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Tobacco Regulation Review

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FROM THE DIRECTOR

This issue of *Tobacco Regulation Review* celebrates the Center's fifth anniversary with a review of projects from the past and a peek into the current work that keeps the Center busy today. We are pleased to have made an impact on tobacco control policy development and implementation in Maryland and look forward to new challenges with the State and local health departments and community coalitions in the years ahead.

Strong support from Joan Stine, Director of the Office of Health Promotion, Education & Tobacco Use Prevention at the Maryland Department of Health and Mental Hygiene, has enhanced the Center's visibility and viability during difficult fiscal times for the State of Maryland and we are grateful for that unyielding support. Constant support from Dean Karen Rothenberg and the administration and faculty at the Law School has likewise been instrumental in the Center's success.

As we embark on a new year, we welcome two new Center employees—Jackie McNamara, Research Fellow, and Erin Smith, Staff Attorney. We are excited to have Jackie and Erin on our team as we work through our sixth year.

Kathleen Hoke Dachille
Center Director

Center Celebrates Fifth Year of Operation

Having opened in the Fall of 2001, the Center celebrated five years of contributions to the tobacco control and public health community in Maryland and across the nation in September 2006. The unique relationship that the Center shares with the School of Law, the Maryland Department of Health and Mental Hygiene (DHMH), and the Tobacco Control Legal Consortium (TCLC), has allowed the Center to provide effective and comprehensive legal technical assistance on a variety of tobacco control matters.

Getting Started: A Needs Assessment and Accessible Tools for Policymakers

Based at a law school and supported by Cigarette Restitution Fund monies, the first step for the distinctive Center was to determine the appropriate focus areas for policy development and technical legal assistance in Maryland. To identify these areas, the first task undertaken by the Center was a Community Needs Assessment. To determine the legal needs of the tobacco control community, then-Managing Attorney (now Deputy Director) Michael Strande, a 2001 School of Law graduate, met with the Public Health Officer and relevant staff in each of Maryland's

24 local jurisdictions. Strande also interviewed leaders of Smoke Free Maryland and local tobacco control advocacy groups, as well as local representatives of leading national tobacco control organizations. That work culminated in the production of the Community Needs Assessment Report, which served as the blueprint for the Center's early operations, including the drafting of legislation for counties seeking to provide smokefree public places and workplaces, to penalize retailers for

The Center works collaboratively within the Law and Health Care Program and the Environmental Law Program at the School of Law.

selling tobacco to minors and to prohibit self-service tobacco products displays.

The Center began publishing *Tobacco Regulation Review*, a bi-annual newsletter to keep the community informed of each other's efforts in Maryland and of emerging policy development across the country, and launched an informational website, www.law.umaryland.edu/tobacco. Public health officials and tobacco control advocates from across the State became increasingly aware of the Center and the assistance staff could provide.

Recognizing the possibility of a symbiotic project, in 2002 the

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School of Law hired Kathleen Dachille, a 1992 graduate and then-Special Assistant to Attorney General J. Joseph Curran, Jr., to serve as Center Director and offer a clinical opportunity for law students interested in public health policy development and implementation. Through the Clinic, law students contribute to the Center's work while developing an understanding of public health and tobacco control law.

Legislative Work at the State and Local Level

The need for assistance in drafting and advocating for sound tobacco control legislation was identified as the top focus area for the Center. That work started at the local level, with the Center providing assistance to several jurisdictions. Notable projects included providing advice to the Montgomery County Council and the Talbot County Council on proposed clean indoor air legislation in 2003. Both Councils considered legislation that would expand the protections afforded under the State's smokefree workplace regulations by banning smoking in all public places and workplaces, including bars and restaurants. Center staff advised Council Members and their staff before and after legislative hearings, provided insight on drafting to insure the legal and practical viability of the laws, and assisted advocates in articulating their support for the bills. Both jurisdictions ultimately passed laws prohibiting smoking in restaurants and bars. When Montgomery County's law was

challenged in court, the Center provided litigation support to the County Attorney's Office in successfully defending the case. Currently staff and clinic students are assisting Anne Arundel County, Baltimore City, and the City of Annapolis with clean indoor air legislative proposals.

In addition to local clean indoor air laws, the Center has provided legal assistance on a variety of local tobacco control laws, drafting and advocating for: a Howard County prohibition against the giving away of free cigarettes; a Prince George's County law

The Center is a founding member of the Tobacco Control Legal Consortium (TCLC), an organization comprising of tobacco control legal resource centers across the country. Dachille joined the Steering Committee in 2002 to become familiar with colleagues around the country working on legal issues in tobacco control, to gain insight from other states' experiences, and to provide information and assistance to communities where legal support is lacking.

requiring that cigarettes be sold only in packages of 20 or more; and a Kent County law establishing penalties for retailers who sell tobacco to minors. After securing passage, Center staff worked with the local health departments to design effective and efficient enforcement programs.

As the work of the Center matured, state tobacco control legislation became a focal point of the Center's efforts. With the experience gained from the local clean indoor air campaigns, Center staff began working with members

of the General Assembly on a comprehensive clean indoor air law, providing drafting advice and answering legal questions. That work continues into 2007 as a statewide bill has not yet been passed. The state legislative work is not limited to clean indoor air, however. In 2005, at the request of Delegate Dan Morhaim, the Center drafted and advocated for a law that requires health insurers to cover the

cost of certain smoking cessation medications. Strande negotiated with medical insurance providers to reach a compromise bill, which became law on October 1, 2005. The Center also drafted a state law prohibiting

the sale of tobacco through the internet, and Dachille worked to achieve consensus in support of the law with the Maryland Attorney General, the Comptroller, the Maryland Retailers Association, and major cigarette manufacturers. That bill also became law in 2005.

Another Center-driven, statewide legislative initiative is the Cigarette Fire Safety Performance Standard and Firefighter Protection Act. This bill would require that cigarettes sold in Maryland meet certain fire safety standards designed

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to reduce accidental fires caused by cigarettes. In 2006, Center staff and clinic students assisted in drafting the bill and the accompanying fiscal note, provided written and oral testimony in support of the bill to the House and Senate committees, and coordinated the testimony of national fire safety experts and fire-safe cigarette advocates. The bill was given a favorable report by the House Economic Matters Committee and the Senate Finance Committee, and cleared the House Floor with a 124-12 vote. The bill failed to reach the Senate Floor for a full vote, ending the campaign for 2006. With new lead sponsors and critical Senate support, the bill has been reintroduced in 2007 and Dachille continues to provide support to the legislators sponsoring the legislation. In addition to these efforts, the Center has worked with, and will continue to work with, state legislators on bills that would increase the penalties to retailers who sell tobacco to minors, protect foster children from exposure to secondhand smoke, and impose tobacco product placement restrictions on all Maryland tobacco retailers.

Other Tobacco Control Work

On the litigation front, Dachille has been appointed as a Special Assistant Attorney General in Maryland to work in support of the Vermont Attorney General's case against R.J. Reynolds for marketing of the Eclipse cigarette product. Eclipse has been marketed as a cigarette posing less risk of lung cancer and emphysema and as emitting significantly less secondhand

smoke than traditional cigarettes. The Vermont Attorney General sued Reynolds, alleging that the marketing is deceptive in violation of the Vermont Consumer Fraud Statute and the Master Settlement Agreement. More than a dozen states are assisting Vermont in pursuing the case. Dachille and clinic students have assisted lead counsel in preparing for depositions, researched potential expert witnesses, acquired public documents helpful to the case, and answered civil procedure and evidence questions raised during the pre-trial phase. The Special Appointment allows Dachille to remain active with the National Attorneys General Tobacco Workgroup, a group that identifies potential MSA violations and other fraudulent practices by tobacco manufacturers and acts in concert to prevent or stop those acts.

The Center has also joined the International Smokefree Housing Task Force, a consortium of entities that promotes smokefree living throughout North America, often using legal tools to secure healthy living spaces for those in need. Indeed, the most common request for legal assistance from the Center comes from apartment or condo residents exposed to drifting tobacco smoke from an adjacent unit. While Center staff often assist individuals in negotiating an early release from a lease or in reaching an agreement about when and where the neighbor may smoke, the dynamics of this problem demand

a proactive solution. Therefore, the Center has created an informational brochure for tenants and one for landlords, describing the rights and responsibilities of each group. An accompanying website is under construction. This work has been done in collaboration with the Task Force. Instigated by Task Force leader, Jim Bergman of the Smokefree Environments Law Project, First Centrum Management, a national property management company with apartment communities in Maryland, now prohibits smoking by all new tenants. Assisting individuals suffering the consequences of smoke drift while at the same time engaging in negotiations with national property management companies allows the Center to maintain local work while pushing for more significant change at the national level.

Publications and Significant Written Work

In June 2005, TCLC published "Secondhand Smoke and the Family Courts: The Role of Smoke Exposure in Custody and Visitation Decisions," written by Dachille and then-Research Fellow and 2004 School of Law graduate, Kristine Callahan. Publication of this Law Synopsis has led to many inquiries from individuals dealing with parental smoking in custody or visitation cases, as well as an October 2006 speaking engagement for Dachille at an Ohio Family Law Symposium entitled, "Striking the Rights Balance."

Dachille is currently writing another Synopsis for TCLC on the flavored tobacco products dynamic.

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That paper should be published in spring 2007 and will describe the problems presented by, and possible solutions to, the marketing of flavored tobacco products.

Center staff and clinic students have produced policy papers that have been used by local public health and tobacco control advocates and local and state legislators to consider how an organization or legislative body can and should respond to a particular tobacco-related problem. Such papers served as the foundation for the 2005 bill providing for insurance coverage for tobacco cessation medication and for the fire-safe cigarette legislation under consideration today. Work continues today on papers concerning tobacco advertisements on college campuses and effective policies to diminish the impact of such ads, effective penalties for youth cited for use or possession of tobacco products, and the health concerns raised by hookah bars.

Recent Additions

As highlighted on the last page of this newsletter, the expansion of the Center's work has required increases in the Center's staffing. To that end, in late 2006, the Center hired a Research Fellow, Jacqueline McNamara, a 1993 graduate of the School of Law, and a Staff Attorney, Erin Smith, a 2006 graduate of the School of Law. The Center has also partnered with Chris Bostic, counsel to the Framework Convention Alliance, to assist in developing laws and

implementation and enforcement strategies for countries that have ratified the international Framework Convention on Tobacco Control. Thus, the Center will gain insight into tobacco control policy development at the international level that will inform the Center's work for Maryland and its counties.

Conclusion

As with most public policy, progress on tobacco control policy and legislation requires intensive research, persuasive advocacy, and patience. The Center is pleased to play a role in that slow but rewarding process. The staff look forward to an exciting and successful sixth year.

MARYLAND HAPPENINGS

Montgomery County Tobacco Sales Enforcement Statistics

Montgomery County's Bureau of License Commissioners (BLC), which is responsible for enforcing the County's youth tobacco access laws, released its tobacco enforcement statistics for fiscal year 2006. The BLC's program measures licensing retailers' compliance with laws

prohibiting tobacco sales to minors and with tobacco product placement restrictions. The program also tracks administrative actions taken by the Comptroller's Office against retailers who repeatedly sold tobacco to minors. After years of sustained enforcement, the County's comprehensive enforcement program has reached an unprecedented milestone, realizing an overall compliance rate of over 90 percent meaning that 9 in 10 minors were not sold cigarettes in county-wide stings.

The County's FY06 statistics in the tobacco sales to minors category show 131 illegal sales out of 1,926 compliance checks, amounting to a 93 percent compliance rate—the highest reported success rate among Maryland's 24 jurisdictions. Two of the stores caught selling tobacco to minors were repeat offenders who were then referred to the Comptroller's Office for administrative review. The Comptroller has exclusive authority over a cigarette retailer's license and may suspend or revoke that license for illegal tobacco sales. One of the referrals led to a 30-day license suspension and the other referral is pending a decision.

The BLC also inspected 831 retail stores for compliance with the County's self-service display ban, discovering just six violations—a 99 percent compliance rate. The six violators were issued citations. The County's tobacco compliance

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officer also conducted 831 cigarette license inspections, which revealed 41 cigarette retailers operating under expired licenses. The violators received inspection notices, giving them 30 days to apply for a current retail cigarette license. Those failing to reapply within the 30 days were referred to the Comptroller for disciplinary action.

The undeniable success of Montgomery County's youth tobacco access enforcement program is due in large part to the County's unwavering commitment to enforcement, as well as to the outstanding efforts of Brian So, the County's chief enforcement officer. Brian continues to work with Center staff to devise policies designed to effectively educate clerks who sell tobacco products, to report chronic violators to the Comptroller, and to keep the Attorney General aware of sales patterns of retailers who have executed settlements with the Attorney General.

Saint Joseph's Medical Center Goes Smokefree

On September 1, 2006, the St. Joseph Medical Center's campus in Towson, Maryland, went smokefree, extending current indoor smoking restrictions to all hospital property. The Center's decision to go smokefree follows a growing trend among medical and health care facilities across the state—and

country—to ban smoking on their grounds. St. Joseph's joins the Greater Baltimore Medical Center, the Upper Chesapeake Medical Center, Harford Memorial Hospital, and the various Sheppard-Pratt medical centers that have adopted similar indoor and outdoor smoking restrictions.

The smokefree policy states that all patients who smoke are to get a packet of literature about the health effects of smoking and secondhand smoke, along with resources and methods to quit smoking. Physicians with privileges at St. Joseph's will also receive an abstract from the U.S. Department of Health and Human Service's Agency on Healthcare Research and Quality entitled *Treating Tobacco Use and Dependence*. All employees will receive or have access to emails, FAQ sheets, "brown bag" learning sessions, and department-based staff meetings that will outline the resources and rationale for the policy and its implementation.

"As a health care facility it is really sending the wrong message about the holistic approach to health care to have smoking on the grounds," says Christine Schutzman, St. Joseph's health education specialist. "We have to lead with our own behavior." In addition to the public policy rationale, smokefree policies have also been shown to result in financial savings for facilities because smoking is associated with increased employee absenteeism, higher insurance costs, and reduced productivity from

employees taking longer and more frequent cigarette breaks.

The success of St. Joseph's - and other smokefree hospitals - acts as an example for other area hospitals looking to promote wellness and provide the safest environment for their staff, patients, and visitors. St. Agnes Hospital in Baltimore went smokefree in January 2007, and other medical centers across the state have expressed plans to strengthen restrictions on smoking at their facilities.

Maryland Offers Free Quitline to Tobacco Users

As part of its best practices, the Centers for Disease Control recommends that a state's tobacco-use cessation program include the availability of population based counseling and treatment programs, such as cessation helplines or quitlines. Since the inception of the Cigarette Restitution Fund, Maryland has worked toward this goal by funding cessation programs through local health departments. In July, Governor Robert Ehrlich, Jr. and the Department of Health and Mental Hygiene (DHMH) announced the launch of the first statewide tobacco

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Quitline, a significant initiative to make the state's smoking cessation programs more effective and expand the use and accessibility of cessation resources throughout the state.

The toll-free Quitline, 1-800-QUIT-NOW (1-800-784-8669), provides free, proactive, telephone-based counseling sessions led by "Quit Coaches", as well as individually-tailored quit plans for any Maryland resident who wants to quit smoking. Topics such as coping strategies, relapse prevention, and available resources will be discussed and counselors make follow-up calls to gauge and facilitate participant success. Residents are encouraged to call the free service, which is available 7 days a week from 8:00am to midnight, to speak with a counselor as many times as needed.

"Telephone quit lines have been very successful in other states," said former DHMH Secretary S. Anthony McCann. "I am pleased the State is able to offer this new service to the thousands of Marylanders who are ready to stop smoking. Our goal is to make Maryland a healthier, better place to live."

According to the most recent Maryland Tobacco Survey, more than 75 percent of Maryland adult smokers have expressed a desire to quit smoking. Now these people have a true support system that is not only free, but will dramatically increase their likelihood of successfully quitting smoking. For more information on the Quitline, please visit www.smokingstopshere.com.

NATIONAL NEWS

American Legacy Foundation Wins truth® Advertising

Case

On July 17, the Delaware Supreme Court held that the American Legacy Foundation's (ALF's) truth® advertising campaign does not violate the 1998 Master Settlement Agreement (MSA). *Lorillard Tobacco Co. v. American Legacy Foundation*, 903 A.2d 728 (Del. 2006). The court found that the controversial youth smoking prevention advertisements do not run afoul of the MSA's prohibition on ALF-sponsored advertising that constitutes a "personal attack on, or vilification of" tobacco companies or their personnel.

The truth® ads are often labeled as "hard-hitting" and "edgy." Although the ads contain shots of Philip Morris' headquarters in New York, explicitly and implicitly refer to tobacco companies and executives, and mention a Lorillard employee by name, the court found that the ads do not constitute "vilification" or "personal attacks" within the plain meaning of the terms. The court's decision thus affirms the campaign's legitimacy under the terms of the MSA by recognizing that the primary aim of the ads is to provide minors with truthful information about smoking-related death statistics and to expose tobacco companies' marketing tactics.

In its decision, the court rejected Lorillard's definition of "vilify" and found that the ads in dispute "are not insidious, disparaging, offensive, belligerent, nor fiercely or severely critical. Nor are they denunciations that are both unfounded and abusive or slanderous." To the contrary, the court found the tone of the ads to be "expressly friendly or helpful, even if implicitly drawing attention to unflattering facts about past actions of tobacco companies or their employees." Each ad was deemed helpful in disseminating information about tobacco companies and their products. The court also noted throughout its analysis that Lorillard did not dispute or deny the negative facts presented in the ads.

To illustrate the basis of its conclusion, the court reviewed several truth® ads, including "Shredder," "Hypnosis," "Lie Detector," and "Dog Walker."

In "Shredder," youths offer to sell a paper shredder to an unnamed tobacco company suggesting that it may want to shred two reports—one with the phrase "Today's teenager is tomorrow's potential regular smoker" and another that "gauges smoking patterns of sixth graders." The youths do not expressly criticize or denounce the tobacco companies for having the reports; they simply call the reports "embarrassing." Lorillard did not dispute the reports' existence or content.

In "Hypnosis," a group of young people drive past large houses and one passenger states that "working for an industry day ...

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pays pretty well.” The statement is immediately followed by a plea to “help these people.” Again, the youths were not found to be criticizing or denouncing the tobacco companies or their employees; they were simply providing unpleasant facts. Lorillard did not dispute that tobacco-related disease kills over a thousand people a day or that its executives are paid well.

In “Lie Detector,” several young people offer a lie detector to a tobacco company saying, “We have a lie detector to clear up the confusion. Your company has said that nicotine isn’t addictive, and then you say that it is.” The court found that the ad was merely trying to make the point that tobacco companies have made contradictory statements, and that the ad was in no way offensive or belligerent. Lorillard did not deny the existence of such contradictory statements.

In “Dog Walker,” a professional dog walker telephones a Lorillard employee, offering to sell dog urine to the company. The court noted that at no point does the caller accuse Lorillard of adding dog urine to its cigarettes, but factually states that cigarettes often include a chemical that is also found in dog urine.

Lorillard’s threats to sue ALF for the truth® ads motivated ALF’s preemptory filing of the request for a declaratory judgment. With this victory, ALF can comfortably continue with its

effective youth smoking prevention campaign.

National Property Management Company Goes Smokefree in All Apartments

When its tenants in Michigan began to complain that tobacco smoke was drifting into their apartments, Centrum Management LLC, a national property management company, decided there was only one thing to do: adopt a smokefree policy applicable to all of its apartment buildings. The new policy went into effect on September 1, 2006, making Centrum the first major property development and management company to adopt such a policy nationwide.

Before the policy change, Centrum Management only prohibited smoking in the common areas of its properties. The new rule extends the prohibition to all company-owned property, including individual apartments. All new residents are now required to sign leases stating that neither they nor their guests will smoke anywhere inside the apartment building or on the grounds. Though the new policy applies initially only to new tenants, all the buildings will

eventually become totally smokefree as current tenants who are smokers move out.

Company president Robert Couch explained the policy change in simple terms: “We did it because we thought it was the best thing for our residents. There’s not an absolute certainty that you can exclude smoke from coming into your apartment . . . and people are waking up to the fact that smoking is a pernicious evil in the world.” Couch estimated that ten percent of Centrum’s tenants smoke. Because the majority of the company’s residents are elderly and struggle with heart and lung problems, Centrum concluded that a smokefree policy would create a healthier community and benefit everyone. The policy is thus encouraging news for individuals looking for rental housing who wish to ensure that secondhand smoke drift from a neighbor’s unit does not compromise the comfort or safety of their own residence.

Not surprisingly, the policy change was initiated by complaints from residents at one of Centrum’s communities. The most common complaint the Center for Tobacco Regulation receives is from a tenant dealing with smoke drifting in from an adjacent apartment or condominium unit. The Center plans to launch a Maryland-specific campaign designed to educate landlords and tenants about their rights regarding smoking in apartments. Because ten of Centrum’s 49 properties are located

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in Maryland, the Center has a fine example for interested landlords and a possible option for complaining tenants.

A complete ban on smoking in an apartment building not only provides health benefits, but also increases the level of safety for residents and may decrease maintenance and insurance costs for property managers. Cigarette-caused fires are the leading cause of fire-related deaths in Maryland, and preventing the property damage such fires cause would be a financial benefit to landlords. Savings can also be realized from not having to spend manpower and money preparing and renovating apartments in which smokers once lived. Moreover, apartment owners may also be able to secure reduced insurance premiums for instituting a comprehensive smokefree policy.

Ultimately, the Center for Tobacco Regulation and sister centers across the country and in Canada hope to encourage management companies to follow First Centrum's lead. Landlords and tenants would benefit from learning about smart smokefree policies and a significant portion of the population could benefit from the ready availability of smokefree living.

Florida Supreme Court Strikes Down Jury's \$145 Billion Verdict in Engle Case

In the latest iteration of the protracted class action suit *Engle v. Liggett Group, Inc.*, the Florida Supreme Court—to virtually no one's surprise—vacated as clearly excessive the jury's \$145 billion punitive damages award against cigarette manufacturers. The court held that although it is not always necessary to determine compensatory damages before awarding punitive damages, in this instance punitive damages could not be determined in the absence of a compensatory award to serve as a basis of comparison or proportion. In addition, the court decertified the *Engle* class—about 700,000 members—allowing class members one year to file individual suits.

While the tobacco industry publicly lauded the decision as a major victory, the court's other primary holding dealt the defendants a blow: The court upheld most of the trial jury's findings of liability, holding that these issues will be given *res judicata* effect in the individual lawsuits to follow. Therefore, plaintiffs will not be required to prove, among other things, that cigarettes cause certain diseases and cancers, are defective and unreasonably dangerous and are addictive. Nor must plaintiffs prove that the defendants were negligent, breached implied warranties or conspired to conceal and

misrepresent the health effects of their cigarettes. In individual suits, plaintiffs must prove that they actually smoked defendants' cigarettes, that this smoking caused the particular medical condition and (if claiming fraud) that they personally relied on defendants' fraudulent claims.

Both parties have filed post-decision motions for relief in the case, which began 12 years ago. Linda Jones, a 55-year-old with lung cancer, filed the first individual lawsuit within a week after the decision. We expect much more out of the *Engle* case and its progeny.

Did You Know: Lockheed Martin Is Going Smokefree?

Lockheed Martin, a major aeronautics defense contractor, implemented a smokefree campus policy beginning January 1, 2007. The new policy bans smoking both inside and outside Lockheed Martin facilities, doing away with the old policy that allowed smoking in designated outside areas. Lockheed Martin also hopes to rein in rising health care expenses and promote the health of all its employees by offering free access to programs aimed at helping its workers quit smoking. The company's actions follow a growing trend among many different businesses, including the health care and ... hotel industries.

Cigarettes Have Higher Levels of Nicotine than Ever Before

The Massachusetts Department of Public Health (DPH) recently released a report finding that the amount of nicotine in cigarettes has increased by about ten percent over the past six years. The report also found that there is no variation in the amount of nicotine found in regular versus so-called light or ultra-light cigarettes. The increase in the nicotine in cigarettes will likely cause new smokers to become addicted more rapidly and make it more difficult for smokers to quit once addicted. This, of course, reduces the effectiveness of cessation programs and leads to sustained levels of smoking prevalence.

Under Massachusetts law, tobacco companies are required to disclose cigarette contents, including nicotine yield ratings, and to report that information annually to the DPH. After reviewing the company disclosures from 1998 to 2004, the DPH issued a report showing the level of nicotine inhaled by smokers per cigarette increased approximately ten percent during that time. This trend was documented across all brands of cigarettes.

2004, the figure rose to 93 percent. For all cigarette brands tested in 1998 and 2000 – whether “full flavor,” “medium,” “light,” or “ultra-light” – there was no significant variation in the nicotine yields. Marlboro, Newport, and Camel — the three most popular cigarette brands chosen by young smokers — were delivering much more nicotine than previously reported. The nicotine level in Kool, a menthol brand popular with African-American smokers, increased by 20 percent.

The findings have raised new accusations that the industry is targeting non smokers despite industry protests that changes in marketing and production are aimed at increasing market share among those who already smoke. Nicotine is highly addictive; by increasing its level, new smokers may become addicted more quickly and easily. Similarly, increased nicotine makes the already difficult process of quitting even more difficult and painful. Massachusetts DPH Associate Commissioner Sally Fogerty noted that one major purpose of the report is to inform health care providers that smokers have been getting more nicotine than in the past and, as a result, may need additional help when attempting to quit.

Numerous health concerns are also associated with higher levels of nicotine intake. The greater the level of nicotine inhaled by a pregnant woman, the greater the likelihood of a low birth weight infant and the probability of giving birth to a child with developmental delays.

Smokers are at a greater risk of developing diabetes because nicotine raises blood sugar levels and affects the way insulin works throughout the body. Medications that treat asthma, high blood pressure, and depression may also lose their effectiveness when combined with nicotine.

Matthew Myers of the Campaign for Tobacco-Free Kids sums up what the report suggests: “The increase in nicotine yield ...blows a hole in Phillip Morris’s claim that it doesn’t want kids to start and it wants to help adults to quit.” The marked increase in nicotine yields should be an impetus to give the federal or state governments regulatory power over the tobacco industry.

A copy of the report is available at http://www.mass.gov/dph/mtcp/reports/nicotine_yields_1998_2004_report.pdf

DID YOU KNOW?

MASSACHUSETTS, TEXAS, AND ILLINOIS ARE THE ONLY STATES REQUIRING TOBACCO COMPANIES TO SUBMIT INFORMATION ON NICOTINE LEVELS IN TOBACCO PRODUCTS.

INSIDE THE CENTER

World Conference Offers Innovative Ideas from Diverse Sources

Government health officials from around the globe descended upon Washington, D.C., from July 12-15, 2006, for the 13th World Conference on Tobacco or Health. The four-day event brought together more than 4,500 international cancer and tobacco control leaders representing more than 130 countries. Center staff and representatives from a number of Maryland's state and local governments participated in the event, sharing and gathering insights with colleagues the world over.

The theme of the conference, "Building capacity for a tobacco free world," focused on the increasing burden tobacco is causing globally, particularly in developing nations, and policy changes and enforcement interventions needed to combat this scourge. Public health experts emphasized the severity of the current plight, announcing a sobering projected increase in cancer deaths worldwide: If trends do not change, tobacco will kill a billion people worldwide this century, ten times the toll it took in the 20th century.

Participants discussed a number of innovative proposals to limit the use of tobacco products. Tobacco control encompasses not just health, but economics, big business, politics, crimes (like smuggling and illegal sales), environmental and social justice, and moral responsibility. All of these issues were touched upon at the conference.

Plenary and breakout sessions included discussions on advertisement restrictions, higher taxes, larger rotating warning labels, and expansion of smokefree environments. Many of these provisions are interventions contemplated in the Framework Convention on Tobacco Control, which 133 nations have ratified. One particularly interesting session involved a panel discussion advocating government buy-out and takeover of the tobacco industry. Panelists argued that it is legally and economically feasible for governments to remove tobacco companies from the supply chain and replace them with a non profit entity that supplies tobacco while working to reduce demand. Changing the industry from consumption-expanding to consumption-reducing would allow public health advocates to pursue policies free from lobbying, litigation, and other industry interference. While this particular proposal may be extreme, innovative and outside-the-box thinking sparked productive brainstorming sessions that could lead to the next set of meaningful

and effective tobacco control policy developments.

The Center's Deputy Director, Michael Strande, participated in a panel presentation entitled, "Tobacco Control Policy Development Models and Efforts to Expand Enforcement of Existing Laws." With colleagues from California, India, and China, Strande explained the advantages of establishing local control over tobacco enforcement efforts, best practices for enhancing enforcement, and how extending training on tobacco control laws to police and other government employees can increase program effectiveness.

By making connections and learning from the myriad successes and pitfalls of communities on both a local and national scale, conference attendees attained a shared sense of optimism that through perseverance, significant and meaningful change can be achieved. The exchange of ideas across nations and a desire to build international connections should prove valuable as communities continue to develop best practices in the fight to eliminate the unnecessary pain and suffering caused by tobacco use.

Center Welcomes Erin Smith and Jackie McNamara

Erin Smith joined the Center as Staff Attorney in October. Erin is a 2006 graduate of the University of Maryland School of Law, where she received a certificate in Health Law. Although she grew up in Oklahoma, Erin attended the University of New Mexico in Albuquerque, receiving a B.A. in Political Science and Psychology.

Jacqueline McNamara, a 1993 graduate of the University of Maryland School of Law, joined the Center as Research Fellow in August. Jackie formerly served on the editorial board of *ELR—the Environmental Law Reporter* from 1993-1996. She also worked as a freelance writer and editor while raising her two daughters. A native of New Jersey, Jackie holds a B.A. in Communication from Rutgers University.



Pictured: Erin Smith (left), Jacqueline McNamara (right)

Tobacco and the Law Seminar Student Published in Journal

As a second-year law student in Dachille's Tobacco and the Law Seminar, Lauren Bregman conducted significant research and wrote an excellent paper on the potential detrimental impact of the tobacco industry's campaign contributions toward a piece of California legislation. The legislation allocated funds for a media campaign that communicated public health principles specific to tobacco use. Bregman's paper will be published in the *Journal of Law and Health Care*, Vol. 10, Issue 1, in March 2007. Lauren also accepted a distinctive position as a Judicial Law Clerk with the Atomic Safety and Licensing Board Panel at the Nuclear Regulatory Commission. We congratulate Lauren on both her publication and upcoming employment.