



## HEALTH POLICY BULLETIN

### FOCUS: SMOKING LEGISLATION

Six bills restricting smoking, setting stiffer penalties for youths who use tobacco products, and requiring warning labels on smokeless tobacco products probably will get a boost from the surgeon general's recent report on the addictive properties of tobacco. SB 698 prohibits smoking in child care centers and on the grounds of K-12 public and private schools during school hours. SB 742 outlaws smoking in certain health facilities and in the common or treatment areas of licensed health professionals' offices. SB 793 increases the minimum number of tables in nonsmoking areas of restaurants and includes food service areas in shopping malls. SB 741 requires persons owning or operating certain public places (e.g., arenas, museums, concert halls, but not shopping malls) to implement and enforce the policy separating nonsmokers from smokers. SB 740 includes chewing tobacco and snuff as tobacco products prohibited by youth smoking laws; increases the penalties for persons furnishing tobacco products to a minor to 90 days in jail from 30 days and to a maximum fine of \$1,000 from \$50; revises the fine for use of tobacco products by minors to \$100 from \$10; and allows courts to require violators to participate in and pay for health promotion and risk reduction programs. SB 739 restricts advertising and requires warning labels for smokeless tobacco products.

The list of supporters of the antismoking package reads like a who's who of the medical and public health establishments. Terry Vanderveen, manager of governmental relations for the Michigan State Medical Society, said: "We'll support almost anything to get to a tobacco-free society by the year 2000." Even the Tobacco Institute and the Smokeless Tobacco Council support SB 740.

Nevertheless, the debate on SB 739 makes it clear that some legislators feel that exceeding federal standards by requiring warning labels on smokeless tobacco products was going too far. Senator Doug Cruce suggested that perhaps it was time to "just put a bill before us to outlaw smoking, and let's forget about all of these ridiculous proposals that we're coming up with that [are] only half measures and Band-Aid approaches."

The Michigan Distributors and Vendors Association stresses they have no problems with limiting sales to those aged 18 or older, but they expressed concern over the requirement in SB 740 that cigarette vending machines have signs outlining the law prohibiting sale to minors. Walter Maner III, executive director, said that "according to the National Automatic Merchandisers Association, 80 percent of machines are located in areas where minors are not allowed or the machines are well supervised." He also pointed out that only 6 percent of all cigarettes are sold through machines.

### FOCUS: IS ALCOHOLISM A DISEASE?

The United States Supreme Court's decisions in Traynor v. Turnage et al. and McKelvey v. Turnage et al. ended all speculation that it would decide the issue of whether alcoholism is a disease. At first glance, the high court's ruling--which upheld the Veterans Administration (VA) policy denying some recovering alcoholics additional time for educational benefits because their alcoholism is "willful misconduct"--appears to suggest that "primary alcoholism" (alcoholism unrelated to an underlying psychiatric disorder) is not a disease. All the Court

really did, however, was exempt this particular VA regulation from the federal Rehabilitation Act of 1973, which forbids discrimination against persons with handicaps, including alcoholism, in federal agencies and programs receiving federal funds. The plaintiffs, Eugene Traynor and James McKelvey, charged that the VA regulation violated the federal Rehabilitation Act. The Court said that its task was to decide if Congress intended the Rehabilitation Act to supersede the VA's regulation; it ruled that Congress did not see a conflict between the two.

Despite the Court's avoidance of the question of whether alcoholism is a disease, Justice Byron White's majority opinion found "a substantial body of medical literature that . . . contests the proposition that alcoholism is a disease." Nearly every health care organization, including the American Medical Association, characterizes alcoholism as a disease.

In dissent, Justice Harry Blackmun made much of what he saw as the VA's dangerous equation of primary alcoholism and willful misconduct. Such an equation, Blackmun asserted, "is undermined by the meagerness of the medical support it summons." Noting that it is very difficult to accuse of willful misconduct "a 9-to-13-year-old boy who follows the lead of his adult role models in taking his first drinks," Blackmun concludes that an alcoholic's willful misconduct "is certainly no less voluntary" than the conduct that can lead to heart and lung disease.

"Blackmun's dissent may prove to be the most significant aspect of the Court's decision," notes Mary Morin, executive director of the National Council on Alcoholism/Michigan. "Our field has fought hard to make people understand that alcoholism has much in common with other diseases, like lung cancer and diabetes, whose incidence can depend on genetics and behavior. Blackmun understands this."

The decision may renew efforts in Congress to grant extended educational benefits to veterans disabled by alcoholism.

#### OF INTEREST

Assistant U.S. Treasury Secretary Don Chapoton said the administration supports revisions in the unrelated business income tax (UBIT), including taxing nonprofit hospitals' lab tests, drugs, and sale and rental of medical equipment. Income from the sale of goods and services to inpatients should remain tax exempt, Chapoton said. The Treasury Department also does not support some of the more drastic proposals before the House Ways and Means Oversight Subcommittee, including the adoption of stricter criteria to determine whether a nonprofit organization is fulfilling its charitable mission. The subcommittee is formulating its UBIT proposal, which it will forward to the full committee.

In the state legislature in the next 30 days, look for final passage of the certificate of need legislation (HB 5145, HB 5575, HB 4525, and SB 64). House and Senate leaders have agreed on all major elements of the package, except that some GOP senators want to pare back roles of health planning agencies and permit the capital expenditures threshold to increase with inflation. By July 1, the bills should be on the governor's desk.

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and  
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