



Date: November 18, 2019

To: Washington State Board of Health Members

From: John Wiesman, DrPH, MPH, Secretary of Health

Subject: Chapter 246-80 WAC Update on Implementation, Outbreak Investigation and Recommendations regarding the Vaping Use Public Health Crisis

Background and Summary:

In July 2019, the U.S. Centers for Disease Control and Prevention (CDC), U.S. Food and Drug Administration, state and local health departments, and other clinical and public health partners began investigating outbreaks of lung injury associated with e-cigarette product use, or vaping. In September 2019, the CDC activated its Emergency Operations Center to aid in the investigation of the multi-state outbreak. As of November 13, there have been 2,172 cases reported across 49 states, the District of Columbia, Puerto Rico and the US Virgin Islands, including 42 deaths confirmed in 24 states. Fourteen cases of lung injury have been reported in Washington State.

On September 27, 2019 Governor Jay Inslee issued Executive Order 19-03, Addressing the Vaping Use Public Health Crisis. As a part of the Executive Order, Governor Inslee directed the Washington State Department of Health (Department) to, "Request that the State Board of Health use its emergency rulemaking authority to impose a ban on all flavored vapor products, including flavored THC vapor products, at the Board's next meeting on October 9". The Washington State Board of Health (Board) has the authority under RCW 43.20.050(2)(f) to adopt rules for the prevention and control of infectious and noninfectious diseases, including food and vector borne illness.

At its October 9 meeting in SeaTac, the Board adopted an emergency rule that bans the sale of flavored vaping products, requires vapor and cannabis retailers to post signs informing consumers of health risks associated with vaping, and requires health care providers and facilities to report cases of severe lung injury and illness to public health. The rule has so far survived a legal challenge. Today I have invited Dr. Kathy Lofy, State Health Officer, and Sara Cooley Broschart from the Liquor and Cannabis Board to update the Board on rule implementation and present updated information about the current outbreak, and emerging evidence about possible causes of this epidemic. I will also ask the Board to consider adoption of an additional section to the current rules to help us prevent the sale and distribution of products that may contain vitamin E acetate, which CDC has identified as a chemical of concern among people with e-cigarette, or vaping, product use associated lung injury.

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Recommended Board Action:

The Board may wish to consider, amend if necessary, and adopt the following motion:

The Board adopts the emergency rule to prohibit the sale of vapor products that contain vitamin E acetate. The Board directs staff to file the CR-103E to create a new section in chapter 246-080 WAC, which will become effective immediately upon filing with the code reviser.

Staff

Alexandra Montaña

To request this document in an alternate format or a different language, please contact Kelie Kahler, Washington State Board of Health Communication Manager, at 360-236-4102 or by email at kelie.kahler@sboh.wa.gov. TTY users can dial 711.

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