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Contacts:

Dave Lemmon, Campaign for Tobacco-Free Kids, (202) 296-5469

Alissa Crispino, American Cancer Society Cancer Action Network, (202) 661-5772

Suniti Bal, American Heart Association, (202) 785-7929

Gregg Tubbs, American Lung Association, (202) 715-3469

Devin Miller, American Academy of Pediatrics, (202) 724-3308

Nicole Dueffert, Truth Initiative, (202) 454-5589

Trump Administration Should Not Exempt Vape Shops or Any Flavors from Its Plan to Clear the Market of All Flavored E-Cigarettes

Statement of Campaign for Tobacco-Free Kids, American Academy of Pediatrics, American Cancer Society Cancer Action Network, American Heart Association, American Lung Association and Truth Initiative

WASHINGTON, DC – As organizations committed to protecting the health of our nation's children, we are alarmed by reports that the Trump Administration may be further backing away from its plan to clear the market of all flavored e-cigarettes and may be considering allowing the continued sale of flavored e-cigarettes in vape shops. This follows reports that the Administration is considering exempting menthol e-cigarettes from its proposal.

We strongly urge the Administration to implement its original plan, announced on September 11, to clear the market of all flavored e-cigarettes, including mint and menthol, and to apply this policy to all brick-and-mortar and online retailers, including vape shops. If menthol or any other flavors are left on the market, the evidence indicates that kids will move to the remaining flavors. If vape shops are allowed to continue selling flavored e-cigarettes, kids will find ways to obtain them.

If the Administration exempts vape shops from its plan, it will be a capitulation to the e-cigarette industry at the expense of America's kids and it will not stem the worsening youth e-cigarette epidemic. There is no legal or public health justification for exempting vape shops from the Administration's plan. Under federal law, the FDA has the authority to regulate nicotine e-cigarette products wherever they are sold, including in vape shops.

There is also no evidence that vape shops do a better job of preventing sales to kids than other retailers. In fact, [a study](#) published earlier this year in JAMA Pediatrics found that tobacco and vape shops in California had a significantly worse record of checking IDs and preventing underage sales compared to other retailers. The study found that 44.7% of tobacco and vape shops sold vape products to minors. The FDA itself has acknowledged that more youth e-cigarette users report obtaining e-cigarettes from vape shops (14.8%) than from gas stations or convenience stores (8.4%), per the [FDA's draft policy](#) on flavored e-cigarettes issued in March 2019 (see p. 11). If flavored e-cigarettes continue to be sold in vape shops, the evidence shows it won't prevent kids from getting them.

There is also no public health justification for exempting menthol e-cigarettes from the Administration's policy. There is clear evidence that if any e-cigarette flavors are left on the market, kids will migrate to them. The 2019 National Youth Tobacco Survey shows that youth use of mint and menthol e-cigarettes soared between 2018 and 2019. Juul restricted the availability of its flavors, including mango but not mint and menthol, in stores in November 2018. Menthol is also different from tobacco flavor – like mint,

fruit and candy flavors, it is designed to attract new users. Decades of experience with menthol cigarettes demonstrate that menthol appeals to kids, and over half of current youth smokers smoke menthol cigarettes.

New data published in JAMA this week shows that the youth e-cigarette epidemic is getting worse every day, with 5.3 million kids now using e-cigarettes, and that flavored products are driving this epidemic. We cannot afford more delays or half measures in addressing this public health crisis. If the Administration is serious about protecting our kids, it must stand strong and swiftly implement its plan to clear the market of all flavored e-cigarettes.