

Maine Public Health Association
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October 2013

2013 Legislative Report

Dear members and friends of the Maine Public Health Association:

On behalf of the board of directors, staff and volunteers of MPHA, it is our pleasure to present our second annual public health legislative report. As a state-wide organization that supports best-practice, evidence-based policy work, we advocate for practice and policy that improves and sustains the health and well-being of Maine residents. This report documents MPHA priority bills, their final disposition and whether that vote is consistent with MPHA's official position on the bill. The first session of the 126th legislature presents one of the most challenging sessions in recent history for public health interests, resulting in limited advancement in legislative policy. In an era where science is readily available and policy implementation holds the key to our largest public health problems and related costs, we were truly challenged to understand legislative actions that did not support efforts to decrease death, disease and financial burden to our society. We look forward to a time when public health and prevention are not considered partisan issues but are unanimously supported by all legislators as the right choices for Maine citizens.

Despite the tough climate in Augusta and many vetoes by Governor LePage, there were some successes in the 126th and there continue to be many strong advocates in our Statehouse. We want to thank each of our many members, partners and legislators who helped us to achieve success. Each bill has a story and we have included a few of those in this report, as well as a chart on how each legislator voted on several MPHA priority bills. Our elected officials make decisions on a wide range of issues that affect our health, the environment and our way of life. We hope you use this report to educate yourself on how your representatives and senators have weighed in on important public health measures this past session.

MPHA will continue to be your partner and your advocate for the remainder of the 126th legislative session. We hope you will join us as we work harder than ever to advance public health protections in 2014.

Sincerely,



Denise Bisaillon, Ed.D.
Board President



Kristina L. Pettingill, MPH
Executive Director



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Tobacco Laws Legislation

LD 22: An Act to Promote Equity in Business Opportunity for Tobacco Specialty Stores

Final Disposition: DEAD

Preventing Rollbacks to Maine's Tobacco Laws

Given the current climate in the State House, the tobacco control focus during the 1st Session of the 126th Legislature was to prevent any rollbacks to Maine's tobacco related statutes. While MPHA supported several bills that made improvements to our policies, these initiatives did not advance, so much of our effort was on defeating two pieces of legislation.

LD 22: An Act to Promote Equity in Business Opportunity for Tobacco Specialty Stores

This act was introduced by Senator James Hamper. Maine law prohibits the on-premises service, preparation and consumption of food and drink in tobacco specialty stores, with the exception of "grandfathered" stores that had a license prior to January 1,



2007. Senator Hamper's bill would have removed the date and allowed all tobacco stores to seek licenses allowing food and drink service. If enacted, this legislation would have created a huge loophole in Maine's successful smoke-free laws, essentially allowing tobacco specialty stores to operate as smoking restaurants. MPHA, along with other leading health organizations, testified against the legislation and although our preference would be to see the grandfathering clause eliminated, we were pleased that the committee majority report was "Ought Not to Pass" and was accepted by both bodies, killing the bill.

It is important to note that this issue is not going away. Recent media reports have indicated that a tobacco specialty store in Saco, Saco River Cigars, is trying another approach by seeking a state license as a "bottle club," allowing patrons to bring in and consume their own alcohol. Although this is inconsistent with Maine's statute, the application was approved by the Saco Town Council and is currently pending with the Maine State Police Division of Liquor Enforcement.

Final Disposition: DEAD

LD 607: An Act To Make an Employee Who Sells Alcoholic Beverages or Tobacco to a Minor Responsible for Paying the Fine

Representative Bernard Ayotte introduced legislation which would have removed the provision in Maine's tobacco retail sales law that holds responsible the licensee/owner of the establishment that violates the statute and sells tobacco or alcohol to minors. MPHA joined the Maine State Police and the Attorney General in testifying in opposition to this legislation.

Our state has strong underage sales statutes and without a fine for the employer there is no incentive to ensure that employees are properly educated and trained on the law. Annually, Maine receives federal SYNAR funding to combat underage retail sales. The Attorney General testified that without a comprehensive law and enforcement, the state risks losing 40% of the funding. Maine's existing law works — a federal study (issued in August 2013 after the legislation was considered) demonstrated that Maine had the lowest rate of tobacco retail sales violations in the country at 1.8%, which is well below the national average of 9.1%. Attempts to undermine a policy that is working risks jeopardizing Maine's success at preventing youth retail sales of tobacco and alcohol. Fortunately, the Committee on Veterans and Legal Affairs agreed and reported the bill out unanimously "Ought Not to Pass".

Final Disposition: DEAD

Public Health Wins

Although most of the time the session seemed like a constant battle with limited victories, there were a few bright spots and 'wins' for strong public health policy.

Protecting Kids By Stopping Assault on Vaccines and Increasing Access for Adults

Public health advocates successfully fought back an assault on vaccines this session, and accomplished some policies that may increase vaccination rates.



Tobacco Laws Legislation

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Public Health Legislation

LD 745: An Act To Encourage Transparency in the Disclosing of the Ingredients in Vaccinations for Children

Final Disposition: DEAD

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Providers, health systems, vaccine manufacturers and public health professionals came together to fight LD 745, a bill that would decrease vaccination rates by scaring parents into thinking vaccines are dangerous. The bill would have required providers to inform parents of the ingredients in vaccines every time they provided a vaccine to a child under 18, and would have required the provider to inform the parent of the right to opt out of vaccinating their child. While a majority of the Health and Human Services Committee voted that the bill “Ought Not to Pass”, the bill received a 81-62 vote in the House before advocates were able to kill the bill by a 25-9 vote in the Senate.

Final Disposition: DEAD



LD 672: An Act Relating to Exemption from Immunization for Schoolchildren

Final Disposition: CARRIED OVER TO NEXT SESSION

LD 672: An Act Relating to Exemption from Immunization for Schoolchildren

In an attempt to decrease exemption rates from vaccines, Representative Anne Graham introduced LD 672. The Education Committee took the bill up and amended it, so that it now requires that a school health advisor or designee provide the parents of children exempted from the State's school immunization requirements US CDC vaccine information statements about the benefits and risks of immunization, and sign a statement verifying that the information has been provided to the parents. Because the bill has a small fiscal note to help schools cover the cost of preparing the documents, the bill has been carried over for further consideration next year.

Final Disposition: CARRIED OVER TO NEXT SESSION

LD 32: An Act To Expand the Types of Vaccines That May Be Administered by Pharmacists

Senator Chris Johnson introduced LD 32, which will allow pharmacists to provide some additional vaccines to adults, when requested by a provider's prescription.

Final Disposition: ENACTED AS LAW

Support for the Clean Air Act

Given its location, Maine is often referred to as the “tailpipe of the nation”, as polluted air from the Midwest and mid-Atlantic drift into the state contributing to a variety of health issues from asthma and COPD, to heart attacks, strokes and cancer. Representative Dennis Keschl (R - Belgrade) introduced a Joint Resolution calling for Congress and the White House to protect the federal Clean Air Act from roll-backs and delays, and to fund the air monitoring and pollution enforcement efforts that ensure healthy air for the people of Maine. The resolution received unanimous, bipartisan support from the members of the Maine Legislature.

Protecting Renters from Radon Exposure

LD 328: An Act Relating to Radon Testing and Disclosure to Tenants

Senator Rodney Whitmore proposed this legislation, which would have gutted Maine's tough radon testing law, by repealing the provisions in law requiring mandatory radon testing and disclosure of the presence of radon to tenants and prospective tenants in residential buildings. Fortunately, during the committee process, the bill was substantially altered. While the existing statute was weakened through the removal of the mitigation requirement, the provision for mandatory radon testing of rental properties was retained. Additional language revisions to testing and disclosure practices further improved the law, making it easier and more likely to be implemented.

Final Disposition: ENACTED AS LAW

Public Health Legislation

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The Fund for a Healthy Maine was created by the Maine Legislature in 1999 to receive and disburse Maine's annual tobacco settlement payments to eight categories of health programming:

- Smoking prevention, cessation and control activities, including, but not limited to, reducing smoking among the children of the State;*
- Prenatal and young children's care, including home visits and support for parents of children from birth to 6 years of age;*
- Child care for children up to 15 years of age, including after-school care;*
- Health care for children and adults, maximizing to the extent possible federal matching funds;*
- Prescription drugs for adults who are elderly or disabled, maximizing to the extent possible federal matching funds;*
- Dental and oral health care to low-income persons who lack adequate dental coverage;*
- Substance abuse prevention and treatment; and*
- Comprehensive school health programs, including school-based health centers.*



The Fund for a Healthy Maine (FHM) is a special pot of money with a special purpose. It is paid out to the states every year by the 1998 national tobacco settlement. The FHM is not a Rainy Day Fund, nor is it part of the General Fund - it's a dedicated source of money with the express intent and purpose of preventing and reducing tobacco use in Maine. The Maine Public Health Association has served as the coordinator for the Friends of the Fund for a Healthy Maine for the past three years.

FHM was basically flat funded for the Fiscal Years 2014-2015 Biennial Budget, with no restorations to the programs that were recently cut or totally eliminated.

Over the years, the Fund has had millions of dollars diverted away from the designated health program areas and the FHM funding for some programs has been eliminated. In the FY 2013 budget, school health coordinators and family planning were completely defunded, and some programs were severely cut, such as quality child care, newborn home visitations, oral health care and Drugs for the Elderly. The Friends of the Fund were pleased to be successful in protecting the currently funded programs in the FY14-15 biennial budget, but flat funding for some programs and not restoring the other cuts is not the direction we had hoped to go.

The Friends of the Fund certainly understood the economic situation in the state and support adequate funding for MaineCare services. Because of this, the Friends of the Fund advocated for an additional source of revenue, which would be generated from the passage of a cigarette tax increase of \$1.50. This would have been a decisive win from a health perspective, as price increases are the best strategy to prevent young people from starting to smoke and to influence quitting behavior in adults. A cigarette tax increase would have also meant that The Fund for a Healthy Maine would be able to continue and expand their valuable education and wellness programs. Passing

a cigarette tax of \$1.50 would also be a win from a fiscal perspective, because health care costs would ultimately decline and a healthier workforce is less costly for business. Unfortunately, a cigarette tax did not advance in this legislative session.

As always, the future of the Fund for a Healthy Maine lies with the Legislature. Going forward, the Friends of the Fund for a Healthy Maine must develop a strategic plan that will ensure that the Fund is made whole again, and is protected from filling short-term needs in the state's budget and jeopardizing necessary investments in public health. of \$1.50 would also be a win from a fiscal perspective, because health care costs would ultimately decline and a healthier workforce is less costly for business. Unfortunately, a cigarette tax did not advance in this legislative session.

Missed Opportunities

Many long-time observers of the State House have called the 1st Session of the 126th Legislature one of the most memorable ever. Not for landmark legislation passed, but because of the divisive tone that characterized debates and the overall tense feeling in the building. With a Republican governor and Democratic majorities in both bodies of the Legislature, it was bound to be an interesting session. A significant budget shortfall loomed over all policy matters and, at times, it seemed that agreement could not be reached on anything.

A twist on an old saying would be appropriate to sum up the session — the Legislature proposes and the Governor disposes. Governor LePage vetoed a record number of bills this session with 83 pieces of legislation falling under the Governor's veto pen. Many of the bills received broad, bipartisan support (often times unanimous legislative votes), only to see the veto upheld when the legislature reconsidered the bill. Lawmakers upheld 78 of the vetoes, with some legislators changing their initial vote to stand by the Governor.

Unfortunately, this "veto rampage," as one lawmaker called it, resulted in several missed opportunities for public health policy. A number of sound, evidenced-based policy proposals were enacted by the legislature, only to meet the scorn of the governor and fail to become law.

Public Health Legislation

LD 468: An Act to Protect Public Health at Public Institutions of Higher Education

Final Disposition: DEAD

LD 468: An Act to Protect Public Health at Public Institutions of Higher Education

Representative Ben Chipman introduced this legislation, which would have prohibited smoking at Maine’s public higher education institutes — the University of Maine System campuses, Maine Community College System campuses, and the Maine Maritime Academy. During the public hearing on the bill, there was no testimony in opposition, and MPHA joined several leading health associations and the institutions themselves in testifying in support of the bill. The bill eliminated a patchwork of proposals, leveling the playing field by protecting students, staff and visitors to all of Maine’s public campuses and avoiding a system where there was a “smoking campus.”

The policy was based in research and followed CDC recommendations of smoke-free campus policies as an integral way to reduce youth initiation. Tobacco use continues to be the leading cause of preventable disease and death and 99% of users begin using tobacco before the age of 26. In a 2012 report, the U.S. Surgeon General stated that the creation of smoke-free environments is an effective strategy for reducing youth and young adult initiation of tobacco products.

The bill passed out of committee and was unanimously enacted in both legislative chambers. However, Governor LePage vetoed LD 468 and in his veto message took a “smoker’s rights” stance, stating that “Maine people are responsible enough to make their own decisions concerning tobacco,” and that those who oppose it “should bring a bill forward to simply outlaw tobacco altogether.” Unfortunately, several lawmakers flipped their position of initially supporting the bill and the Governor’s veto was upheld by a handful of votes.

Final Disposition: DEAD



LD 272: An Act to Reduce Youth Cancer Risk

The adage “It takes a village to raise a child” remains true in our society for many people. Senator Geoffrey Gratwick, M.D., believes the community plays a crucial role in sharing the task of protecting a child, whether the matter at hand involves alcohol, tobacco or skin cancer. Melanoma is the most common form of cancer in young adults ages 25-29 and the second most common in ages 15-29. Senator Gratwick, MPHA and many other medical and public health organizations are determined to protect Maine’s youth from this highly preventable disease. MPHA and our colleagues worked diligently to pass LD 272: An Act to Reduce Youth Cancer Risk into law. The legislation would have prohibited Maine youth under the age of 18 from using tanning beds within public facilities, making Maine one of a handful of states to advocate for the health of minors and prevent the ever-growing skin cancer rates from reaching even higher. Vermont, Texas, Illinois, Nevada and California have all passed similar legislation into law. The bill showed bipartisan majority support but was vetoed by the Governor, and the legislature upheld the Governor’s veto.

Final Disposition: DEAD

Public Health Legislation

LD 272: An Act to Reduce Youth Cancer Risk

Final Disposition: DEAD

Public Health Legislation

LD 1066: Increasing Access to Health Care for Maine Adults and Families

Final Disposition: DEAD

LD 1066: Increasing Access to Health Care for Maine Adults and Families

The greatest opportunity to improve public health this session was the discussion around accepting federal funding, already set aside under the Affordable Care Act, to provide health coverage to nearly 70,000 Mainers through our state Medicaid program. Access to health insurance for the uninsured is a number one priority for many advocates, citizens and health care professionals. Representative Linda Sanborn, who has practiced as a family physician for many years, introduced LD 1066 with the goal of expanding health care coverage for adults and their families. By agreeing to Medicaid expansion and passing LD 1066, the MaineCare program would have covered adults with incomes up to 138% of the federal poverty level. The federal government would have covered 100% of the cost of new enrollees for up to three years, with a gradual reduction to no less than 90% - a much better deal than the current federal contribution. The end result would mean nearly 70,000 additional Mainers with health coverage, including access to prevention and detection services, as well as life-saving treatment for serious illness.

Governor LePage and many Republican legislators were adamantly opposed to this proposal. Despite significant public support, as well as support from a diverse coalition of more than 85 organizations across the state, only a handful of Republicans joined in passing the legislation, after Senator Roger Katz crafted a compromise amendment. Ultimately, the Governor vetoed the legislation, and the legislature sustained his veto by two votes in the House.

Final Disposition: DEAD



LD 777: An Act to Protect Mothers Who Breast feed

Every person deserves to work in a discrimination-free environment regardless of sexual characteristics such as gender, pregnancy and breast feeding. In previous years, laws have been passed to allow breast feeding women breaks while working, but no laws currently exist to protect these mothers from discrimination in the workplace. Senator Anne Graham worked tirelessly to pass LD777: An Act to Protect Working Mothers Who Breast feed into law. Senator Graham believes breast feeding is a civil rights matter and should be provided the same civil rights protection as other gender-based characteristics. The bill showed bipartisan support and successfully passed through the Senate and the House. In its final steps to be enacted into law, the Governor made objections and vetoed the legislation. The legislature sustained his veto.

Final Disposition: DEAD

LD 1160: Preventing and Controlling Childhood Obesity

As the obesity epidemic continues to grow in Maine and throughout the US, strategies have to be employed by all sectors of society to take responsibility and ultimately control of this dangerous trend. Senator Rebecca Millett, a staunch children's health advocate, worked with MPHA to craft a bill that emulated several facets of Portland Public Schools' successful model wellness policy. LD1160 required 30 minutes per day of physical activity among school-aged children K - 5 and eliminated the use of food as an individual classroom reward. These are two of the evidenced-based policies that Portland implemented and that the federal CDC recommends. School health policies may be one of the most efficient means to prevent or reduce risk behaviors, prevent serious health problems among students and may also help close the educational achievement gap. Though the bill had wide and varied support from school staff, public health agencies and state-wide resources (such as Let's Go, YMCA, WinterKids, CTG grantees and Healthy Maine Partnerships) and passed the Senate, the bill was given a "mandate" label and did not pass the House.

Final disposition: DEAD

Public Health Legislation

LD 777: An Act to Protect Mothers Who Breastfeed

Final Disposition: DEAD

LD 1160: Preventing and Controlling Childhood Obesity

Final Disposition: DEAD

About Us

The Maine Public Health Association is dedicated to improving and sustaining the health and well-being of all Maine residents by advocating for policies and environments that promote public health and health equity. Our diverse membership has a common interest in protecting and advancing the health of Maine people through advocacy, education, research and service.

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Failure to Increase Cigarette Taxes

MPHA and our public health partners led the effort to increase the price of tobacco products this session, as we have for decades. LD 1406 would have raised the tax on cigarettes by \$1.50 a pack and used the funds to restore cuts to the Fund for a Healthy Maine. LD 1326 equalized the tax on “other” tobacco products (non-cigarette tobacco called OTP) to our current cigarette tax rate. Raising the price of tobacco is the number one evidence-based strategy to stop young people from becoming regular tobacco users. Unfortunately, science, logic and the overwhelming need to reduce tobacco use in Maine took a back-seat to partisan politics, so the price of cigarettes, little cigars, snuff and chewing tobacco will remain the same for the time being.

Representatives Farnsworth and Rochelo stayed true to their principals and worked hard to pass these bills. Though we knew the bills had an uphill battle, we were hoping that our efforts would lead to a tax increase when the legislature tried to solve the shortfall in the Biennial Budget. When it became apparent that the tobacco industry and their proxies (convenience stores, distributors etc.) had convinced the Governor, many Republicans and some Democrats decided it was more important to stick to a pledge of “no new taxes” instead of saving the lives of Maine residents, we knew we had lost. However, we will keep fighting. Our 2014 goal is to educate as many decision-makers as possible about Maine’s number one killer — tobacco. So stay tuned. We are not going away!



Rep. Megan Rochelo



MPHA and some of our partner advocates, Angela Westhoff, Tina Pettingill, Becky Smith & Hilary Schneider