



## Texas Conservative Coalition Research Institute

Written Testimony to the Senate Committee on Health & Human Services

December 3, 2019

### **Public Health:**

*Examine the emerging public health concerns from the rise of e-cigarette use and “vaping,” especially among minors. Determine if additional policies or laws are needed to protect the public’s health.*

### **Executive Summary**

Still a relatively new product, E-cigarettes have been linked to [mysterious lung illnesses and death](#),<sup>1</sup> and there is concern that [teenagers are using the products](#)<sup>2</sup> at an increasing rate, which feels to many like a step backwards after [years of steady decline in teen tobacco use](#).<sup>3</sup> With more than 1,400 serious illnesses linked to vaping and 33 deaths, lawmakers and officials are right to worry.<sup>4</sup> However, research indicates that black market products are likely to blame for these illnesses, rather than products that exist within the legally regulated market, and outright bans fail to acknowledge the potentially positive aspects of e-cigarettes, as opposed to traditional cigarettes.

There is no question that vaping is bad for you, and there is evidence that vaping can be even [more harmful to adolescents](#) with still developing brains.<sup>5</sup> The Legislature has a responsibility to make sure that these products are not marketed to children, and that everyone knows the products are not harmless. There could also be lessons learned in the U.K.’s approach to e-cigarette use, which embraces vaping as a means of traditional cigarette cessation, while discouraging use of e-cigarettes by non-smokers.

Texas has a good reputation for taking a reasonable approach to regulation and public safety. As policy makers debate proposals to regulate vaping and e-cigarettes, they should do so with a clear understanding of the underlying facts and how the products are used. Like many products legally available in the marketplace, there are dangers associated with vaping, but calls to ban the products outright are an overreaction. Lawmakers and regulators should study what is and is not working in the U.K.’s approach to regulating vaping and address this issue with a scalpel, rather than a shotgun, approach.



## ***Vaping-Related Illnesses in the U.S.***

It is common in public policy discussions for facts to differ from public perception. Indeed, calls for gun control ignore or don't care about the fact that gun violence has been [steadily declining for decades](#). Likewise, calls to increase regulations or to eliminate payday lenders because of their fees and high interest rates are seemingly unconcerned by the fact that doing so would make it more difficult for the most [vulnerable populations to get credit in their biggest times of need](#).

Currently, this phenomenon is a growing issue with respect to vaping, the inhaling of vapor created by electronic cigarettes (E-cigarettes). Still a relatively new product, E-cigarettes have been linked to [mysterious lung illnesses and death](#),<sup>6</sup> and there is concern that [teenagers are using the products](#)<sup>7</sup> at an increasing rate, which feels to many like a step backwards after [years of steady decline in teen tobacco use](#).<sup>8</sup> With more than 1,400 respiratory illnesses linked to vaping and 33 related deaths, lawmakers and officials are right to be alarmed.<sup>9</sup>

Such concerns have led states like Michigan, New York, Massachusetts, Rhode Island, Washington, and California to implement various [restrictions and bans on E-cigarettes](#).<sup>10</sup> At the federal level, members of Congress have [urged the FDA](#) to increase study and oversight of e-cigarettes.<sup>11</sup> And numerous bills have been introduced at the federal level, such as the Representative Suozzi's (D-N.Y.) "vaping tax," which specifically taxes liquid nicotine. The vaping tax recently [passed out of the House Ways and Means Committee](#) on a 24-15 vote. In Rep. Suozzi's own words, "[i]ncreasing the cost of vaping will have a direct correlation to decreasing the usage of vaping products."

While injuries and teen use are concerning, there are key facts being ignored in this rush to judgement over vaping products. For example, among the more than 1,400 reported pulmonary injuries and 33 deaths, the majority of these injuries have been attributed to products [contaminated by cannabis](#),<sup>12</sup> which the FDA has [warned](#) against.<sup>13</sup> Indeed, the CDC recently released a [report](#) detailing numerous data points indicating that the majority of vaping-related illnesses can be traced to THC products, including illegal products.<sup>14</sup> A [2018 National Youth Tobacco Survey](#) indicated that most young people who vape report having vaped marijuana or THC.<sup>15</sup> More recently, [the CDC found that vitamin E acetate](#), an additive to cannabis and THC products, was present in all 29 lung fluid samples taken from patients across 10 states during its investigation of recent lung diseases, which adds more evidence to the likely conclusion that black-market products containing THC are responsible for most of the reported injuries.<sup>16</sup>

Also important are the benefits that e-cigarettes provide to individuals using them as an alternative to combustible cigarettes or as a stepping stone to quit smoking altogether. [A recent study](#) in France found that e-cigarette use is associated with a significantly higher decrease in the number of cigarettes smoked per day and an increase in attempts to quit smoking.<sup>17</sup> However, among former smokers, vaping was associated with higher rates of relapse. Indeed, like many products that aren't healthy, there are positives and negatives.

And it is absolutely true that vaping is bad for you, and still addictive, but the evidence points to it being a better alternative to burning tobacco. Dr. Michael Blaha of Johns Hopkins Medicine [explains](#) that traditional cigarettes contain 7,000 chemicals, and “there’s almost no doubt that [e-cigarettes] expose you to fewer toxic chemicals[.]”<sup>18</sup> There are also a number of clinical [studies showing](#) that smokers who switched from cigarettes to vaping experienced “both subjective and objective improvement in their lung function.”<sup>19</sup>

### ***U.K. Experience with Vaping***

Unlike the approach taken by the U.S., the U.K. has embraced the use of e-cigarettes as a means of weaning smokers off traditional cigarettes. Yet, even though vaping is quite prevalent in the U.K.- vape shops are even attached to some hospitals-<sup>20</sup> they are not experiencing the vaping-related illnesses seen in the U.S., and experts [predict](#) that they are unlikely to occur outside of the U.S.<sup>21</sup>

While the U.K. moved pretty quickly to prohibit the use of the off-market oils implicated in the aforementioned U.S. vaping-related illnesses and more tightly restrict e-cigarette advertising and nicotine levels, the U.S. did not.<sup>22</sup> A recent article on these disparate approaches explains:

American regulators have been roundly criticized for moving too slowly to get a handle on vape products, only to embrace prohibitory tactics, which could drive vapers back to cigarettes, or additional users to a black market that may very well be what's causing many of the illnesses in the first place. (Many of the cases so far seem to have been linked to THC products, which are often purchased on the black market, and vaping advocates have insisted flavor bans would only encourage people to experiment with mixing e-juices, even if they don't know what they're doing.)<sup>23</sup>

Research shows some of the U.K.'s tactics may be paying off. In addition to the rates of traditional tobacco cigarette smoking dropping more rapidly in Britain than the U.S. (British experts credit vaping at least in part to this decline),<sup>24</sup> vaping is also not as popular there among teens as it is here.<sup>25</sup>

This is not to say that American hospitals should look to open their own vape shops, but some of the targeted approaches adopted by the U.K. to lower the rates of tobacco cigarette use, while only promoting e-cigarettes to current smokers, could have a positive impact in the U.S.

### ***Conclusion and Policy Recommendations***

The debate over vaping is coming to Texas. As of late September, more than 50 vaping-related illnesses had been reported in Texas, and lawmakers have taken notice.<sup>26</sup>

The outbreak of vaping-related illnesses has disproportionately affected minors,<sup>27</sup> and state leaders are absolutely right to be concerned about children and vaping. In addition to the known risks for everyone, there is evidence that vaping can be even [more harmful to adolescents](#) with still developing brains.<sup>28</sup>

However, as policy makers debate proposals to regulate vaping and e-cigarettes, they should do so with a clear understanding of the underlying facts and how the products are used. Like many products legally available in the marketplace, there are dangers associated with vaping, but calls to ban the products outright are an overreaction. Instead, lawmakers and regulators should study what is and is not working in the U.K.'s approach to regulating vaping and address this issue with a scalpel, rather than a shotgun, approach.

## ENDNOTES

- <sup>1</sup> Time, “‘I Wish We Had More Answers’: Health Officials Still Don’t Know Why 500 People Have Gotten Sick After Vaping,” by Jamie Ducharme, September 19, 2019, available at <https://time.com/5681190/cdc-vaping-lung-illnesses/>.
- <sup>2</sup> See ChildMind.org website, “Teen Vaping: What You Need to Know,” available at <https://childmind.org/article/teen-vaping-what-you-need-to-know/>.
- <sup>3</sup> See U.S. Department of Health and Human Services website, Office of Population Health, “Adolescents and Tobacco: Trends,” available at <https://www.hhs.gov/ash/oah/adolescent-development/substance-use/drugs/tobacco/trends/index.html>.
- <sup>4</sup> LA Times, “The recent vaping deaths are bad. The long term toll will be even worse,” October 23, 2019, available at <https://www.latimes.com/projects/vaping-deaths-long-term/>.
- <sup>5</sup> See Yale Medicine, “Teen Vaping Linked to More Health Risks,” by Kathleen Raven, November 8, 2019, available at <https://www.yalemedicine.org/stories/teen-vaping/>.
- <sup>6</sup> Time, “‘I Wish We Had More Answers’: Health Officials Still Don’t Know Why 500 People Have Gotten Sick After Vaping,” by Jamie Ducharme, September 19, 2019, available at <https://time.com/5681190/cdc-vaping-lung-illnesses/>.
- <sup>7</sup> See ChildMind.org website, “Teen Vaping: What You Need to Know,” available at <https://childmind.org/article/teen-vaping-what-you-need-to-know/>.
- <sup>8</sup> See U.S. Department of Health and Human Services website, Office of Population Health, “Adolescents and Tobacco: Trends,” available at <https://www.hhs.gov/ash/oah/adolescent-development/substance-use/drugs/tobacco/trends/index.html>.
- <sup>9</sup> LA Times, “The recent vaping deaths are bad. The long term toll will be even worse,” October 23, 2019, available at <https://www.latimes.com/projects/vaping-deaths-long-term/>.
- <sup>10</sup> Time, “As the Number of Vaping-Related Deaths Climbs, These States Have Implemented E-Cigarette Bans,” by Jamie Ducharme, October 15, 2019, available at <https://time.com/5685936/state-vaping-bans/>.
- <sup>11</sup> CNBC, “Congress grills FDA for dropping the ball on vaping even as teen use surged,” by Elijah Shama and Angelica LaVito, September 25, 2019, available at <https://www.cnbc.com/2019/09/25/congress-grills-fda-for-dropping-the-ball-on-vaping-even-as-teen-use-surged.html>.
- <sup>12</sup> Washington Post, “Vaping-related illnesses surge as FDA discloses criminal probe,” by Lena H. Sun, September 19, 2019, available at <https://www.washingtonpost.com/health/2019/09/19/vaping-related-illnesses-surge-fda-announces-criminal-probe/>.
- <sup>13</sup> See FDA website, “Vaping Illness Update: FDA Warns Public to Stop Using Tetrahydrocannabinol (THC)-Containing Vaping Products and Any Vaping Products Obtained Off the Street,” available at <https://www.fda.gov/consumers/consumer-updates/vaping-illness-update-fda-warns-public-stop-using-tetrahydrocannabinol-thc-containing-vaping>.
- <sup>14</sup> Ghinai I, Pray IW, Navon L, et al. E-cigarette Product Use, or Vaping, Among Persons with Associated Lung Injury — Illinois and Wisconsin, April–September 2019. *MMWR Morb Mortal Wkly Rep* 2019;68:865–869. DOI: <http://dx.doi.org/10.15585/mmwr.mm6839e2>.
- <sup>15</sup> See Centers for Disease Control and Prevention website, “National Youth Tobacco Survey (NYTS),” available at [https://www.cdc.gov/tobacco/data\\_statistics/surveys/nyts/index.htm](https://www.cdc.gov/tobacco/data_statistics/surveys/nyts/index.htm).
- <sup>16</sup> Centers for Disease Control and Prevention, “Evaluation of Bronchoalveolar Lavage Fluid from Patients in an Outbreak of E-cigarette, or Vaping, Product Use–Associated Lung Injury — 10 States, August–October 2019,” November 15, 2019, available at [https://www.cdc.gov/mmwr/volumes/68/wr/mm6845e2.htm?s\\_cid=mm6845e2\\_w](https://www.cdc.gov/mmwr/volumes/68/wr/mm6845e2.htm?s_cid=mm6845e2_w).
- <sup>17</sup> Gomajee R, El-Khoury F, Goldberg M, et al. Association Between Electronic Cigarette Use and Smoking Reduction in France. *JAMA Intern Med.* 2019;179(9):1193–1200. doi: <https://doi.org/10.1001/jamainternmed.2019.1483>
- <sup>18</sup> See Hopkins Medicine website, “5 Vaping Facts You Need to Know,” available at <https://www.hopkinsmedicine.org/health/wellness-and-prevention/5-truths-you-need-to-know-about-vaping>.

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<sup>19</sup> Polosa, R., Morjaria, J.B., Caponnetto, P. *et al.* Evidence for harm reduction in COPD smokers who switch to electronic cigarettes. *Respir Res* **17**, 166 (2016) doi: <https://respiratory-research.biomedcentral.com/articles/10.1186/s12931-016-0481-x#citeas>.

<sup>20</sup> See Vice, “Why People Are Dying from Vaping in the U.S. and Not the U.K.,” by Alex Norcia, October 10, 2019, available at [https://www.vice.com/en\\_us/article/bjw5q8/why-people-are-dying-from-vaping-in-the-us-and-not-the-uk](https://www.vice.com/en_us/article/bjw5q8/why-people-are-dying-from-vaping-in-the-us-and-not-the-uk).

<sup>21</sup> Reuters, “Vaping illness, deaths very likely rare beyond U.S., experts say,” by Kate Kelland, October 14, 2019, available at <https://www.reuters.com/article/us-health-vaping-britain/vaping-illness-deaths-likely-very-rare-beyond-u-s-experts-say-idUSKBN1WT1XP>.

See also, CNN, “The US and UK see vaping very differently. Here’s why,” by Katie Hunt, September 17, 2019, available at <https://www.cnn.com/2019/09/17/health/vaping-us-uk-e-cigarette-differences-intl/index.html>.

<sup>22</sup> *Ibid.*

<sup>23</sup> See Vice, “Why People Are Dying from Vaping in the U.S. and Not the U.K.,” by Alex Norcia, October 10, 2019, available at [https://www.vice.com/en\\_us/article/bjw5q8/why-people-are-dying-from-vaping-in-the-us-and-not-the-uk](https://www.vice.com/en_us/article/bjw5q8/why-people-are-dying-from-vaping-in-the-us-and-not-the-uk).

<sup>24</sup> Reuters, “Vaping illness, deaths very likely rare beyond U.S., experts say,” by Kate Kelland, October 14, 2019, available at <https://www.reuters.com/article/us-health-vaping-britain/vaping-illness-deaths-likely-very-rare-beyond-u-s-experts-say-idUSKBN1WT1XP>.

<sup>25</sup> CNN, “The US and UK see vaping very differently. Here’s why,” by Katie Hunt, September 17, 2019, available at <https://www.cnn.com/2019/09/17/health/vaping-us-uk-e-cigarette-differences-intl/index.html>.

<sup>26</sup> Houston Chronicle, “54 vaping-related illnesses reported in Texas,” by Todd Ackerman, September 26, 2019, available at <https://www.houstonchronicle.com/local/prognosis/article/Vaping-related-lung-disease-spiking-in-Texas-14465493.php>.

<sup>27</sup> *Ibid.*

<sup>28</sup> See Yale Medicine, “Teen Vaping Linked to More Health Risks,” by Kathleen Raven, November 8, 2019, available at <https://www.yalemedicine.org/stories/teen-vaping/>.