

Tobacco Use Prevention and Cessation Advisory Committee

Minutes

September 10, 2002
Oklahoma State Department of Health
1000 N.E. 10th, Room 806
Oklahoma City, OK

Members Present:

Richard Barnes, Larry Didier (designee for Dr. Terry Cline), Dr. Frank Collins, Gary Davidson, Sue Ellis, Nancy Kabriel (designee for Sandy Garrett), Robin Gurwitch, Lynne Kennedy, Dr. Mike Morgan, Jacqueline Myles, Dr. Sheila Simpson, Dr. Gary Watson, and Koorosh Zahrai.

Members Absent: Dr. Leslie Beitsch, Dr. Matthew Britt, Sherry Bynum, Lacey Masterson, Sallie McLaughlin, Mike Thornbrugh, and Dr. Francene Weatherby.

Governor's Task Force on Tobacco & Youth Members Present: Richard Barnes, Steve Brown, Mike Crutcher, Gary Davidson, Kay Floyd, Joy Leuthard (designee for Brian Foy), Nancy Kabriel (designee for Sandy Garrett), Larry Didier (designee for Terry Cline), Lynette McLain, Bob Miner, Mike Morgan, Missy Dean (designee for Carolyn Stager), Flossie Thurston, Duc M. Tu, and Raymond Vaughn, Jr.

Visitors: Jayne Clarke (Lung Cancer Institute of Oklahoma), Brenda Peters (NATCO), LaDonna BlueEye (NATCO), Tracey Strader (Tobacco Settlement Endowment Trust Fund), and Charles Broadway (OSDH Legal).

OSDH Staff Present: Doug Matheny, Pam Charboneau, Janet Love, Joyce Morris, Debra Shandy, Linda Wright-Eakers, and Jennifer Wilson.

Dr. Mike Morgan called the meeting to order. Due to the unusual nature of the joint meeting, Dr. Mike Morgan asked that everyone present introduce themselves.

Dr. Morgan stated that Tracey Strader had accepted a new position as the Executive Director of the Tobacco Settlement Endowment Trust Fund. Doug Matheny mentioned that Ms. Strader's last day with the Tobacco Use Prevention Service had been August 9th and the paperwork for formal approval to hire a replacement had been delayed due to the state budget situation.

Dr. Morgan asked that each Advisory Committee member and each Governor's Task Force member review the meeting minutes for their previous meeting. Dr. Sheila Simpson made a motion to accept the Advisory Committee meeting minutes for June 11, 2002 as drafted. Richard Barnes seconded the motion. The motion passed unanimously. Rep. Raymond Vaughn, Jr. made a motion to accept the Governor's Task Force meeting minutes for March 22, 2002 as drafted. Dr. Mike Crutcher seconded the motion. The motion passed unanimously.

Dr. Morgan opened the floor for continued discussion regarding the issue of excessive absences by some Advisory Committee members. Tracey Strader stated that according to the OSDH Legal Division, the Oklahoma Administrative Procedures Act has no provision that deals with absences. After discussion, there was general agreement that the three members who had agreed previously to help develop a policy on the issue would provide a suggestion at the December 10th meeting. The members agreeing to this task were Gary Davidson, Sue Ellis, and Gary Watson.

Under item #4 on the agenda, Bob Miner introduced the topic of the secondhand smoke rules and related court action. He explained that the Board of Health had promulgated emergency rules regarding smoking in public places and workplaces on June 6th, the Governor signed the rules on June 26th, and there was a 30-day implementation period beginning July 1st. However, on June 27th, there was a lawsuit filed by two restaurants in Creek County that led to a temporary injunction preventing any enforcement of the rules. Mr. Miner then introduced Charles Broadway, of the OSDH Legal Division, who had been directly involved in both the development of the rules and in the subsequent litigation. Mr. Broadway offered a summary of the related legal developments to date, including a brief description of the two appeals that had been filed with the Oklahoma Supreme Court related to the temporary injunction.

Dr. Morgan then asked Richard Barnes to offer an overview of the lawsuit filed by the American Lung Association of Oklahoma concerning the Americans With Disabilities Act (ADA). Mr. Barnes explained that the “public accommodation” section (Title III) of the ADA is in conflict with the Oklahoma Smoking in Public Places Act on two grounds. One, the Oklahoma Smoking in Public Places Act permits businesses to be all smoking, and secondly, it doesn’t require the non-smoking area to be smoke-free. He noted that the ADA requires that anyone who owns or operates a place of public accommodation must remove all barriers of access to persons with disabilities. The lawsuit is intended to help protect all Oklahomans who have respiratory disease. He noted that three other organizations – the American Cancer Society, the Oklahoma Society for Respiratory Care, and the Oklahoma Nurses Association – had agreed to join the lawsuit as plaintiffs. He stated that a hearing in federal court had been set for October 11th.

Dr. Morgan then invited Joy Leuthard to announce a “grassroots mobilization” training to be conducted by Midwest Academy on September 25th and 26th and that the training would be sponsored by the Oklahoma Alliance on Tobacco or Health. Applications to attend the training were made available. Dr. Morgan then announced on behalf of Anne Roberts that the Oklahoma Institute for Child Advocacy’s “Fall Forum” would be held at the University of Central Oklahoma in Edmond on October 15th and 16th. Registration forms were made available.

Dr. Morgan then asked Gary Davidson, Director of the ABLE Commission, to provide an update on the “Synar” youth access compliance checks. Gary said the ABLE Commission is responsible for enforcing the Prevention of Youth Access to Tobacco Act, and 437 random compliance checks had been conducted so far this fiscal year, resulting in 102 citations, or a 76.66 percent compliance rate. He explained that the federal Department of Health and Human Services requires an 80 percent compliance rate, plus or minus 3 percent. He noted that federal funds received by the Department of Mental Health and Substance Abuse Services could be in jeopardy if Oklahoma does not meet the standard. Sue Ellis asked if there was any way to involve local police departments and local youth to help with compliance checks. Mr. Davidson said they were working on this issue. Sue also asked for the ABLE Commission’s help in implementing a youth access compliance check program in Edmond.

Under item #5 on the agenda, Dr Morgan asked Tracey Strader to discuss the Tobacco Settlement Endowment Trust Fund. Tracey said their general purpose was to help support program services designed for the health and well-being of the public. She mentioned the Board of Directors had identified tobacco use prevention and cessation as a top priority. She said there are actually two boards associated with the Trust Fund, the Board of Investors that invests and manages the fund and the Board of Directors that determines how best to use the fund's proceeds. She said that \$700,000 has been certified for program services this year. She announced that the next meeting of the Board of Directors is scheduled for 10:30 a.m. on October 9th at 800 North Research Parkway in Oklahoma City and that all meetings are open.

Dr. Morgan then asked Richard Barnes to discuss State Question 701. Mr. Barnes explained that if adopted by Oklahoma voters on November 5, SQ 701 would change the way the Trust Fund determines the amount of money available to fund programs in any given year. It would allow for 5.5 percent of the principal of the fund to be used, regardless of whether the interest earned for the year is above or below 5.5 percent. He said it would provide several benefits, most importantly of which is leveling out the ebb and flow of interest income. It would also allow more money to go into the principal, which would likely cause the fund to grow larger in the long run. Many organizations had already signed on to endorse the "701 Yes" campaign.

Dr. Morgan then asked Doug Matheny to discuss the state budget requests. Mr. Matheny said state agencies have a deadline of October 1st to submit their requests and that OSDH was preparing a budget request for full funding of the State Plan.

Dr. Morgan moved on to item #6 on the agenda, asking Representative Vaughn to discuss the status of the Governor's Task Force. Representative Vaughn said the Executive Order for the Governor's Task Force would expire on December 31st, 2002 along with Governor Keating's term in office. He stated that he did not personally feel a need for the Governor's Task Force to be extended by the next Governor, given that the Advisory Committee was now in place. Although all the members of the Governor's Task Force could not become members of the Advisory Committee, they would be encouraged to attend the Advisory Committee meetings and offer input into the discussions and decisions. He stated that the December 10th meeting of the Advisory Committee would be another joint meeting, and would likely be the last meeting of the Task Force. He also mentioned the December 10th meeting could provide an opportunity to draw public attention to what remains to be done and encourage Oklahoma to continue the fight.

Under New Business, the National Tobacco Control Conference in San Francisco on November 19th through the 21st was announced.

Under Public Comments, Koorosh Zahrai discussed the Denny's "sit-in" conducted by S.W.A.T. (Students Working Against Tobacco). He said that 37 people had attended and occupied the smoking section of Denny's restaurant until asked to leave by the manager. He mentioned that the resulting television coverage could be viewed in the preview section of BigDaddyStudios.com.

Doug Matheny invited members of the Advisory Committee to serve on the selection committee for refilling the Executive Director position vacated by Tracey Strader.

Dr. Morgan entertained a motion for adjournment. Dr. Sheila Simpson made the motion and Steve Brown provided a second. The motion passed unanimously.