EXECUTIVE ORDER NO. 19-09

DIRECTING STATE AGENCIES TO TAKE IMMEDIATE ACTION TO ADDRESS THE VAPING PUBLIC HEALTH CRISIS

WHEREAS, it is crucial the State take actions necessary to protect the health and safety of Oregonians, especially Oregon's youth; and

WHEREAS, in recent years Oregon has experienced a dramatic increase in the use of vaping products, including e-cigarettes and vape pens, through which users inhale a vapor or aerosol that can contain nicotine, tetrahydrocannabinol (THC), flavor, and other additives or chemicals; and

WHEREAS, in 2015 the Oregon Legislature enacted House Bill 2546, which incorporated inhalant delivery systems—including vaping products that deliver nicotine or cannabinoids—into the state's tobacco regulatory structure; and

WHEREAS, despite Oregon laws that ban sales of inhalant delivery systems to youth under 21 years of age, flavored nicotine vaping products and advertisements for those products have contributed to a significant increase in youth vaping—for example, among 11th graders in Oregon, use of e-cigarette products increased from 13 percent to 23 percent from 2017 to 2019; and

WHEREAS, data released by the U.S. Centers for Disease Control and Prevention (CDC) and the U.S. Food and Drug Administration (FDA) last year show a rapid increase in youth e-cigarette use, with one in five youth using e-cigarettes in 2018—an "epidemic" that requires "historic action"; and

WHEREAS, nationally there is a vaping public health crisis, with an alarming outbreak in recent months of lung injuries among previously healthy individuals who have used vaping products; and

WHEREAS, according to the CDC, as of October 1, 2019, there have been more than 1,000 confirmed and probable vaping-related lung injury cases and 18 deaths nationally, with eight vaping-relating illnesses and two deaths in Oregon; all patients have reported a history of using vaping products; and

WHEREAS, products from state-licensed retail stores have been tied to vaping-associated lung injuries in Oregon; and

WHEREAS, many vaping-related lung injury cases involve younger users, with 16 percent of the cases nationally involving patients under 18 years old, and 22 percent involving individuals who are between 18 and 21 years old; and

Contains Recycled Materials

WHEREAS, the FDA and CDC are investigating the causes of vaping-related illnesses and deaths, have not yet determined specific causes, but recently advised consumers to cease their use of vaping products until more is known; and

WHEREAS, while the FDA recently reported it would ban flavored vaping products, it has not taken steps to protect the public from these products; and

WHEREAS, the Oregon Health Authority has issued a public health advisory, warning all Oregonians not to use vaping products or e-cigarettes, in light of the nationwide and local outbreak of vaping-associated lung injuries and deaths; and

WHEREAS, it is imperative for the State to take immediate action in an evidence-based manner, to protect Oregonians, particularly Oregon's youth, from the harms associated with vaping products;

NOW, THEREFORE, IT IS HEREBY DIRECTED AND ORDERED:

1. Agency Action: The Oregon Health Authority (OHA) and the Oregon Liquor Control Commission (OLCC) shall adopt rules and take any action necessary to protect Oregonians, particularly Oregon's youth, from the ongoing vaping public health crisis, to the full extent allowed by law. Such action shall include:

    a. *Ban on flavored vaping products*. OHA and OLCC are directed to immediately adopt emergency rules, effective for 180 days, banning the sale of all flavored vaping products.

    b. *Ban on identified causes*. As sources causing or contributing to vaping-associated lung injuries or death are identified in an evidence-based manner in the weeks and months ahead, OHA and OLCC are directed to take immediate action and adopt additional emergency rules necessary to ban the sale of products containing those specific sources.

    c. *Testing, warnings, and disclosures*. Within 90 days of this Executive Order, OHA and OLCC shall develop plans for consumer warnings (including displays of the health risks of vaping in all licensed retailers of THC and non-THC vaping products), ingredient

Contains Recycled Materials

disclosures, testing, and other similar actions, to ensure that consumers are aware of the health effects of vaping products.

d. *Provider reporting.* OHA is directed to adopt rules requiring providers to report all cases of vaping-associated lung injuries.

e. *Access to FDA-approved cessation methods.* OHA and the Department of Consumer and Business Services are directed to work with Coordinated Care Organizations (CCOs), local public health, and commercial health insurers to identify and remediate barriers to obtaining cessation supports and services.

f. *Statewide Prevention and Education Campaign.* OHA, in collaboration with OLCC, is directed to establish a statewide prevention and education campaign aimed at discouraging the use of vaping products.

g. *Legislation.* OHA and OLCC are directed to develop legislative proposals to:

i. Ban all flavored vaping products permanently, including those containing nicotine or THC;

ii. Disclose all ingredients in vaping products to consumers;

iii. Increase the regulatory oversight of vaping products; and

iv. Clarify and expand OHA's authority to take action when a harm or risk to the public's health is present.

2. Workgroup Recommendations: The Governor's Vaping Public Health Workgroup is hereby established, and will advise the Governor and state agencies regarding Oregon's vaping public health crisis, and actions taken pursuant to this Executive Order. The workgroup will be convened by the Governor's Office and shall include, but is not limited to, individuals with expertise in public health and pulmonology, representatives from business, and agency directors from OHA and OLCC. The workgroup shall review evidence regarding the causes and effects of vaping-related lung injuries and deaths, and make policy recommendations that can be implemented by

the Legislature, state agencies, and other state and local authorities. The workgroup shall submit recommendations to the Governor no later than June 1, 2020.

3. This Executive Order shall be effective until December 31, 2020, at which time it shall expire unless extended by the Governor.

Done at Salem, Oregon, this 4th day of October, 2019.

Kate Brown
GOVERNOR

ATTEST:

Bev Clarno
SECRETARY OF STATE

Contains Recycled Materials