

COMMISSION TO STUDY PUBLIC HEALTH

Meeting Summary: Subcommittee on Schools, Children and Nutrition July 7, 2004

Members and Others Present: Sandy Hunter, Colleen Rioux, Janet Whatley Blum, Ann London, Bob Holmberg, Barbara Raymond, Jonathan Shenkin, Kip DeSerres, David Stockford, DeEtte Hall (DOE), Hilary Schneider (Consumers for Affordable Health Care), Will Gardner (Eaton Peabody)

Staff Present: James R. Adolf, Legislative Analyst

1. Introduction

Bob Holmberg convened the subcommittee meeting and reviewed the goals of the meeting: to discuss the subcommittee's recommendations in the context of possible legal barriers and developing DOE rules, and to fine-tune the language of the recommendations in advance of presenting them to the full Commission on Aug. 3.

2. Discussion: Legal Barriers to Proposed Taxes on "Poor-nutrition" Foods and Soda

Jim Adolf gave a brief overview of Constitutional and other legal issues involved in any State attempt to regulate advertising, including limits on the State's regulatory reach over interstate commerce, and also provided a rough estimate of \$6 million as potential revenue from a 2-cent tax on soda. The estimate was derived from an estimate of 300 million soft drink containers sold in Maine annually, and supported by a fiscal note developed for LD 505, which was a bill that proposed a tax on wholesale of soft drinks.

The group discussed the political limitations of tax proposals, and whether offering such proposals might endanger the subcommittee's less "controversial" recommendations. The group decided to proceed with the tax proposals, but to explain to the full Commission the subcommittee's understanding that tax proposals may be more controversial than other proposals, and that resistance to the tax proposals should not undermine support for the subcommittee's other recommendations. The subcommittee also agreed to use language from LD 505 regarding wholesale distribution of soft drinks and soft drink syrups and powders as the basis for its soda tax proposal.

Questions and comments:

- A clear definition of "food of poor nutritional value" is needed to make a tax enforceable. Subcommittee members will research the CDC and other definitions to find an appropriate one.
- More research is needed to determine exactly what type of advertising (e.g. local TV ads only?) can be regulated by the State.

- Will the soft drink industry, including some Commission members, oppose the soda tax proposal? Is consensus of the Commission a goal?
- Restrictions on advertising of soda and poor nutritional foods on school grounds should be easier to implement than advertising restrictions elsewhere.

3. Discussion: DOE Chapter 51 Rules

David Stockford noted that a draft of the new DOE Chapter 51 rule will be available by the end of July. The Subcommittee discussed that they may wish to respond to the draft rule, i.e. tailor a recommendation based on what the rule proposes. But the subcommittee believes its recommendations will be farther-reaching than the rule, and therefore it is unlikely that promulgation of the rule will obviate the need for any of the recommendations.

4. Discussion: BMI Assessment

The subcommittee agreed that certain changes, reflected in a handout, should be made to the recommendations concerning BMI assessment. These changes include labeling the activity as an “assessment” rather than a “study”; requiring participation of school nurses in the assessment; developing standardized protocols for collecting the data; providing equipment for the assessment; requiring that schools develop a plan for reporting results to parents; and providing adequate resources for the data to be analyzed by the State.

Questions and comments:

- DOE has current recommendations that BMI screenings be performed in grades K, 1, 3, 5 and 7 (9 and 11 being optional), along with vision and hearing screenings. Should these be expanded? Should they be done in conjunction with physical health profiles done in grades 6, 7 and 8?
- DOE has a sample letter to send to parents, which will be provided to the subcommittee.
- Should the subcommittee’s recommendations track the School Health Advisory Committee of DOE?
- These recommendations should be reflected as statutory changes, similar to statutory vision screening requirements.
- What will the cost of performing screenings be?
- School districts (rather than individual schools) should receive compiled results.

5. Discussion: Vending Machines

The subcommittee considered but rejected a request by Tom Nelson of Oakhurst Dairy to revise its recommendation to allow for 2% milkfat milk to be offered in vending

Page 3

machines. The subcommittee felt that non-fat and 1% milk would provide enough of a choice to students.

6. Discussion: Physical Activity

The subcommittee agreed that the language of the recommendations concerning physical activity should be amended to clarify that the recommended hours of physical activity for grades K-12 should be required, not merely offered by schools.

Questions and comments:

- Do children need to be reached and encouraged to perform physical activity younger than school age?
- Physical education standards are being reformed by DOE, but a revised rule is not expected soon.
- Participation in sports does not generally count toward physical education requirements, due to ME Learning Results guidelines.
- What does the Department of Transportation currently spend on bike lanes and walking paths generally, and specifically on sidewalks to schools?

7. Adjournment

The subcommittee meeting was adjourned at 5:10 p.m.

Respectfully submitted,

James R. Adolf, Legislative Analyst