

**MINUTES
of the
SECOND MEETING
of the
TOBACCO SETTLEMENT REVENUE OVERSIGHT COMMITTEE**

**July 31, 2014
University of New Mexico (UNM) Cancer Center
Albuquerque**

The second meeting of the Tobacco Settlement Revenue Oversight Committee (TSROC) for the 2014 interim was called to order by Senator Cisco McSorley, co-chair, on July 31, 2014 at 9:40 a.m. at the UNM Cancer Center in Albuquerque.

Present

Sen. Cisco McSorley, Co-Chair
Rep. Elizabeth "Liz" Thomson, Co-Chair
Rep. Gail Chasey
Sen. John Arthur Smith
Rep. Monica Youngblood

Absent

Sen. John C. Ryan

Advisory Members

Rep. Kelly K. Fajardo
Sen. Linda M. Lopez
Sen. Mary Kay Papen
Rep. Jim R. Trujillo

Rep. Paul C. Bandy

Staff

Caela Baker, Legislative Council Service (LCS)
Amy Chavez-Romero, Assistant Director for Drafting Services, LCS
Randy Taylor, Intern, LCS

Guests

The guest list is in the meeting file.

Handouts

Copies of all handouts are in the meeting file.

Thursday, July 31

Welcome and Update on the UNM Health Sciences Center

Dr. Richard Larson, executive vice chancellor and vice chancellor for research, UNM Health Sciences Center (HSC), introduced himself and welcomed the committee to the HSC. Dr. Larson stated that he would give an overview of the HSC and tobacco settlement funding's use at the HSC and request that funding levels from the tobacco settlement to the HSC be maintained.

First, Dr. Larson explained the difference between a health care provider, a university and an academic health care provider like the HSC. Academic health care providers, Dr. Larson said, must compete in the market with other health care providers but have a unique role in educating future health care workers, conducting research and providing state-of-the-art care. Thus, the HSC must operate as both a research university and a health care provider.

Dr. Larson then discussed how tobacco settlement funding is used at the HSC. Tobacco settlement funding was designed to support the care, education and research of tobacco-related illnesses, support biomedical research and fund other health-related programs. Tobacco-related illnesses have a large scope, according to Dr. Larson, including cancers, infectious diseases and vascular diseases.

Dr. Larson explained that tobacco settlement funding directly supports the New Mexico Poison and Drug Information Center (NMPDIC), the UNM pediatric oncology program and biomedical research at the HSC. The NMPDIC is New Mexico's only poison center, and it works primarily to reduce mortality and morbidity associated with poisonings and to save on health care costs by preventing unnecessary hospital visits. Tobacco settlement funding supports faculty positions and provides counseling support to patients and families at UNM's pediatric oncology program.

Dr. Larson then gave an overview of the services and benefits that HSC biomedical research provides and their impacts on health care and the economy. Biomedical research has three components: (1) core facilities; (2) clinical trials; and (3) pilot funding. Core facilities allow multiple researchers to use the same facilities, reducing infrastructure costs for the HSC. Clinical trials allow the HSC to treat patients with cutting-edge technology. Pilot funding is designed to fund researchers' costs for obtaining initial data, after which they can secure outside funding. Dr. Larson testified that the HSC leverages \$1.00 of pilot funding into \$8.00 to \$20.00 of outside funding, depending on the year.

In addition to pilot funding, Dr. Larson stated, the HSC is able to generate \$7.00 of economic impact for every \$1.00 invested in the HSC. As a result of tobacco settlement funding to the HSC, 55 full-time jobs have been created and there is an indirect economic impact of \$5.12 million per year. Dr. Larson told the committee that tobacco settlement funding is critical to the HSC's mission, and given that importance, Dr. Larson asked that the HSC continue to receive its current level of funding from the tobacco settlement and that the committee focus on growing the Tobacco Settlement Permanent Fund.

The committee then discussed a number of issues with Dr. Larson. During that discussion, Dr. Larson stated that UNM receives licensing fees from technologies developed from pilot funding. He also stated that most health sciences centers throughout the country are focusing on developing core facilities in order to maximize use of funds.

Dr. Larson stated that the HSC is a biosafety level 3 facility, which means it is certified by the federal government to handle and research certain dangerous biological agents. In particular, the HSC is a leading center on tuberculosis vaccination programs. When asked if the HSC has "enough" funding, Dr. Larson explained that the HSC goes into each fiscal year (FY) expecting to lose at least 25% of grant funding, meaning that it must make up that funding and attract additional funding on top of that. Dr. Larson stated that 100% of funds the HSC receives from the tobacco settlement go toward researching tobacco-related illnesses, but the HSC could spend nine figures or more on tobacco-related illnesses, depending on how broadly "tobacco-related" is defined. Finally, Dr. Larson told the committee that discoveries leading to new pharmaceuticals are increasingly being made in universities, but the pharmaceutical industry is currently lobbying for regulation that would restrict pharmaceutical research in institutions like the HSC.

Approval of Minutes

The committee voted unanimously to approve the minutes from the June 2014 meeting.

UNM Cancer Center Update

Dr. Cheryl Willman, director and chief executive officer, UNM Cancer Center, welcomed the committee to the UNM Cancer Center. Dr. Willman stated the center's mission is to improve and provide access to state-of-the-art cancer treatments statewide. She said that 55% of the center's patients are from the four counties surrounding Albuquerque, while 45% come from the rest of the state. Dr. Willman stated that about 18% of the center's patients are uninsured, leading to \$6.8 million in unreimbursed care.

Dr. Willman next described the center's funding. The center receives \$6 million from the state, mostly derived from cigarette excise tax revenues. In addition to state funding, the center is a National Cancer Institute (NCI)-designated cancer center, which qualifies the center for federal funds from the NCI.

Dr. Willman proceeded to brief the committee on the center's goals and how it is completing them. Dr. Willman emphasized the center's efforts to improve access throughout the state, saying the center works through the Research Involving Outpatient Settings Network and Project ECHO (Extension for Community Healthcare Outcomes) to reach rural populations and provide them with effective cancer treatments. Additionally, the center has Hispanic, Native American and rural outreach programs to treat other underserved populations.

Dr. Willman then explained some of the center's current activities. She said that one of the center's initiatives is operating and maintaining a statewide tumor registry that was founded by the state. Dr. Willman stated that different ethnicities develop different kinds of cancer and respond to treatments differently, so working with the registry and applying genome research are helping the center respond to and treat patients better.

Dr. Willman also stated that the center is one of the state's only cancer treatment centers that provides comprehensive cancer treatment through diagnosis, treatment, surgery and follow-up therapy. Dr. Willman told the committee that the New Mexico Cancer Care Alliance has 88 oncologists operating outside of Albuquerque, and the center recently received a federal grant to further the alliance's goals. The center is also exploring a partnership with the new Texas Tech University Health Sciences Center in El Paso, Texas.

Dr. Willman concluded her presentation by describing the roles of lead staff on a number of the center's projects and outlining the center's future goals. Moving forward, the center is looking to expand its facilities, continue recruiting high-quality physicians and researchers and renew its NCI cancer center designation.

After Dr. Willman's presentation, she mentioned that a number of new staff members have been recruited away from other top research centers. She was asked by committee members how the UNM Cancer Center manages to recruit so well. Dr. Willman responded that the center affords researchers an opportunity to lead their own projects and immediately help patients. The committee commended Dr. Willman on her success in growing the UNM Cancer Center and her ability to work above and beyond what the state alone can finance.

Tobacco Settlement Revenue: Funding History and Evidence-Based Outcomes for Tobacco Cessation and Prevention Programs

Ruby Ann Esquibel, principal analyst, Legislative Finance Committee (LFC), and Christine Boerner, senior fiscal analyst, LFC, presented information to the committee regarding programs for tobacco use and prevention funded by the Department of Health (DOH) and Indian Affairs Department (IAD). Ms. Esquibel and Ms. Boerner began their presentation with a number of statistics regarding tobacco use in New Mexico. New Mexico has a slightly higher-than-average adult tobacco-use rate, and more of New Mexico's poor residents use tobacco than other socioeconomic populations.

Next, Ms. Esquibel and Ms. Boerner outlined federal and state actions taken to reduce tobacco use. The federal Patient Protection and Affordable Care Act (ACA) requires that most private health insurance plans cover tobacco-cessation programs with no cost-sharing, but states have discretion over which cessation treatments are covered. Seven states cover individual counseling, group counseling and all seven federal Food and Drug Administration-approved cessation medications. Massachusetts has had a particularly successful program, reducing smoking by 10% in two years.

To calculate total tobacco control funding in New Mexico, Ms. Esquibel and Ms. Boerner added annual appropriations to the IAD and the DOH and estimated Medicaid spending on tobacco control. The IAD and DOH combined receive just under \$6 million for tobacco control, and Medicaid is estimated to spend about \$8 million based on cost and use estimates. The federal Centers for Disease Control and Prevention (CDC) recommends that New Mexico spend \$16 million on tobacco-control programs.

Ali Moore, project manager for Keres Consulting, Inc., which manages tobacco-control programs for the IAD, spoke about the IAD's tobacco-control programs. Ms. Moore stated that there are nine grants for tobacco-control programs in FY 2015, amounting to \$400,000. Moving forward, the IAD is looking to integrate with tribal tax departments to jointly affect smoking rates. Ms. Moore stressed that each grant has in-kind matches from the tribes, nations and pueblos and that, in general, programs are trying to integrate cultural values to discourage smoking.

Regarding the DOH, Ms. Esquibel and Ms. Boerner directed the committee's attention to their second handout, which contains information on the numerous contracts the DOH maintains for tobacco-control programs. Of the \$7 million the DOH receives from tobacco settlement funds, \$5.6 million goes to tobacco control and prevention. Data on DOH program outcomes are varied: some programs are successful, some programs are not and some programs lack enough data to draw conclusions. Moving forward, Ms. Esquibel and Ms. Boerner recommended reducing the number of contracts, reducing built-in administrative costs and providing more uniform reporting on outcomes.

Upon questioning from committee members, James Padilla, epidemiologist, Tobacco Use Prevention and Control (TUPAC) program, DOH, and Benjamin Jacquez, manager, TUPAC program, DOH, told the committee that the DOH has three years of evaluations for its contracts, which are procured through a competitive request for proposals process, and they may bring this information to a later committee meeting. In addition, it was clarified that the ACA requires certain tobacco-cessation coverage but that states may define for themselves what is included in tobacco-cessation coverage.

Committee members asked about the effectiveness of tobacco control programs funded through the DOH. A member of the committee stated that no further money needed to be spent on tobacco-cessation programs. Members of the committee stated that the facts presented did not warrant reducing funds to tobacco-cessation programs. Some members indicated that although attainment of the CDC-recommended level of spending has been achieved, state management of the relevant funds should continue to improve. Questions were also raised about whether the state may rely solely on Medicaid-funded tobacco-control programs because not all smokers qualify for Medicaid, meaning Medicaid funds spent statewide would not technically be spent on Medicaid programs.

Some committee members pointed out that youth smoking rates are much higher than in the general population, so control programs should focus on youth.

NMPDIC Update

Dr. Lynda S. Welage, dean, College of Pharmacy, UNM, and Dr. Stephanie Harvey, interim director, NMPDIC, College of Pharmacy, UNM, next presented to the committee how tobacco settlement revenues fund the NMPDIC. According to Drs. Welage and Harvey,

poisoning is the second-highest cause of unintentional death in the United States and costs associated with poisonings are roughly \$4.4 billion.

Drs. Welage and Harvey stated that the NMPDIC receives 28,000 calls from individuals and providers a year, and the center's primary mission is to reduce the mortality and morbidity associated with poisonings, adverse drug interactions and medication errors. According to metrics designed by the American Association of Poison Control Centers, 91% of counties in New Mexico have acceptable utilization rates of the NMPDIC.

Drs. Welage and Harvey next explained how the NMPDIC saves the state money on health care spending. When the first call regarding a potential poisoning comes from a home, the NMPDIC is able to determine whether it is safe not to go to the emergency room 90% of the time. This prevents unnecessary emergency room visits, translating into \$17 million in health care savings. Further, Drs. Welage and Harvey stated, health care providers throughout the state call and consult the NMPDIC regarding patients who have already been admitted. These consultations reduce the average hospital stay by three days, amounting to \$26 million in savings.

Drs. Welage and Harvey then went over the NMPDIC's funding and expenses. Tobacco settlement funds constitute nearly 25% of the NMPDIC's budget, and nearly 90% of the budget goes toward staffing the NMPDIC. Given the statistics measured by the NMPDIC, tobacco settlement funding directly supports responses to 7,000 callers and outreach to 630,000 New Mexicans and reduces health care spending by \$10.75 million.

At this point, the committee engaged in a general discussion. During that discussion, Drs. Welage and Harvey clarified that all calls from throughout the state go to the NMPDIC in Albuquerque, where they are answered by trained pharmacists. The NMPDIC answers calls for overdoses, insect bites, snake bites, double-dosing of medicine and any adverse reactions to the skin, eyes and ears.

Upon questioning by committee members, Dr. Harvey said that the NMPDIC has not had many calls regarding ingestion of e-cigarette fluid. Instead, the NMPDIC has received calls because of designer drugs that are ingested by using e-cigarette devices.

Utilization rates are based on the number of calls received and the expected number of calls that would be received per capita. Dr. Welage additionally stated that the national trend is that fewer calls are being made to poison centers, but the calls involve more complicated poisonings.

After committee members inquired about the NMPDIC's technological capacity, Drs. Welage and Harvey stated that only 1.4% of calls to the NMPDIC are dropped; the NMPDIC can add 911 operators to its calls; and 911 can discern caller location after being added to the call.

Upon questioning from committee members, Drs. Welage and Harvey indicated that the NMPDIC's biggest need is funding to keep the NMPDIC operating 24 hours a day, seven days a week, but salaries for its pharmacists are lower than the market average.

Update on Master Settlement Agreement (MSA) Arbitration

Scott Fuqua, assistant attorney general, Attorney General's Office (AGO), discussed the current state of the arbitration between New Mexico and the participating manufacturers to the MSA. New Mexico has, in a sense, "appealed" the arbitration finding that New Mexico was noncompliant with the MSA in 2003. The AGO has filed two motions challenging the arbitration finding: one to challenge the finding of noncompliance, and one to challenge the calculation of the penalty assessed to New Mexico. The MSA court in Santa Fe has heard oral arguments on the two motions, and decisions should be forthcoming soon.

Regarding future penalties, Mr. Fuqua explained there are a number of factors that could contribute to whether future penalties are assessed and how much they will be. If future penalties are assessed, they will be deducted from future payments; New Mexico will not have to "pay back" the penalty amount. Further, penalties may not be withheld until final judgment, though the participating manufacturers have withheld payment already. Mr. Fuqua stated that the \$17 million penalty assessed for 2003 may be the high-water mark for penalties against New Mexico. Finally, Mr. Fuqua stated that arbitration for 2004 has not begun yet, and if it does take place, it may be on a state-by-state basis, rather than one arbitration for every state, as it was for 2003.

Pediatric Oncology Update

Dr. John F. Kuttesch, Jr., Ph.D., M.D., chief, Division of Pediatric Hematology/Oncology, UNM Children's Hospital, next made a presentation to the committee on the pediatric hematology/oncology program at UNM Children's Hospital. Dr. Kuttesch began with some general facts about childhood cancer in the United States. More than 12,400 children and adolescents are diagnosed with cancer every year, and one in 500 young adults is a childhood cancer survivor. According to Dr. Kuttesch, childhood cancer has broad, lasting medical and psychosocial impacts on both the patient and the family.

Dr. Kuttesch provided an overview of the work of the pediatric oncology/hematology unit at UNM Children's Hospital. The unit's mission is to decrease the burden of childhood cancer for New Mexico children and families through clinical service, research and education and outreach. UNM Children's Hospital is the only tertiary care provider of oncology services for infants, children and adolescents in New Mexico. The pediatric hematology/oncology unit provides comprehensive treatment planning, care and clinical programs, including follow-up treatment, and counseling.

Dr. Kuttesch next described ongoing research in the pediatric hematology/oncology unit. Over 90% of eligible patients are enrolled in NCI-approved therapeutic trials conducted by nationally recognized researchers. The unit also conducts comprehensive clinical trials, including therapeutic trials and biological, epidemiological and pharmacological studies.

Dr. Kuttesch then detailed some of the unit's extensive education and outreach initiatives. The pediatric hematology/oncology unit has clinical rotations with 16 student residents, hosts student lectures and frequently hosts professional presentations and community outreach events. The unit also has a number of outreach and survivor programs, including the Young Enduring Survivors Clinic, camps and retreats for child survivors and outreach programs to communities, hospitals and schools.

Dr. Kuttesch next directed the committee's attention to a budget chart. He stated that tobacco settlement funds constitute 9% of the pediatric hematology/oncology unit's budget, which helps support the unit's mission to provide the best care to children in New Mexico.

In a discussion with committee members, Dr. Kuttesch raised the possibility of including stem cell research in the bone marrow transplant program. He indicated that this would not occur until the UNM Cancer Center has further developed the stem cell research program on its own, given that it is a significant investment that UNM Children's Hospital cannot afford alone.

Upon questions from committee members, Dr. Kuttesch indicated that although there has been an increase in diagnoses of pediatric cancers, studies of national registries have not been able to identify environmental factors.

Dr. Kuttesch additionally stated that the pediatric hematology/oncology unit's budget is roughly 60% of what it was in 2007. Investment in hospital infrastructure is down, and there are 3.8 full-time employees caring for patients. Dr. Kuttesch stated that the patient base has not decreased much, but the hospital does know of patients going to Lubbock or El Paso instead of traveling to Albuquerque.

Public Comment

Barbara L. McAneny, M.D., board of trustees, American Medical Association, and chief executive officer, New Mexico Cancer Center, spoke to the committee regarding disposition of tobacco settlement funds and concern over e-cigarettes. Dr. McAneny expressed that the most important part of tobacco settlement spending is in prevention, particularly preventing children from starting to smoke. Dr. McAneny stated that while others may invest in research and treatment, the state is typically the only entity spending money on prevention.

Regarding e-cigarettes, Dr. McAneny stated that the success of clean indoor-air laws is that they make smoking socially unacceptable; e-cigarettes' exemption from clean indoor-air laws is dangerous because it may make smoking "cool" again. Dr. McAneny reiterated that the committee should focus efforts and spending on prevention programs, including for e-cigarettes, to improve long-term wellness and reduce long-term costs.

Anna Otero Hatanaka, executive director, Association of Developmental Disabilities Community Providers, spoke to the committee about funding for the Family Infant Toddler

program, an education and outreach initiative that teaches families about their child's developmental disability and how best to work with the child.

Adjournment

There being no further business before the committee, the TSROC adjourned at 2:40 p.m.