the redundant coding by downloading the data from the MonQcle into Microsoft Excel and comparing the records, variable by variable, looking for divergences. When a divergence was identified, it was discussed with the researchers. The reason for the divergence was identified and resolved. A measure of divergence was calculated by the Researcher and the redundant record was deleted.

2.   The initial rate of divergence on August 30, 2022 was 0.00%.

iii. **Final coding review:** The Supervisor did a final check of the original coding for all states and ensured that the state coding was consistent among cities within the same.

iv. **City review phase:** After the medal results were tabulated and reviewed by CityHealth, the Supervisor sent the medal results to a designated representative in each of the 75 cities to give them an opportunity to review the preliminary result and provide any notice of new or missing laws in scope or question the end results. This feedback was reviewed by both the CPHLR team and the CityHealth team prior to final publication of the final medal results.

V. 2023 Assessment

a. **Updates:** For the 2023 Assessment, there were several new laws earning cities higher medals due to substantive coding changes. A new city law in Columbus, effective January 1, 2024, but passed during the 2023 assessment period and credited here, earned the city a Silver medal, up from no medal during the 2022 assessment. A new Multnomah County law, effective January 1, 2024, but passed during the 2023 assessment period and credited here, earned the city a Gold medal, up from no medal during the 2022 assessment. A new city law in Stockton, effective September 18, 2023, but passed during the 2023 assessment period and credited here, earned the city a Gold medal, up from a Silver medal during the 2022 assessment.

The coding and scoring for Minneapolis, which was awarded a Silver medal in 2022, was reviewed after subject matter experts raised questions about the city law's similarity to St. Paul, which had not been awarded a medal based on similar language. After reviewing with the subject matter experts, it was determined that the exceptions for retail stores hold a tobacco products shop license in Minneapolis were similar to those in St. Paul, which should disqualify both cities from receiving credit for applying to all retailers. Once this coding correction was made, Minneapolis dropped from a Silver medal to no medal.

i. Each of the substantively amended cities were assigned for redundant coding. There were no divergences between the two coders.

Although this did not ultimately impact the coding, subject matter experts requested the addition of the following caution note to all Ohio cities: "OH Rev. Code § 2151.87(B)(1)-(3) prohibits the individuals under 18 years of age from using, possessing, purchasing, or attempting to purchase tobacco products. However, in 2019, H.B. 166 (Appropriations—Fiscal Year State Budget—2020-2021) removed the penalties associated with those provisions."