



The Commonwealth of Massachusetts
Executive Office of Health and Human Services
Department of Public Health
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TO: Local Boards of Health
FROM: Patti Henley, Director, Massachusetts Tobacco Cessation and Prevention Program
Ron O'Connor, Director, Office of Local and Regional Health
DATE: September 24, 2019
RE: Implementation of DPH order regarding vaping products

On September 24, 2019, Governor Charles D. Baker declared a public health emergency in the Commonwealth due to severe lung disease associated with the use of e-cigarettes and vaping products, and the epidemic of e-cigarette use among youth (a copy of the Governor's Declaration is enclosed at Appendix A). As of September 19, 2019, the federal Centers for Disease Control and Prevention (CDC) had confirmed 530 cases across 39 states and U.S. territories, including seven fatalities in six different states. The commonality in all reported cases is a history of vaping, and a history of using vaping products containing tetrahydrocannabinol (THC), nicotine, or a combination of both.

On September 11, 2019, Massachusetts Department of Public Health Commissioner Monica Bharel declared possible cases of unexplained vaping-associated pulmonary disease to be immediately reportable to the Department of Public Health (DPH) and further authorized DPH to conduct surveillance activities necessary for the investigation, monitoring, control and prevention of this disease. As a result of this declaration, more than 60 preliminary intake reports have been received by DPH.

There is still much to learn about the causes and associated dangers relating to vaping. With the goal of protecting the health of Massachusetts residents, and in accordance with Governor Baker's public health emergency declaration and with the approval of the Public Health Council, Commissioner Bharel issued an Order which provides in part:

The sale or display of all vaping products to consumers in retail establishments, online, and through any other means, including all non-flavored and flavored vaping products, including mint and menthol, including tetrahydrocannabinol (THC) and any other cannabinoid, is prohibited in the Commonwealth. (A copy of the Order is enclosed at Appendix B).

As Boards of Health, you have demonstrated the capacity and commitment to help protect our residents across the state. Your diligent work with retailers will be crucial to our success in preventing further illness and death from vaping products. DPH will notify all known tobacco and vaping retailers that they must not sell vaping products and must remove these products from their shelves. DPH will rely on your

local expertise to help enforce this Order within each of your municipalities. This initial guidance is provided to assist Boards of Health in this enforcement. DPH will continue to update its guidance as necessary.

- Board of Health should help retailers better understand this public health emergency by providing additional communication around this order. *See Appendix C.*
- As you visit retailers, conduct inspections to ensure vaping products are not being sold and are not on display.
- If vaping products are being sold or remain on display, issue a cease and desist letter and direct the retailer to immediately stop selling and/or remove vaping products from display. *See Appendix D for a cease and desist order.*
- Revisit retailers within 24 hours of issuing a cease and desist order to ensure compliance.
- MDPH has established a tobacco complaint line – 1-800-992-1895 to assist in the monitoring and enforcement of this order. Complaints related to retailers in your municipality will be forwarded to you for follow-up.
- Additional guidance for enforcement, including fines, will be forthcoming.

For general questions related to the enforcement of the emergency order, contact the DPH Massachusetts Tobacco Cessation and Prevention Program (MTCP) at 617-624-5900.

We recognize the importance of cessation, and are making cessation resources as readily available as possible on by increasing support on our quit line: 1-800-QUITNOW.

We thank you for your continued work in our state, and for your significant contribution with this order. We look forward to working with you and supporting you in this and other statewide efforts.

Additional Resources:

- Visit the DPH website www.mass.gov/vapingemergency for updated information
- For media and press inquiries for DPH, Ann Scales 617-624-5006
- For vaping cessation and smoking cessation resources, see makesmokinghistory.org, or call 1-800-QUITNOW
- For general questions from the public, 617.624.5900
- To report a suspected pulmonary disorder related to vaping, go to <https://www.mass.gov/news/clinical-advisory-on-vaping-associated-lung-injury-reporting>

Appendices:

- A: Governor’s Declaration of emergency
- B: Commissioner’s Order
- C: DPH notification to retailers
- D. Cease and desist order
- Press release