

**CITY OF PHILADELPHIA  
DEPARTMENT OF PUBLIC HEALTH  
MEETING OF THE BOARD OF HEALTH**

**Thursday, September 8, 2011**

A meeting of the Philadelphia Board of Health was held on Thursday, September 8, 2011, in the Municipal Services Building, 1401 J.F.K. Boulevard, Room 1450.

**Board Members Present:** Jose A. Benitez, MSW; Marla J. Gold, MD; Shannon P. Marquez, MEng, PhD; Scott McNeal, DO; Susan Schewel, NP, PhD; Donald F. Schwarz, MD, MPH; Robert G. Sharrar, MD, MSc, Yolanda A. Slaughter, DDS, MPH.

**Attendees:** Lynne Anderson; Mark Austerberry; Steve Becker; Joseph Beller, Esq.; Cheryl Bettigole; Linda Breitstein; Thurman Brendlinger; John T. Brice; Deborah P. Brown; Danilo Burgos; Gregory Conley; Lorraine Dean; Chin Du; David Dunphy; Nan Feyler; Amy Hillier; Theresa Italiano, Esq; Shally Iyer; Terry Johnson; John Jonik; Andrew Kerstein; Jonathan Kirch; Gerald P. Kupris, Esq.; Raymond Leung; Lynn Lucas-Fehm; Steve Masters; Jeff Moran; John Mullane; Jonathan Musyt; Lisa O'Mahony; Kevin Pasquay; Renata Peralta; Shaina Pérez; A. Rodriguez; Martha Romney; Jorosali L. Rueter; Don Sapatkin; Mona Sarfaty; Claudia Siegel; Rob Simmons; Harris Sokoloff; Elaine Strunk; Muna Tefferi; Walter Tsou; Amanda Wagner; Jody Wilkins; Rebecca Winkler; Robert Winn, MD; Robert Yuk; Andrew Zalenski

**WELCOME AND INTRODUCTIONS**

Board President Donald F. Schwarz, Health Commissioner, called this meeting of the Board to order at 5:45 PM. The Commissioner entertained a motion to approve the minutes as submitted. It was moved and seconded. **Motion passed.**

He welcomed Board members and guests and opened the proceedings, which he explained would be an informational rather than a formal regulatory hearing on the potential use of Tobacco Point of Purchase Warnings. He said the Board's goal at the conclusion of the informational hearing would be to determine if it would continue to consider the issue, and if so, to establish a timeline for consideration and action.

He introduced Health Department Director of Policy and Planning Dr. Giridhar Mallya to present the Department's proposal concerning the use of Tobacco Point of Purchase Warnings.

## **TOBACCO POINT OF PURCHASE WARNINGS**

Dr. Mallya provided a slide presentation to outline and support the Department's proposal. (Attachment A).

In response to a question from Dr. Sharrar, Dr. Mallya said that federal cigarette package warning requirements will change in the fall of 2012.

Dr. Gold asked for other examples of point of purchase public health warnings. Dr. Mallya cited warnings related to alcohol consumption and safe driving and alcohol consumption and fetal health.

### *TESTIMONIES ON TOBACCO POINT OF PURCHASE WARNINGS*

The following individuals presented oral testimony to the Board of Health. Speakers were limited to three minutes followed by questions from the Board. Written copies of the testimony are attached. (Attachment B)

Steven Becker, Owner, Light'N Up and Cigars  
Deborah P. Brown, President and CEO, American Lung Association of the Mid-Atlantic  
Amy Hillier, MSW, PhD, Assistant Professor Regional Planning, University of Pennsylvania School of Design.  
Andrew Kerstein, President – National Association of Tobacco Outlets  
Jonathan M. Kirch, Government Relations Director, American Heart Association and American Stroke Association.  
Lynn Lucas-Fehm, MD, JD, President, Philadelphia County Medical Society  
Kevin Pasquay, Lobbyist, K.M. Pasquay, LLC  
Robert J. Winn, MD AAHIVMS, Medical Director, Mazzoni Family and Community Medicine

Also attached (Attachment B) is additional written testimony provided by:

Jeff B. Allen, President, AB Delivers  
Thomas A. Briant, Executive Director and Legal Counsel, National Association of Tobacco Outlets  
Bill Godshall, Executive Director, Smokefree Pennsylvania  
Gerald P. Kupris, Esq., President/CEO, Pennsylvania Distributors Association  
David McCorkle, Pennsylvania Food Merchants Association and Pennsylvania Convenience Store Council  
Matthew L. Myers, President, and Cheryl G. Heulton, Dr. PH, President and CEO, Campaign for Tobacco-Free Kids.  
Diane J. Phillips, Senior Director, State & Federal Government Relations, American Cancer Society  
Michael Shannon, Lorillard Tobacco Company

Dr. Schwarz asked the first speaker, Mr. Becker, to describe how the new FDA regulations affect the operation of his business. Mr. Becker said that his business mandates and checks proof of age identification, and makes health information pamphlets available at the register although they are not mandated. In response to other questions from the Board, he discussed current use of store and counter space for purposes of promotion of tobacco products. He invited the Board to visit his store to observe these things firsthand.

Dr. Slaughter asked Ms. Brown to discuss the effect on consumers of graphic illustrations of the health consequences of smoking. Ms. Brown endorsed the practice as a deterrent. Dr. Schwarz asked if the American Lung Association used such illustrations in its warning materials. Ms. Brown said that pictures are used in educational presentations, but not in advertising where the organization features its brand logo rather than pictures.

Dr. Slaughter asked Professor Hillier what she thought about the impact of 'gruesome' illustrations on her young children. She said she endorses the use of such pictures and that kids see much more gruesome things when they look at the front page of the newspaper.

Mr. Kerstein urged the Board to make a distinction between cigarette smoking and the use of other tobacco products, which he maintained do not have the same health consequences, including cigars for which he stated there is no evidence of negative health effects. He encouraged the Board to change the smoking age to 19 to reduce youth access to tobacco. Dr. Schwarz asked Mr. Kerstein if retailers in Philadelphia receive payments or incentives from tobacco companies to place tobacco ads inside and outside of stores. Mr. Kerstein said that they did not.

Drs. Gold and Schwarz asked Mr. Kirch about the use and effectiveness of pictorial representations of the health impacts of smoking in materials distributed by the Heart Association. Mr. Kirsch said that he would look into the matter.

Dr. Schwarz asked Mr. Pasquay if Swedish Match, the company he represents, pays Philadelphia retailers to place ads in their stores. He responded that they do not do so.

Dr. Schwarz asked Dr. Lucas-Fehm if she made 'gruesome' depictions of medical conditions available to patients in her practice. Dr. Lucas-Fehm said that pictures are included in many of the educational materials she provides, but that people differ in what they perceive to be 'gruesome.' She said that a practitioner must weigh the fact that some people may be offended against the potential good distributing the information may do in the community.

Dr. Schwarz asked Dr. Winn to clarify the kind of images he was talking about when he discussed a campaign targeting the gay and lesbian community. Dr. Winn said that images of same sex couples are more effective in communicating messages to the

community.

Dr. Schwarz thanked the presenters for their testimony. He asked the Board if it would act on adoption regulation concerning point of purchase warnings, seek more information, or discontinue discussion of the issue.

Dr. Gold said that she would favor gathering more information if that included looking at alternative regulatory actions. Dr. Sharrar suggested that a briefing on the legal issues from the Law Department would be helpful, and particularly helpful in considering raising the legal age of sale. Dr. Marquez requested more information about outdoor tobacco advertising. Dr. Schewel expressed interest in seeing drawings or photographs that illustrate what signage of proposed dimensions would look like in a store workspace. Dr. Sharrar said that he would like to see what the signs themselves might look like. Dr. Schwarz said that the content of potential signs has not yet been developed and suggested that some of these issues--such as the impact of signs in the context of stores and the size of signs-- might be accomplished through site visits and/or discussions with retailers and distributors.

Dr. Sharrar also requested more information about the health impact of tobacco products other than cigarettes. Dr. Slaughter asked for more information about New York City's regulation in comparison to what is proposed in Philadelphia.

It was the consensus of the Board that it would gather additional information. Board members were invited to submit additional questions or requests for information to the Department.

Dr. Schwarz entertained a motion to adjourn the meeting. It was moved and seconded.  
**Motion passed.**

The meeting was adjourned at 7:30 pm.