

**Committee on Energy and Commerce**  
**Opening Statement as Prepared for Delivery**  
**of**  
**Subcommittee on Oversight and Investigations Ranking Member Brett Guthrie**

*Sounding the Alarm: The Public Health Threats of E-Cigarettes*

**September 25, 2019**

Chair DeGette, thank you for holding this hearing. I am deeply concerned about the ongoing outbreak of lung illness associated with vaping and e-cigarette use, as well as the marketing of e-cigarettes to kids. We need to understand the causes of this “vaping illness,” and ensure that e-cigarettes are not being marketed to kids. It is also important that we understand the health implications of vaping and e-cigarette use more broadly, whether an adult is vaping THC derived from marijuana, nicotine, or another substance.

So far, the available evidence from the 530 reported cases of lung illness and eight deaths does not point to a conclusive cause, but the test samples overwhelmingly suggest involvement of illicit e-cigarette devices, the psychoactive ingredient in marijuana called THC, and/or other black-market products. For example, according to the Centers for Disease Control, most patients who have experienced these lung illnesses have reported a history of using e-cigarette products containing THC. However, some have reported using products that contain THC and nicotine, while others have reported only using products with nicotine.

Separate from the outbreak of lung illness, according to the U.S. Food and Drug Administration, the United States has a youth e-cigarette epidemic. The most recent data from the National Youth Tobacco Survey showed that 27.5 percent of youths reported using e-cigarettes, compared with 20.8 percent in 2018. The rate was only 11.3 percent just three years ago. These trends are unacceptable. The marketing of e-cigarette products to children must be stopped, and youth access to e-cigarette products must be blocked more effectively.

This epidemic is already driving legislative and regulatory responses. Last September, the FDA issued more than 1,300 warning letters and fines to brick-and-mortar retailers who illegally sold e-cigarette products to minors, and five warning letters to e-cigarette manufacturers about their plans to address youth access use of their products. Eighteen states have increased the legal age to purchase tobacco products to 21. Michigan, New York, and the District of Columbia have issued or proposed regulations to ban flavored e-cigarettes. On September 11, 2019, the Trump Administration announced that the FDA would finalize a compliance policy to prioritize enforcement against the marketing of unauthorized non-tobacco flavored e-cigarettes, including mint and menthol e-cigarettes.

While these responses are aimed at reducing the attraction of e-cigarettes to youth, wide bans will almost certainly create black markets. In that vein, we will also need a response to an increased black market demand for flavored pods, and to address the growing trade in illicit

cannabis vaping products. A New York Times article reported that a recent bust of a THC-oil operation in Wisconsin revealed a very advanced and mature illicit market for THC vape cartridges and distribution of contaminated THC-based vape carts.

I am told that these illicit operations are using a tactic seen in other illegal drug operations: cutting their product with other substances, including some that could be dangerous. Public health advocates, for example, said a particular cutting agent, vitamin E acetate, is an oil that could cause breathing problems and lung inflammation if not heated fully during the vaping process.

By using smaller amounts of the expensive THC and diluting it with oils that cost much less, one can increase their profit from selling the product. For example, medium-grade THC can cost \$4,000 a kilogram, but additives may cost pennies on the dollar. These operations rely on "pen factories" that buy empty vape cartridges and counterfeit packaging from Chinese factories, then fill them with THC liquid that they purchase from the United States market. Empty cartridges and packaging are also available to purchase on the internet.

While federal and state authorities are working on an effective response against teen e-cigarette use, we must ensure that our youth is educated on the dangers of using e-cigarettes. For example, in Massachusetts, Governor Baker's administration launched a campaign to combat teen vaping and e-cigarette use in April 2019, and the Massachusetts Department of Public Health launched a campaign to highlight the dangers of vape pens and e-cigarettes in July 2018. These actions are commendable, and I look forward to seeing the results of these campaigns.

With regard to adults trying to quit smoking, some studies suggest e-cigarettes are less harmful than traditional cigarettes. According to the CDC, e-cigarettes have the potential to benefit cessation from combustible cigarettes for adult smokers but the CDC cautions that e-cigarettes are not safe for youth, young adults, pregnant women, or adults who do not currently use tobacco products. Additional research should be continued into the effectiveness of e-cigarettes for smoking cessation and to understand long-term health effects.

I thank our witnesses on both panels for being here today and being part of this important discussion I yield back.