



Third Session - Thirty-Seventh Legislature  
of the  
**Legislative Assembly of Manitoba**  
**Standing Committee**  
on  
**Law Amendments**

*Chairperson*  
*Mr. Doug Martindale*  
*Constituency of Burrows*



**MANITOBA LEGISLATIVE ASSEMBLY**  
**Thirty-Seventh Legislature**

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MURRAY, Stuart	Kirkfield Park	P.C.
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PENNER, Jack	Emerson	P.C.
PENNER, Jim	Steinbach	P.C.
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**LEGISLATIVE ASSEMBLY OF MANITOBA**

**THE STANDING COMMITTEE ON LAW AMENDMENTS**

**Thursday, August 8, 2002**

**TIME – 7 p.m.**

**LOCATION – Winnipeg, Manitoba**

**CHAIRPERSON – Mr. Doug Martindale  
(Burrows)**

**VICE-CHAIRPERSON – Ms. Marianne  
Cerilli (Radisson)**

**ATTENDANCE - 11 – QUORUM - 6**

*Members of the Committee present:*

Hon. Messrs.. Chomiak, Lathlin, Hon. Ms.  
Mihychuk, Hon. Mr. Sale

Ms. Cerilli, Mr. Cummings, Mrs. Driedger,  
Messrs. Enns, Jennissen, Martindale, Penner  
(Steinbach)

**APPEARING:**

Hon. Mr. Gerrard, MLA for River Heights  
Mr. Jack Penner, MLA for Emerson  
Mr. Denis Rocan, MLA for Carmen

**WITNESSES:**

Bill 31–The Medical Amendment (Physician  
Profiles and Miscellaneous Amendments)  
Act

Ms. Laurie Potovsky-Beachell, Coalition for  
Access to Physician Profiles  
Ms. Christine Mirus, Private Citizen  
Mr. Bill Pope, College of Physicians and  
Surgeons

Bill 37-The Non-Smokers Health Protection  
Amendment Act

Mr. George Ackerman, Private Citizen  
Mr. Gerald and Mrs. Barbara St. Laurent,  
Private Citizens  
Mr. Aaron Yanofsky, Vice-President,  
Manitoba Youth for Clean Air

Mr. David Rubenfeld, Private Citizen

Ms. Pauline Harder, 7-11 Stores

Mr. Luc Martial, NACDA, National Con-  
venient Store Distributors Association

Mr. Ron Fulton, Private Citizen

Mr. Jim Waters, CACDS, Canadian As-  
sociation of Chain Drug Stores

Ms. Cynthia Callard, Physicians for a  
Smoke Free Canada

Mr. Don Toyne, MACS Convenience Stores

Ms. Lynn Greaves, Saskatchewan Coalition  
for Tobacco Reduction

Ms. Shelly Wiseman, Canadian Federation  
of Independent Business

Ms. Liz Ostiguay, Canadian Cancer Society

Mr. Jaroslaw Barwinsky, Manitoba Medical  
Association, Professor Emeritus, Depart-  
ment of Surgery, Cardiac Surgery, Uni-  
versity of Manitoba

Ms. Teresita Tena, Garven Convenience  
Store

Ms. Arlene Draffin Jones, Manitoba Lung  
Association

Mr. Kenneth Emberley, Private Citizen

Ms. Margaret Bernhardt Lowdon, Heart and  
Stroke Foundation

Mr. Fred Meinzer, Logan Gas and Car Wash

Mr. Garey Mazowita, Winnipeg Regional  
Health Authority and the College of Family  
Physicians of Manitoba

Mr. Murray Gibson, MANTRA, Manitoba  
Tobacco Reduction Alliance

Mr. David Scott, Private Citizen

Mr. Gordon Anderson, Private Citizen

**WRITTEN SUBMISSIONS:**

Bill 31–The Medical Amendment (Physician  
Profiles and Miscellaneous Amendments)  
Act

Ms. Gloria D'Sorcy, Consumers Association  
of Canada, Manitoba Chapter

Bill 37-The Non-Smokers Health Protection  
Amendment Act

Ms. Catherine S. King, Dugald Convenience Store Ltd.

Ms. Ida Miller, Northside Market Convenience Store

Mr. Howard Maslove, Dominion News and Gifts

Ms. and Mrs. Jerry Medina, Valour Convenience Store

Mr. Maurice Gingues, Canadian Council for Tobacco Control

Mr. Hans Bhangu, Pal's Supermarket

Ms. Glennys Fairbairn, Fairbairns Foods

Dr. William Libich, Private Citizen

Mr. Bruce Thompson, Chair, Alliance for the Prevention of Chronic Diseases

#### MATTERS UNDER DISCUSSION:

Bill 31—The Medical Amendment (Physician Profiles and Miscellaneous Amendments)

Bill 36—The Drinking Water Safety Act

Bill 37—The Non-Smokers Health Protection Amendment Act

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**Madam Vice-Chairperson:** Will the Standing Committee on Law Amendments please come to order? I know it is very warm in here tonight and hopefully we can proceed as orderly and expeditiously as possible.

This evening the committee will be considering the following bills: Bill 31, The Medical Amendment (Physician Profiles and Miscellaneous Amendments); Bill 36, The Drinking Water Safety Act; Bill 37, The Non-Smokers Health Protection Amendment Act.

We have presenters who have registered to make public presentations on all three bills: 31, 36 and 37. It is the custom to hear public presentations before consideration of bills. Could I ask those persons in attendance who are speaking in French please to make themselves known to the clerk, either at the front here or at the table at the back preferably, of the committee if you have not already done so. I would also ask people speaking in French to be conscious that we have translators and we would request that you speak more slowly than usual to accommodate translation services.

Is it the will of the committee to hear public presentations on the bills and, if yes, in what order do you wish to hear the presenters?

**Hon. MaryAnn Mihychuk (Minister of Industry, Trade and Mines):** Madam Chairperson, I would suggest that the committee sit until we complete all public hearings, that we set a time limit of 10 minutes for presentations and 5 minutes for questions and answers, and that our normal procedure for taking out-of-town guests be slightly amended for personal considerations and that Aaron Yanofsky, George Ackerman and Barbara St. Laurent present first for personal reasons of health and age. Then we go to out-of-town guests or what is considered normal procedure.

**Madam Vice-Chairperson:** Okay, I will deal with each of those issues, one at a time. We are going to hear all the presentations for all the bills first. We are going to have the presenters' time allotment be 10 minutes for presentation and 5 minutes for questions. We are going to have three presenters move up the order, who are speaking on Bill 37, because of health consideration. We are going to, after hearing those three presenters, hear the French presenters and then hear all the out-of-town presenters for the bills. Is that an agreement? [*Agreed*]

I will now read through the list of presenters in the order that they will be presenting, starting with the three individuals who have been moved to the top of the list due to health reasons, and then following with the out-of-town presenters. We will hear from George Ackerman, Barbara St. Laurent, Aaron Yanofsky. Then the out of town presenters will be, on Bill 31—excuse me—Following that will be the French presentation by Fern and Ginette Piche. Then on Bill 31, Laurie Potovsky-Beachell, Pauline Harder, Luc Martial, Bryan Walton, Jim Waters, Ida Miller, Cynthia Callard and Neil Collishaw, Joe Brunner, Al Suggitt and Lynn Greaves.

I will now read the list of the remaining presenters who are from the city of Winnipeg, starting with Bill 31. Lissa Donner, Bill Pope, Christine and Tom Mirus.

Bill 36, Paul Moist.

Bill 37, Shelly Wiseman, Noel Bernier, Liz Ostiguay, Jaroslaw Barwinsky, Teresita Tena, John Tropak, Arlene Draffen Jones, Jerry Medina, Jeff Kendel, Young Park, Sanjiv Kaushal, Margaret Bernhardt-Lowdon, Fred Meinzer, Hans Bhangu, Myron Sleeva, Bruce Thompson, Dr. Garey Mazowita, Murray Gibson, David Scott, Shannon Pidlubny, David Rubenfeld, Sharon Boonov, Kenneth Emberley and Sanjiv Kaushal.

If I have not read your name, and you wish to make a presentation, you can register with the clerk's table at the back of the room.

How does the committee wish to proceed in dealing with presenters who are not in attendance today, but have had their names called? Shall the names be dropped to the bottom of the list? *[Agreed]* Shall the names be dropped from the list after being called twice? *[Agreed]*

As a courtesy to persons waiting to give a presentation, did the committee wish to indicate how late it wishes to sit this evening? *[interjection]* That is correct. We agreed to that earlier, until all the presentations are done.

I would like to inform the committee that written submissions have been received from Gloria D'Sorcy, Consumers' Association of Canada, Manitoba Chapter, for Bill 31. Catherine S. King, for Bill 37, Howard Maslove, Dominion News and Gifts for Bill 37, and Ida Miller for Bill 37, who is listed as No. 7 on the presenters' list. They have asked that their briefs be included as written submissions to appear in the committee transcript for this meeting. Copies of these briefs have been made available to committee members and were distributed at the start of the meeting.

We have also had submitted just now another written presentation from Valour Convenience Store, Mr. and Mrs. Jerry Medina for Bill 37. Does the committee grant its consent to have these written submissions appear in the committee transcript for the meeting? *[Agreed]*

#### **Bill 37—The Non-Smokers Health Protection Amendment Act**

**Madam Vice-Chairperson:** We will proceed now with the first presenter, Mr. George Ackerman, on Bill 37.

**Mr. George Ackerman (Private Citizen):** Madam Chairperson and the committee. My name is George Ackerman and I am a laryngectomy. I was laryngectomized in 1984 and am one of the very fortunate ones. I am also the past president of the International Association of Laryngectomies. There are approximately 53 000 laryngectomies in North America, 93 percent of these people smoke and they all started at a very young age.

We have an extremely valuable commodity within our country and in our province and that is our youth. We must do everything in our power to get to these people, not to subject them to the trials and strains that I went through as a laryngectomy. They do not make those kids again. One out of every two kids who smoke will die prematurely from this. In North America this year there will be roughly 250 000 people die prematurely from smoke-related illnesses.

\* (19:10)

Anything that we can do to stop this carnage must be done. We must look after our people. We must look after the youth of our province and the youth of our country. I urge you all to seriously consider passing this bill because it is important, very, very important that we cut out this needless carnage on the youth of our country.

Thank you very much.

**Madam Vice-Chairperson:** Thank you for your presentation, Mr. Ackerman.

**Hon. Dave Chomiak (Minister of Health):** Thank you, Mr. Ackerman, and to you and to all the presenters. I want to thank all presenters who are coming out today. There is such a large group of people who are speaking that I am going to limit my comments because we want to hear from all of you. Thank you very much for your presentation. It is very much appreciated, and to all the presenters.

**Mr. Ackerman:** Thank you.

**Hon. Tim Sale (Minister of Family Services and Housing):** I echo my colleague's comments, but George, your son and my son played soccer

together for a lot of years. That was when Steve was, I would guess, about 12 or maybe a little older than that, 15 maybe, that you got cancer. I know that for your struggles and the witness you have had in the community to fight this, that has been very important to your kids and our kids because there are none of them who are smokers. I can tell you that there were many discussions on the edge of the soccer field that said that is never going to happen to me. So I want to thank you personally for that witness.

**Mr. Ackerman:** Just as an aside, if I may, Madam Chairperson, I devoted most of my life since my laryngectomy in trying to talk to school kids throughout this province. In the last 18 years, I probably spoke to 30 000 throughout Manitoba. Hopefully in some small way this did help. Thank you again.

**Madam Vice-Chairperson:** Thank you, Mr. Ackerman. The next presenters are Gerald and Barbara St. Laurent.

**Mr. Gerald St. Laurent (Private Citizen):** Good evening, ladies and gentlemen. I have I think what is probably a petition that was passed around. It says: Gary Doer, Premier, do not kill our corner stores. Well, the amount of time I am going to take here is the amount of time it takes to get addicted to cigarettes. There is another thing here: Find a better way to butt out the youth smoking. Well, I have a good suggestion. Quit selling it. That is one thing.

I have seven different items I want to say here. First of all, according to all this, is money more important than our young people? I do not think so. I say we have to protect our young children, get them away from the possibilities of looking at cigarette packages on shelves beside the candies and the chocolate bars. Hide it. If you cannot take it away, at least hide it. Do not let them be exposed to it because the power of suggestion, I can guarantee if I said I am going to yawn real good, I bet you I will get one person who is going to yawn. That is because of the power of suggestion. I do not see anybody yawning yet, so I guess I better rephrase that.

Anyway, my health from smoking, I smoked for 42 years. I started when I was about 15 years of age. That was the thing to do then in the

fifties. Cigarettes were advertised in the paper and in the magazines, bulletin boards and it was the thing to do. I got hooked on my first cigarette. That is why I know. I am speaking from experience. Because I got hooked on cigarettes, I have had a minor stroke which I am glad I have no side effects from. I have poor circulation down my left side. I have had three tumours in my bladder directly from smoking and they were all at the first stages of cancer. I beat that too.

Chronic bronchitis, if I walk into a place where there is cigarette smoke, forget it. I choke. I cough. I take my puffer and I run the heck outside, get some fresh air. Shortness of breath, the same thing. It is all from smoking when I was younger and seeing it was the thing to do. Get it off the shelves. As far as I am concerned, smoke belongs in a wood stove, not in our lungs. I thoroughly believe that. Remove from visual contact all tobacco products. Save our young people from all of the above. Get rid of it.

Now I have one strong statement here. I might get a few comments on it, but if a corner store needs to display tobacco products to sell the same of that to young people so they can be tempted to buy cigarettes, smokes, as far as I am concerned they should be charged with attempted murder. That is how I feel, because that is what they are doing. They are trying to kill our young people. Get it off the market. Get it off the shelves. Do not let the kids see it.

That is all I have to say. My wife has something to say here now.

**Mrs. Barbara St. Laurent (Private Citizen):** Mine is not quite as long, as he has said all of what I was going to say.

Tobacco products on display in stores is the same as advertising, as far as I am concerned. Our young people should not be subject to this deadly product. If the tobacco products were taken off the shelves when I was in my teens, I may not be in this condition that I am in today. Tobacco was a deadly drug, and I know I have been suffering with the illness for 10 years now.

I guess that was the worst decision of my life to have ever smoked. Now I feel it is not so

much for the adults, it is for the children. If I can help but one child not to smoke, that would be something I think, for me anyway.

Thank you very much for listening to me and good evening.

**Madam Vice-Chairperson:** Thank you for your presentation, Gerald and Barbara.

**Mr. St. Laurent:** Thank you for your interest.

**Madam Vice-Chairperson:** The next presenter is Aaron Yanofsky, the vice-president of Manitoba Youth for Clean Air.

**Mr. Aaron Yanofsky (Vice-President, Manitoba Youth for Clean Air):** May I start? Good evening, Chairperson, committee members, ladies, gentlemen and children. Thank you for allowing me to speak.

My name is Aaron Yanofsky and I am 13 years old. I am going into Grade 8 at H.C. Avery Middle School. I am here today as vice-president of Manitoba Youth for Clean Air. Manitoba Youth for Clean Air is a young group with a membership of close to 2000 young Manitobans all across Manitoba who are very concerned about kids smoking and the very harmful effects of smoking and second-hand smoke on children and their families in Manitoba.

Manitoba Youth for Clean Air cares about the health, well-being and safety of all young people and adults in Manitoba. We recently celebrated World No Tobacco Day events on May 25 at Portage Place shopping center, May 26 at the Children's Hospital Teddy Bear's Picnic at Assiniboine Park, and May 31 at CanWest Global Park. The theme this year was *Tobacco Free Sports – Play it Clean*. In support of World No Tobacco Day, the Winnipeg Goldeyes' outdoor ballpark was completely smoke-free and they promoted healthy smoke-free lifestyle messages for young and old alike. Manitoba Youth for Clean Air presented a banner on field with over 1000 names to ban second-hand smoke in all public places in Manitoba.

In the past, Manitoba Youth for Clean Air members have gone to City Council to request a

smoking ban in all public places in Winnipeg, especially where children are allowed to go. Manitoba Youth for Clean Air is now also very concerned about children being discriminated against and banned from certain restaurants and bowling alleys.

\* (19:20)

This issue to ban the display and advertising of cigarettes in places where children are allowed is a no-brainer. When I am looking around in many retail stores, waiting in line and/or paying for let us say some ice cream and candy, most of the time I see all types of cigarettes displayed, such as Players, and I often see people buying them right in front of my face. It almost tempts me to experiment and think about trying it one time because it seems okay and normal for everyone to buy them in the stores all the time near me.

I know that cigarettes are very unhealthy, but as I get into high school I wonder about some of my friends and I being tempted to smoke because of us seeing cigarettes all over the place. If children keep seeing cigarettes in public places, such as stores, and adults and teens smoking and giving smokes to each other in schoolyards and community centre fields, sports diamonds, they will get the wrong message over and over and be tempted to try.

In a way, they are encouraged to try cigarettes sooner or later. You come into some stores and see cigarettes being displayed and leave seeing cigarettes being shown. This tells me and other kids that it is sort of all right to smoke. When cigarettes are within sight, it is in my mind to think about trying it at one time.

Bill 37 must go through, and even if it helps prevent few teens from smoking it is well worth it. I am sure that by passing Bill 37 the well-being and future of kids like me in Manitoba will be safer and healthier. Bill 37 is an important step for our province to help prevent teens from starting and continuing to smoke. I hope you make the healthy and wise decision by making Bill 37 go through as soon as possible.

Finally, on behalf of Manitoba Youth for Clean Air, I really hope in the very near future

our Government will continue its steps to eventually make all Manitoba public places smoke-free and our province one of the healthiest for all Manitobans. Thank you, committee members, for your time listening to me.

**Madam Vice-Chairperson:** Thank you, Aaron, and all of your group for your presentation.

**Mrs. Myrna Driedger (Charleswood):** Thank you, Aaron, and congratulations to all of you. I think it is always wonderful to see young people decide that an issue is really important to you and to take on that issue and advocate for it.

I have always said it is really important for us to be listening to our youth. I congratulate you on that effort to rally the troops and to do the work you have done.

I have a question to ask you. Would you be interested in seeing no smoking allowed in any public place?

**Mr. Yanofsky:** Yes.

**Mrs. Driedger:** Thank you.

**Madam Vice-Chairperson:** No further questions? Thank you very much for your presentation.

The next presenters will be Fern and Ginette Piche.

I want to ask the Committee if there is leave to hear David Rubinfeld, one more young person from that group, who wishes to speak? *[Agreed]* David, you can proceed with your presentation.

**Mr. David Rubinfeld (Private Citizen):** Good evening. My name is David Rubinfeld, and I am 11 years old and in Grade 7. I am here to tell you why we should go through with Bill 37, the Non-Smokers Health Protection Amendment Act. Just imagine your kids coming home and saying, hey, Mom and Dad, I was at the corner store with my friend, and we saw that they had cigarettes showing. Does that mean it is okay to smoke? Do you want your kids or any kids to think it is okay to smoke, or would you prefer that your kids are not reminded of cigarettes and

will not be thinking about smoking? Think, if cigarettes are out of sight, then they are out of our minds.

In the past, I have had members of my family die from smoking. Therefore, I did not have a chance to know them. I say go forth with Bill 37 and then kids like me will not be tempted to smoke because we will not be looking at cigarettes. I think if we cannot ban smoking in all public places, we can at least hide our cigarettes. I think that the next step for our City and Province is to ban smoking from all school properties. This is a good step for Winnipeg and Manitoba, but we can do more. So, help Winnipeg and Manitoba and help the children from being influenced by cigarettes. Pass this bill for the sake of the children. Thank you.

**Madam Vice-Chairperson:** Thank you, David, for your presentation.

The next presenters are Fern and Ginette Piche. I will call the names again of Fern and Ginette Piche. They are not in attendance, so their names will be dropped to the bottom of the list.

#### **Bill 31—The Medical Amendment (Physician Profiles and Miscellaneous Amendments)**

**Madam Vice-Chairperson:** We will now proceed back to presenters on Bill 31. The first presenter is Laurie Potovsky-Beachell. You can proceed when you are ready.

**Ms. Laurie Potovsky-Beachell (Coalition for Access to Physician Profiles):** Thank you. Good evening, Madam Chair, honourable ministers, members of the committee. I am here to represent the Coalition for Access to Physician Profiles. Our coalition was formed in 2000. We represent a coalition of consumer, disability, labour and women's health groups. We are pleased to be here today to speak in support of Bill 31, this legislation.

In January 2001, we released the results of our research into practices in Manitoba and other jurisdictions and called on the Government of Manitoba to enact physician profiles here in Manitoba. At that time, we called for physician profiles which included the following

information: education and training, post-graduate training and certification, employment history, malpractice information, discipline or censure by the College of Physicians and Surgeons and criminal convictions.

We believe that many Manitobans share our concern for greater accountability and transparency in the health care system. Indeed, in each case where this has been an issue of public discussion, the public demands have gone further than what we have articulated. One necessary step on this road will be to provide health care consumers with information about the practice histories of their physicians. This will help health care consumers and others, such as family members acting on their behalf, to take greater responsibility for their own health care and to have more information to help them make the best decisions possible.

Bill 31 is consistent with the recommendations contained in the recent Pediatric Cardiac Surgery Inquest report. Justice Murray Sinclair concluded that patients have the right to information about a surgeon's experience in performing a particular procedure as well as the experience of the hospital and/or surgical team. It is also consistent with the recommendations of the 1994 report of the Manitoba Law Reform Commission regulating professions and occupations, which recommended that self-governing bodies be required to reveal practitioners' disciplinary records for at least the three years preceding a request for this information.

The Law Reform Commission took a sweeping look at these issues and concluded that all aspects of the operating of self-governing bodies should be governed by the principle of openness and accountability to the provincial government and to the people of Manitoba. In May 2001, the report of the Review and Implementation Committee for the report of the Manitoba Pediatric Cardiac Surgery Inquest, chaired by Paul Thomas, was released. That report recommended that the College of Physicians and Surgeons of Manitoba work with Manitoba Health and other interested groups to develop a system of physician profiles describing the education, experience, training, awards, disciplinary history and other information deemed relevant for each physician practising in Manitoba.

\* (19:30)

In the context and format for physician profiles, a balance must be found between the public's right to know and easy access to information with the right of physicians to a measure of privacy and to an accurate balanced and fair interpretation of their history of medical practice. While we are pleased with this initiative, we are concerned that the bill amend section 19 of The Medical Act to enable rather than require the College of Physicians and Surgeons of Manitoba to implement physician profiles.

While we commend the college for its cooperation to date, we remain concerned that this could change at a later date. We note that the bill does amend section 19 to give the Lieutenant-Governor-in-Council the authority to make the necessary regulations if the college does not comply with a ministerial request to make, amend or repeal a regulation about physician profiles. We believe that the public interest would be better protected by simply requiring the college to create and disseminate physician profiles.

We are also concerned that the bill does not specify that the profiles should be easily and readily accessible to the public through a variety of means. Meaningful access requires that the profiles be available in a format accessible to the user, whether that is by mail or the Internet, in braille or large type. The physician profiles are only as good as the information which they contain. Currently, physicians are required under the act to report cases where they believe that a physician is impaired, not where she or he is not competent.

While the college's code of practice has been amended to encourage reporting where competency is a concern, we note that this code has been created by the college's governing body and may be changed at any time. We believe that this bill should contain a requirement that physicians report their concerns about the professional competence of another physician to the college for investigation. In Manitoba, ordinary citizens who believe that a child may be in need of care or protection are required to report this to the appropriate child welfare

authorities. Why would we apply a lower standard to professionals?

*Mr. Chairperson in the Chair*

In summary, we commend the Government for introducing Bill 31 at this time. We will continue to be actively involved in the implementation of physician profiles and to work for other improvements to the health care system, which we believe will improve the quality of health provided to Manitobans.

**Mr. Chairperson:** Are there any questions?

**Mrs. Myrna Driedger (Charleswood):** One question, in your meetings with the group, did you have any discussion about whether or not mortality rates should be included?

**Ms. Potovsky-Beachnell:** Not to my recollection, no.

**Mr. Chairperson:** Thank you for your presentation. The next out-of-town presenter is Christine Mirus. Is Christine Mirus here? Please, take the podium.

**Ms. Christine Miris (Private Citizen):** Good evening, members of the committee. My name is Christine Mirus, and I am here to talk about—

**Mr. Chairperson:** Excuse me for interrupting, but do you have a written presentation?

**Ms. Mirus:** Yes, I do.

**Mr. Chairperson:** Could you give it to the page? We will distribute it. Please, proceed.

**Ms. Miris:** Okay. I would like to talk briefly about the need for Manitoba to report mortality rates for cardiac surgeons in Manitoba as part of physicians' profiles. This approach is standard in a number of jurisdictions, including New York. It has made quite a difference in New York with considerable decreases in mortality rates for cardiac surgeons.

I table today's information from Ontario and the cardiac care network in Ontario, which reports such data for each hospital and each physician. This is an alternative approach. In any case, I would advocate for the inclusion of cardiac mortality rates for cardiac surgery as part

of physicians' profiles. My name is Christine Mirus. I was the first heart transplant in Manitoba and, hopefully, not the last. Thank you very much. If you have any questions, if you can direct them to my husband, I have a slight hearing problem, and he will be happy to answer for you.

**Mr. Chairperson:** Thank you for your presentation.

**Mr. Glen Cummings (Ste. Rose):** Thank you for your presentation and bringing this to our attention. I certainly appreciate you making the effort to come here and have some input on this because, from this side of the table, when we look at legislation, we always look at whether it is enabling or requires certain actions. You have raised some legitimate questions in that respect. Thank you very much.

#### **Bill 37—The Non-Smokers Health Protection Amendment Act**

**Mr. Chairperson:** The next out-of-town presenters are on Bill 37, beginning with Pauline Harder, 7-Eleven stores. Is Pauline Harder in the room? Please proceed.

**Ms. Pauline Harder (7-Eleven Stores) :** Good evening, ladies and gentlemen. It was originally Len McGeouch, our National Loss Prevention Manager for 7-Elevens, intention to be here personally. However, he just got back from vacation on August 6 and therefore could not make travel arrangements. My name is Pauline Harder. I am the market sales manager for 7-Eleven for Manitoba and Northwestern Ontario. Hopefully, the following information will assist the standing committee on law.

The committee should be aware that 7-Eleven Canada supports the general intent and overall substance as proposed by Bill 37, but strongly urges that reference to the concealment of tobacco products in retail stores be deleted, a section within Bill 37 that would require substantial changes to the configuration of all convenience stores, gas bars and other establishments to which the public have access.

Tobacco products are, in most cases, housed near the busiest part of the store, adjacent to the cash registers, computers, links to gasoline

pumps and other important equipment for security reasons. The logistical, technical, human resource and technological implications of making substantial changes to these parts of the store are significant relative to the size and economic realities of these establishments.

If the law contains provisions that preclude the display of tobacco, a legal product, not only are retailers faced with the cost of retrofit in the areas as described, but also the loss of income that the display of this product generates. The committee should be aware that displays are income generated for small business and are not isolated to tobacco displays. Other manufacturers pay display allowances to ensure their products are prominently displayed. The inclusion of such a section in the law would assume that youth will come to a retailer that sells tobacco products and the display would create an impulse to purchase tobacco.

\* (19:40)

The fact that it is against the law for retailers to sell this product to youth seems to have been forgotten. 7-Eleven Canada, as well as other retailers, are very proud of the internal programs that they have created to educate and train employees regarding the responsibilities that go along with selling tobacco products. 7-Eleven has been involved in educating our employees prior to legislation being enacted either federally or provincially as a part of our social responsibility to youth. 7-Eleven created awareness programs. Our first was named Come of Age. An additional rededication of new awareness programs we have named ID Zone for examples of the importance placed on this issue.

Our hundreds of employees in Manitoba at our 49 stores are trained and retrained in these programs. There is no economic benefit for our employees to sell tobacco products to youth. Our stores are corporately owned and our employees are paid hourly or on a salary basis. Additionally, our employees are aware that any sales of tobacco to a young person would put their employment in jeopardy, a significant price to pay for any deviation from the law and our policies and procedures.

As part of these programs, we post signs in our stores and our employees are issued buttons that advertise that we ask for identification from customers who appear to be 25 years of age or younger. We follow up by having shopping services check that our employees are adhering to the law and our policies and procedures. 7-Eleven Canada funds these programs to not only abide by the law, but to our own social responsibilities in the neighbourhoods we serve. We conduct business in Manitoba and the rest of Canada with the purpose of serving our customers in a convenient efficient manner by providing them with the products they want to buy. 7-Eleven Canada is not in the business of selling tobacco products to the youth of the neighbourhoods we serve.

7-Eleven Canada is prepared to publicly and enthusiastically support Bill 37 if references to the tobacco products being hidden are removed. If these references are not changed, we will strongly and aggressively oppose the legislation. Thank you.

**Mr. Chairperson:** Thank you for your presentation.

**Hon. MaryAnn Mihychuk (Minister of Industry, Trade and Mines):** I have a question in terms of logistics. Having in my past had the opportunity to be an employee of 7-Eleven, for which I appreciated that chance and enjoyed it very much, can you tell me is it possible to move the display of cigarettes to just under the counter area without incurring a great deal of renovation costs?

**Ms. Harder:** We have in a lot of our locations, not most of them, but we have what is known as back walls of cigarettes, so we have taken a lot of necessary precautions to move them to the back walls. I want to reiterate that our counter displays do generate a lot of money for us.

**Ms. Mihychuk:** Which location did you work at, by the way?

**Ms. Harder:** St. Anne's Road.

**Mr. Chairperson:** Thank you. The next out-of-town presenter is Luc Martial, representing NACDA, National Convenience Store Distributors Association. Please proceed.

**Mr. Luc Martial (NACDA, National Convenience Store Distributors Association):** Thank you. I am aware that there is a time limit, so if I read a little bit faster, it is just because I had planned on maybe 15 minutes.

I would like to begin by taking this opportunity to thank the Government of Manitoba, and specifically the members of this Standing Committee, for inviting the National Association of Convenience Store Distributors. Mr. Luc Dumulong, the president of the association, was slated to present this evening but was unavoidably detained. He has asked that I extend to you his sincere apologies and reconfirms his organization's interest in working with the Government of Manitoba towards good public policy development on tobacco.

Mr. Dumulong further asked if I could attend today's meeting and reiterate those concerns addressed in the organization's April 19 submission on the proposed amendments. While not an expert in the field of retailing or distribution, I have been assisting NACDA over this past year on the broader issues surrounding tobacco control. To perhaps lend insight and credibility to my presence here today, I would like to briefly provide the committee members with an overview of my professional background and, more importantly, my long-standing commitment to tobacco control.

My name is Luc Martial, as you know, and I have endeavoured in the tobacco and health field in Canada over the past 12 years. At the forefront of every major national tobacco control initiative this past decade, I have successfully laboured as a policy analyst with the Non-Smokers' Rights Association of Canada, as a data specialist and communications coordinator with the Canadian Council on Smoking and Health. I have been director with the National Clearinghouse on Tobacco and Health, a program that is funded by every government in Canada, including Manitoba. I have been the executive director of the Canadian Council for Tobacco Control and spent two years working for the federal government within the Office of Research, Surveillance and Evaluation and the Office of Policy and Planning at the Tobacco Control Programme within Health Canada.

My commitment as a tobacco control advocate in Canada has benefited from having

worked within anti-tobacco groups, the national health community and government. A little over a year ago, I resigned my posting within Health Canada to more actively pursue responsible public health policies on tobacco. I currently work as an independent consultant assisting legitimate stakeholders within the community in working productively with their Government in developing responsible tobacco control initiatives.

While my primary task here today is to provide this committee with NACDA's concern regarding the proposed amendments to the Non-Smokers Health Protection Act, I would certainly welcome broader discussion regarding tobacco control in Canada.

Now, who is NACDA? The National Association of Convenience Store Distributors was founded in Winnipeg in 1955. Representing independent and corporate wholesale distributors across Canada, NACDA members handle a variety of products that include confectionery, groceries, tobacco, health and beauty products, beverages, wine, beer, paper goods, food services, produce and fresh meats.

Current NACDA membership consists of over 100 distribution outlets servicing more than 40 000 retailers throughout this country. Nationally, NACDA members distribute over 74 percent of all tobacco products sold in Canada. Within the province of Manitoba, NACDA members are full service wholesale distributors servicing more than 700 retail outlets. While it is often easy to simplify corporate involvement as servicing a community, the fact remains that our members are very much themselves members of your community.

While previous consultation on the proposed amendments have left much to be desired, it is NACDA's hope that from this point forward our business members, your community members, will be provided with an opportunity to develop an effective working relationship with their Government. It is NACDA's belief that the currently proposed amendments respond more so to the private agendas of a few outside special interest groups and less so to the broader provincial community stakeholders which elected this Government.

For the record, NACDA recognizes the legitimacy of the tobacco and health issue and applauds all responsible initiatives aimed at educating and informing consumers as to the risk associated with any consumer product. In terms of Manitoba's current efforts, interestingly enough, the focus of the multi-year tobacco control strategy announced by the provincial Health Minister earlier this year speaks largely to NACDA's long-standing interest and commitment to tobacco control. NACDA does not promote smoking and strongly encourages education aimed at young people.

Despite our support of the comprehensive approach of tobacco control in Manitoba, we remain greatly concerned with the proposed legislative amendments which would prohibit the display of tobacco products in retail outlets where minors are allowed, essentially corner stores. This concern results largely from the absence of the policy and research foundation necessary for any government to justify such intrusive action. If the research warranting such action has been undertaken by the Government and if viable policy alternatives have been effectively considered and explored these have never been communicated to business community stakeholders within Manitoba.

While the proposed initiative draws upon the popular denormalization agenda of special interest groups outside of Manitoba and further builds upon its mention within the national tobacco strategy, the federal government has long contested the merits of industry denormalization activities. In fact, Canada's \$480-million, five-year, federal tobacco control strategy specifically declined to identify denormalization as a strategic goal. My professional experience would lead me to believe that such a decision materialized from both legal and social concerns of using denormalization.

\* (19:50)

In terms of specific concerns regarding the proposed initiative, we would like to address some of the issues raised in the April submission.

Our concerns regarding good public policy development standards: The Non-Smokers Health Protection Act provides the Minister of

Health (Mr. Chomiak) with the authority to act once the necessary research and policy foundation is in place. To the best of our knowledge this foundation has yet to be developed. Despite its good intentions, the Government's strong commitment to tobacco control does not in any way dispense the department from being thorough and accountable in its approach.

Aside from this necessary research and policy foundation, the Manitoba Health Department has yet to present any clear expectations regarding the proposed measures. Without any measurement tools or pre-established measurable results, the present initiative should not be allowed to move forward. Moving forward would be tantamount to irresponsible public policy development. The proposed amendment initiative is heavily inspired from Saskatchewan's Bill 56. Unfortunately, members of the business community in Saskatchewan were equally approached very much as an afterthought and the consultation mechanisms in place at that time provided no true opportunity for those stakeholders to share their expertise with government and explore all policy options.

While Saskatchewan chose to advance, nonetheless, with public policy with little regard to meaningful dialogue with key segments of its community, it is our hope that Manitoba will not blindly follow suit.

Our concerns regarding meaningful consultation with our Government: Legitimate business community stakeholders in Manitoba were never provided with a meaningful opportunity to consider the proposed government initiative and assist in exploring all viable, less intrusive and more effective alternatives to the proposed amendments. While our names have been on the list and consultation meetings have taken place, the fact remains that such consultation mechanisms have been completely inadequate.

As an example, the consultation meeting organized for stakeholders in Winnipeg last April provided very little notice. Once there, the information offered was sketchy at best and included no precise information as to what the actual amendments were. NACDA received a notice for the meeting five business days before that meeting. The documentation related to the

content of the meeting, such as the agenda and the proposed amendments, were received on the Friday preceding the Monday meeting, providing no real opportunity for business stakeholders to share the information, discuss and respond.

Despite our continued attempts to communicate our frustrations to the department, despite our repeated attempts to develop a more meaningful process and partnership with government, NACDA members in Manitoba have come to believe that consultation with their Government is no more than an afterthought.

Our concerns regarding public health protection: The proposed amendments would actually lower health protection standards in Manitoba with regard to tobacco. The federal government's labeling regulations effectively introduced new and more elaborate health warnings for tobacco products two years ago. These are the new health warnings you see on packages.

Argued on the research basis that this specific messaging system provided for the most effective tool for educating and informing consumers and potential consumers such as youth as to the health risks associated with the use of tobacco, Canada's new health warnings were designed to be seen. Manitoba's current interest in denormalizing the product by forcing retailers to essentially hide these warnings, particularly from youth, would seem to largely contradict the federal government's own research, strategy and legislation on tobacco. Manitoba's proposed amendments would force provincial retailers to essentially undermine the spirit of the federal legislation and potentially break the law.

Our concerns regarding the impact on business community stakeholders: Wholesalers and retailers will be unjustifiably, unnecessarily penalized. Tobacco products are an important category to any store that carries them. In chain convenience stores, for example, tobacco products account for 35 to 40 percent of sales. For an independent convenience store tobacco would account for up to 65 percent of their sales. These stores are often family-run operations. There are approximately 1200 legitimate

retailers in Manitoba selling tobacco products, 800 of which are small, family-owned, mom-and-pop stores.

Considering the present highly competitive marketplace for hundreds of stores, the loss of tobacco manufacturers' display allowances, resulting from a prohibition on tobacco displays, will greatly impact their livelihoods. In the retail market of today every dollar of income is important. These small businesses, mostly located in rural areas, would be decimated by the loss of such a major revenue stream. For the ones for which that shortfall would not result in store closure in the short term prices on all other product categories would have to be raised to compensate for losses, de facto undermining the operators ability to effectively compete with larger corporate operations. In short, the proposed regulations would favour large corporations at the expense of independent ones owned by Manitobans. Repercussions at the retail level will carry over to distributors operating in Manitoba.

On a final note, following the April 15 meeting and subsequent to NACDA's departmental submission of April 19, NACDA has received no response to a series of important questions forwarded to the department. We would respectfully request that the committee recommend to the department that responses be provided to our members. At this time we would reiterate some of these questions before the committee.

Question No. 1: Has the department undertaken the necessary independent research to justify the measures considered? If so, when will this information be available to stakeholders? If not, will the Government delay implementation of the proposed amendments until this necessary research has been undertaken?

Question No. 2: Has the department identified expected outcomes of the proposed amendments and the mechanism by which the impact of the proposed initiative would be measured? If so, when will this information be made available to stakeholders? If not, will the Government delay implementation of the proposed amendments until this necessary work has been undertaken?

Finally, is the Government of Manitoba interested in working with community stakeholders in developing a more effective comprehensive and meaningful consultation process? If so, how can we move forward?

We appreciate having had the opportunity to introduce ourselves to the committee and to re-address some of the concerns identified in the more comprehensive April submission to the department.

**Mr. Jack Penner (Emerson):** Thank you very much for your presentation. Has the Government made any attempt at all to have any discussions with the retail sector on this bill, to your knowledge?

**Mr. Martial:** Actually, what I would like to do is I would like to, if we could, just redirect that question to somebody who is here with me today, Ron Fulton. He is a NACDA member and a member of your community. He is director of sales and operations for Wallace & Carey.

**Mr. Chairperson:** Is there leave of the committee to allow Mr. Fulton to answer questions? *[Agreed]*

**Mr. Ron Fulton (Private Citizen):** Thank you very much. There has been very little information come towards us as suppliers for the retail stores. There has been some action with independent retail operations, but as far as we are concerned we have not had any information at all.

**Mr. Chairperson:** Thank you for your presentation.

We need leave of the committee to include a brief by the Canadian Council for Tobacco Control to be part of the written record. Is there leave to include this in the written record? *[Agreed]*

The next out-of-town presenter is Mr. Bryan Walton, representing the Canadian Council of Grocery Distributors. Is Mr. Walton here?

Next is Jim Waters, director of Western Region, Canadian Association of Chain Drug Stores. Please proceed.

**Mr. Jim Waters CACDS, Canadian Association of Chain Drug Stores:** Good

evening. Mr. Chair, we appreciate the opportunity to present the view of the Canadian Association of Chain Drug Stores and its members regarding Bill 37, which amends The Non-Smokers Health Protection Act.

*Madam Vice-Chairperson in the Chair*

Let me begin with a brief introduction. CACDS is the voice of community chain pharmacy in Canada, comprising 21 members who operate nearly 4000 pharmacies and employ approximately 80 000 people. Ten of our members have stores here in Manitoba. Together CACDS member companies dispense more than 70 percent of the prescriptions filled across Canada.

The mandate of CACDS, a not-for-profit organization, includes ensuring the viability of chain drugstores to provide Canadian consumers with professional health care services and convenient access to the widest range of products. It is that particular area of focus for CACDS which brings us to the discussion of Bill 37.

We were grateful that the Clerk of this committee was able to give us a week's notice to appear and present our views. Unfortunately, we have been somewhat frustrated also by the consultation process to date relative to these tobacco control measures. Last fall we were told by officials within the Department of Health that significant changes in the laws concerning tobacco retailing were being considered and discussed with advocacy groups which favoured such stronger measures although, quote, commercial interests such as retailers were deliberately not being consulted.

\* (20:00)

Seven months later there was a consultation session here in Winnipeg, but few retailers were able to attend due to the short notice given, as was indicated by the previous speaker. However, we were encouraged by Minister Chomiak's commitment to establish an advisory committee, which will include retailers, to play a hand in shaping the regulations going forward. Hopefully there will be constructive consideration of the points which we are presenting to this committee this evening.

I must stress that CACDS certainly endorses the intention of Bill 37 as stated in the preamble, and that is: "To protect children and others from advertising and other inducements to use tobacco, so that they will not begin smoking and subsequently become dependent on tobacco."

Indeed, because our stores contain dispensaries, they are uniquely equipped to market to shoppers of all ages the various products designed to help them kick the smoking habit, as well as to provide the expert counselling of a pharmacist regarding the topical patches, chewing gums and other options which are available in drugstores. Our members have been very supportive of the Operation I.D. consumer awareness program which provides staff training, posters and the support of national advertising to help kids, store customers and employees understand that we take seriously our responsibility to see that tobacco products are sold only to people eighteen years of age or older.

Operation I.D. is the only national action plan specifically designed by retailers to help their front line employees refuse the sale of tobacco to minors. It is working, right here in Manitoba, as demonstrated by the March 2001 findings of an AC Nielson survey that showed the compliance rate among retailers refusing to sell cigarettes to minors was 10 points above the national average. The province had 79% compliance compared to 56% measured before Operation I.D. was launched by the Canadian Coalition for Responsible Tobacco Retailing in 1996.

Our review of Bill 37 leaves us wondering if the Government intends to prohibit the display of Operation I.D. materials in stores. As you may know, that, unfortunately, has been the case in Saskatchewan, despite repeated pleas from retailers for that government to leave Operation I.D. alone. Therefore, we urge this committee to recommend that section 4, dealing with display and promotion, not be used as a means of forcing Operation I.D. signage out of retail establishments. In our view, that would truly be a backward step as far as your stated goal of discouraging smoking among youth is concerned.

We also have concerns about an aspect of Bill 37 which is more clearly articulated. That is the restriction on the visibility of tobacco in any store which allows children within its premises. That would apply, of course, to our members' stores. Before addressing our logistical challenges posed by such a measure, I want to point out a noteworthy disadvantage of this strategy. If you have seen a pack of cigarettes lately, you will have noticed it comes with a powerful message printed right on the front. As mandated by the federal government, packages now contain graphic photos and facts intended to help would-be smokers understand the dangers of lighting up, such as the threat of lung cancer, impotence and emphysema. to mention a few of the health risks. The warnings are precisely located on the packages so as to be very visible on the store shelf.

Health Canada introduced this program because, in its words: "When you know the truth, smoking just does not seem cool or sexy anymore."

According to a survey earlier this year by the Canadian Cancer Society, 76 percent of smokers say they support the very explicit health messages appearing on every package. In fact, 44 percent of smokers said the new warnings increased their motivation to quit smoking. The Canadian Cancer Society even visited New Jersey recently to urge that state "to place graphic warning labels on all tobacco products and behind the medicine counters of New Jersey's pharmacies," according to its July 29, 2002 news release. It considers such a measure a reasonable limit on the freedom of expression for tobacco manufacturers, which is now the subject of an appeal being heard by the Québec Superior Court.

However, Bill 37 would make it illegal to display tobacco products, graphic labels notwithstanding. Thus, the impact of the warnings would be lost on the customers at the checkout, who may or may not choose to purchase cigarettes. Visual reinforcement of the messages which governments and anti-tobacco groups have been advancing for many years would be absent at a critical stage in his or her decision making process.

Although some might argue that what is out of sight is also out of mind, we have yet to see proof from Saskatchewan, or any other jurisdiction, that hiding tobacco in stores will actually dissuade young people from smoking. The pressures to do so on youth are more prevalent in schoolyards, within their social circles and elsewhere, as we heard from the young presenters earlier.

Nothing in Bill 37 makes it illegal for minors to possess tobacco, which seems a more logical strategy than focussing on store-level display practices. Consider for a moment the approach taken with alcohol. Government and privately owned stores display bottles of wine, beer and spirits on the shelves, but there are laws in place prohibiting minors from being in possession of those products. Would a parallel strategy not work for tobacco?

Along with other retailers, our members have concerns about the impact of a display ban. There is the initial cost estimated at up to \$10,000 for some stores of reconfiguring their front ends, remodeling their checkout counters, customer service desks and so on. In addition, each transaction in the future would take longer when a customer asked for a product that is no longer readily accessible to the store employee.

Some stores anticipate a great security risk from being required to conceal product behind cabinet doors or curtains or even in a separate room. The safety of retail workers should be considered when the tobacco control strategy of this Government is translated into regulation.

As mentioned, the establishment of an advisory committee, with at least one-third representation from the retail community, is welcomed by CACDS and, no doubt, other retail associations.

Also, the provisions dealing with the in-store visibility of tobacco are not scheduled to take effect until January 2004. Hopefully that will allow time for government and its advisory committee to weigh the hard evidence of the unprecedented actions in Saskatchewan before it proceeds down the same path.

In closing, we want to reiterate that protecting children from the ill effects of

smoking is a commendable goal for Manitoba to pursue in our view, but we caution that passing laws which inadvertently minimize the impact of the federal initiative to shock smokers into quitting through graphic warnings or which weaken an effective private-sector undertaking to prevent sales to minors would be very counterproductive steps for government to take.

I look forward to addressing any questions or comments from the committee. Thank you for your time.

**Madam Vice-Chairperson:** Thank you for your presentation, Mr. Waters.

**Mr. Jack Penner:** Thank you for your presentation. Have you and your organization had any discussions with government about this bill prior to them drafting or proposing this bill?

**Mr. Waters:** We were part of the consultation which occurred I believe on April 15. That is the one I referred to. We, as others, received a short notice and did not really have the full context of what was to be presented until we were in the room.

So we found it somewhat frustrating to be able to comment intelligently on what was being proposed, and we did not see the actual amendments, of course, until they were tabled a few months later.

\* (20:10)

**Mr. Jack Penner:** In your view, and I listened to your comments, an educational program would be more suited to ensuring that young people, especially, were apprised of the dangers of smoking. Would that be a more reasonable approach than trying to hide the product?

*Mr. Chairperson in the Chair*

**Mr. Waters:** I do not believe that one approach alone would suffice, but we certainly believe that the educational effort already underway through the Operation I.D. and the related Operation School Zone program does have impact.

We look with some encouragement at the statistics that show compliance among retailers

in instructing their employees to refuse a sale is climbing each year, and, obviously, we see in the examples of school areas that are targeted by the program that kids are staying away from stores. They are not going near the stores which display the various materials relative to the program for the purchase of cigarettes.

**Mr. Jack Penner:** I am really encouraged by the young people sitting here with their shirts on: Tobacco Free. That, to me, is really an encouragement that young people are starting to see the effects of the dangers of smoking. I say that as a reformed smoker. I smoked heavily, and I have not smoked for 18 years. I think that was one of the best decisions that I made in my own personal life, but never have I believed that hiding a product—and I remember well, when we were youngsters and mother tried hiding something from us, we tried our damndest to find it. I do not think that young people are any different today than they were then. When you try hiding something, there is a mystique that is created about it, and it would encourage, in my view, young people to seek and try the substance that was identified as being prohibited. I think therein lies some of our problems. We, as legislators, I think, are trying to create a perception that we are attempting to take action which is really not there. If we want to ban smoking, I mean, there is prohibition that was tried in alcohol which did not work, and that could be taken. That would be a sincere approach in trying to take the product out of the system, but to try and hide it is, in our view and my view, simply a matter of trying to play the smoke and mirrors game, and I think we, as legislators, should step beyond that.

**Mr. Chairperson:** Is there leave for the minister to ask a question? Leave.

**Hon. Dave Chomiak (Minister of Health):** Thank you, Mr. Waters. Just a quick question. Are you aware the advisory committee to the Minister of Health of Ontario has made a number of recommendations today with respect to smoking, which includes: require tobacco retailers to sell products out of sight, banning power walls and tobacco-sponsored point-of-sale displays? Are you aware that recommendation was made by the youth recommendation committee to the Health Minister of Ontario?

**Mr. Waters:** No, I was not aware of that.

**Mr. Chairperson:** Thank you for your presentation. The next presenter, Ida Miller, submitted a written brief. The next out-of-town presenter is Cynthia Callard or Neil Collishaw, Physicians for a Smoke-Free Canada.

**Ms. Cynthia Callard (Physicians for a Smoke Free Canada):** Good evening. Thanks very much for inviting me or allowing me to come here. I have some papers to circulate. I would like to introduce myself. I work for a group of physicians, but I am not a physician myself. I have worked on legislation and tobacco-control issues since 1985, and it feels like a longer and longer period now, but I can tell you that what we are seeing tonight is par for the course.

This is a very significant piece of legislation, and the Minister of Health and the Legislature are to be applauded for putting it through this far. A sign of it being good is that it is getting opposition. It is getting pushed back. The kind of response we are getting is quite predictable. People who are funded by the tobacco companies will promote what does not work, like Operation I.D. and School Zone, and they will oppose what works. They will threaten job losses. We have watched this with either bans on advertising or bans on smoking in aircraft or bans on smoking in restaurants or health warnings. The arguments end up being always the same. This is going to cause job loss, and I will mention, later on, that it actually almost never does.

I have circulated three pieces of information. One is a written brief with lots of facts that I will not force you to listen through. Another one is quite interesting. It is a contract between 7-Eleven. You had a submission from 7-Eleven earlier. This is a contract I found in a bunch of documents from RJR-Macdonald. It is now JTI-Macdonald. In that, they were paying 7-Eleven, in the last year, I think it was '93, \$711,000 for the No. 3 spot in placement. So presumably the No. 1 spot, which went to Imperial Tobacco and No. 2 spot which went to Rothmans, Benson and Hedges paid any more. So I would guess that they were earning, you know, at least \$700,000 per tobacco company per year to put these displays and so forth in their store, and with \$3

million at stake I am not surprised they want something else. What they want is something that says tobacco, come of age. As though we needed another incentive for tobacco to be a badge product of adulthood, they go and have their access names of things like come of age. When we write them and ask them voluntarily to please stop doing something that is destructive to public health, they do not usually answer the letters.

The third thing I have circulated is some recommendations from the World Bank. Now the World Bank is not your basic left-leaning organization. When the World Bank says that you should have a complete advertising ban, consider the source, and they say partial bans do not work. Why do partial bans not work? Because the advertising, it says in this little two-page flyer, the advertising slips to something else like retail, which is what is happening in the States and it is like what is happening in Canada.

I want to remind you that tobacco will not be the only products which will not be allowed for display at retail. There are other products that are like that. I do not know exactly the law in Manitoba, but I imagine that adult videos are somewhat restricted in how they are shown, and adult magazines. Explosive and fireworks in many jurisdictions cannot be displayed. Prescription pharmaceutical products cannot be displayed. Guns and ammunition cannot be displayed, and the reason they cannot be displayed is because we want to have something that signifies the risk. We want them to be treated in a way that communicates their role in society, which is one of a restricted potentially dangerous product.

I think it is important at this point to remind of what this is all about, why do they advertise. The companies say it is all about brand switching. But when you look over the millions of pages of tobacco industry documents that are now public, you see that brand switching is the least important reason, especially when 70 percent of the market is owned by one company that continues to advertise. They are not really worried about brand switching. The real important reasons are that they want to replace the smokers who quit and die, and they want to create an environment where smokers and non-

smokers feel as positive about tobacco and as positive about tobacco manufacturers as possible.

Advertising helps them retain their smokers, to recruit their smokers and to achieve support for tobacco-friendly policies. They create kind of a friendly familiarity. You know, everywhere you go there is tobacco, and so for kids, too, it is kind of friendly familiarity. They get up more often than we would like, there is tobacco in the home. They walk to buy their candy bars, there is tobacco there. They go into a restaurant, well, they do not here, but in some places they go to a restaurant and they see smoking. They go to the schoolyard, they see smoking. It is part of the continuing kind of normalizing of tobacco, and that is why measures that denormalize tobacco are so important.

It also creates kind of a familiarity effect, a term, a buzzword that risk communicators talk about, familiarity effect. The thing you know is not scary. The new thing is scary. So they want to keep it as something you know. I mean, West Nile is scary, right, but salmonella is not. We have this weird human tendency to worry about the things we do not know, and as long as tobacco stays really well-known then people do not really treat it as dangerously as it is.

\* (20:20)

If you wanted more proof of how important retail displays are to tobacco companies, there is no better proof than how much money they spend on it. Even when they could spend as much as they liked on advertising, after the Supreme Court decision in '95-96 and before the law in 1988, they could spend as much, pretty much as they darn well liked on tobacco advertising, and they spent in those years more than 50 percent of their advertising dollar at the retail level paying for those power walls, paying for the countertop displays and paying for clocks and watches and other things like that. They paid about \$80 million. That is a big chunk of change in promotion, and they paid it at a time when the only amount they were paying for sponsorship was \$60 million, the amount they were paying for billboard advertising was about \$10 million. So that gives you kind of a sense of the proportion.

This should be a no-brainer. Like, there is no reason for retailers to fear this change, in my view. I have not been to a 7-Eleven in Manitoba, but it is a chain store and I think they are pretty common. The clerk reaches up from above a shelf. The shelf is made of Plexiglas so you can see all the tobacco brands behind it. Well, replace the Plexiglas or paint the Plexiglas and all of a sudden these cigarettes are obstructed. The clerk does not have to do anything different than she or he did before. She reaches up for the brand. This is not particularly difficult. Meanwhile the promotion space can go to something else.

Your last presenter speaking for pharmacies did not mention that in half the provinces of Canada there are no tobacco sales in pharmacies. In Ontario, I remember when the law came through they said, whoa, we are going to lose 600 jobs here. It is like always 30 percent somehow around the market. I do not why, every tobacco control measure is met with that 30 percent of the labour force is going to be lost type of argument, we are going to lose a lot of jobs. Well, in fact the number of pharmacies that opened after the ban on cigarette sales went in went up. Even Shoppers Drug Mart, which was owned by Imasco at that time which owned Imperial Tobacco, admitted they had had no problem recouping the revenues that had been lost as a result of cigarette sales.

The experience is such that there should not be a problem, but even if there were a problem, I do not run a ma-and-pa corner store, I run a bit of a mom-and-pop NGO, so I understand the issues of cash flow and you have to keep money coming in and so forth and I understand these fears are real, but the retailers make money in two ways. They sell the advertising space and they make a markup on the product. All they have to do is increase the markup on the product and they have replaced the revenues from the advertising space that they cannot get anymore.

When I do my calculations and I take \$80 million divided by the number of cigarettes sold in Canada, it comes to 3 or 4 cents a package. So instead of charging \$7.70 for a package of cigarettes they can charge \$7.80. I do not think that is kind of particularly hard to figure out how to do. Since they are all going to be in the same boat it is kind of a level playing field.

In fairness, I am not surprised they are frightened because they have all received letters from the tobacco companies telling them they should be frightened. Every time a piece of legislation comes in of this measure they will receive the same thing: This is going to cause economic calamity.

This is why I am going to be having to go back and sit in rooms like this in federal legislatures and other provincial legislatures, listening to them, to tell you: Do not just be confident that this measure is going to work, be very proud that it is going to work. Be confident because when they banned billboard advertising the billboard manufacturers said, whoa, this is 30 percent of our billboard space; we are going to lose all our money. Well, five years later they were writing in their own magazines it was one of the best things that happened to them because they diversified their revenue source and they ended up having more money. They did not go out of business. There are no fewer billboards than there were before.

Similarly, with the pharmacies, they had no experience like that, restaurant revenues, they were not to go up. There has been virtually no recorded case of significant economic loss from a tobacco control measure because they make good economic sense.

I want to close by encouraging you to pass this legislation. There are a few housekeeping friendly amendments floating around. If you can strengthen it before you pass it, all the better. I want to remind you also that the federal government backed down. In 1999, they promised measures that would not ban but they would curtail the displays to one package per brand and they backed down before the onslaught of retailers. I think it was a real tragedy.

Saskatchewan, by adopting very similar measures a year ago, showed it could be done. I think Manitoba, by adopting, can show the rest of Canada that it should be done. Speaking as a federal Ottawa-based agency, I would very much like to see that happen and to thank you again for allowing me to come and to say it is incredibly hospitable of you to put out-of-town people first, especially when they come from Ottawa. So thanks very much.

**Mr. Chomiak:** In keeping with that we want to hear from more presenters, I just want to thank you very much for coming and for making a presentation, as I am sure all members are to all presenters.

**Ms. Callard:** Thank you.

**Mr. Chairperson:** Thank you for your presentation.

We have some committee business to conduct. Presenter No. 18 was registered to present in French. I will call their names a second time: Fern and Ginette Piche, Manitoba Responsible Retailers Association, are you in the room? That name has been called twice now.

Is there agreement from the committee to let the translators go home? *[Agreed]*

The next out-of-town presenter is Joe Brunner. Mr. Brunner.

Next presenter is Al Suggitt, MACS Convenience Stores.

**Mr. Don Toyne (MACS Convenience Stores):** Al was unable to be here tonight. My name is Don Toyne. I am representing MACS.

**Mr. Chairperson:** Excuse me. Is there leave of the committee to allow Mr. Don Toyne to present in place? *[Agreed]*

**Mr. Toyne:** Thank you. For 26 years I have operated C stores, corner stores. I sold out last year to a MACS out of Ontario, so I no longer share in the revenue stream of these display allowances that you were talking about. I cannot believe there are people here tonight that want us to hide the packaging that we have at our stores. Had you proposed this Bill 37 20 years ago, I probably would have agreed with you.

I travel to all our stores, day in, day out and it is unbelievable. I talk to teenagers about the packaging. I see the kids pointing at them, making faces, it is unbelievable, so that is working. Why you want to hide it, I cannot believe it.

I believe smoking is a social issue. I just got through planning two stores, one in Winkler,

Manitoba and the second in The Pas. Every time I plan a store I have to project sales. For Winkler I projected tobacco sales to be 20 percent. The second store in The Pas I projected tobacco sales to be 50 percent. So you cannot collect billions of dollars in taxes and spend a few pennies trying to educate our youth not to take up the habit.

As long as Manitoba is the child poverty province or capital of Canada, you will not fix your problem of youth taking up the habit of smoking tobacco, I can tell you that much. Twenty-six years in the business, I have seen it. You have to spend more money. In the U.S. there are some states where the smoking of underage, I am talking 15 to 19 year olds, has been dropping because they spend four times the amount that we spend in Canada.

If you want to fix the problem of the youth, and I agree with you, spend more money. You just raised taxes, \$9.80 a carton, and you have not offered anything back for education. What you want to do is reduce the allowances to the retailer. It is an easy way out. Dr. Mark Taylor will be happy. I believe there is no financial impact to the Government. It is on the retailers' shoulders. You have to spend more money. You have just raised the taxes, spend it on education.

My parents smoked, I smoke. I have a 20-year-old and a 24-year-old. They both do not smoke, and I can assure you it is not because I asked them not to smoke. It is because of the educators. We have to give the educators more money. Give them credit and give them more money. Thank you very much.

**Mr. Chairperson:** Thank you for your presentation.

The next presenter is Lynn Greaves, Saskatchewan Coalition for Tobacco Reduction.

\* (20:30)

**Ms. Lynn Greaves (Saskatchewan Coalition for Tobacco Reduction):** Thank you very much. I would like to thank the committee for the opportunity to present today and tell you some of the experiences we have had in Saskatchewan. As you are aware, Saskatchewan's Tobacco Control Act contains a

section similar to the section you are considering and it bans the display of tobacco products.

I would like to perhaps take a moment from my presentation just to remark on a couple of the comments that have been made previously. One was that retailers consultation in Saskatchewan was an afterthought. I would like to correct that. Retailers were consulted to a great extent. I was thinking of saying something like: If you are going to say that retailers were not consulted in Saskatchewan, it was kind of like saying it does not snow in Saskatchewan. They were consulted fully and possibly more than health organizations.

Also, Operation I.D. does go on in Saskatchewan. The only situation that happened there was that there was no endorsement of those particular signs for Operation ID.

I come from the Saskatchewan Coalition for Tobacco Reduction which is similar to MANTRA here in Manitoba. We represent organizations that are similar: the Saskatchewan Lung Association, the Heart and Stroke Foundation, and we have a students group, Students Working Against Tobacco.

I would like to point out that our legislation did have unanimous support. The Saskatchewan Tobacco Control Act was first started with a recommendation by the all-party committee of members of the Legislative Assembly. All members were represented on the committee, and there was extensive consultation with hearings around the province and meetings with stakeholders. After that, the committee members themselves recommended that they should ban tobacco product displays in a committee report. The report's recommendation was then put into The Tobacco Control Act and this act was passed unanimously by all members of the Legislative Assembly.

As you aware and as many people have said, "power walls" in vast quantities, far more than is necessary to supply consumers, are a part of the tobacco industry's marketing plan. The oversized retail display cases promote tobacco to children and youth, and it is no mistake that they are in clear view of kids who represent the tobacco industry's future customers. As the Canadian

Cancer Society states: It is impossible for these displays to be consistent with the industry's claim that their promotions only target adult smokers. Children should not grow up in an environment where they see such promotions and they have to make their way by such promotions every time they go to a corner store.

In talking to various stakeholders in Saskatchewan about compliance, I wish to bring you this information. As you are aware, there are tobacco enforcement officers with Health Canada. In Saskatchewan, we have six and they are involved in ongoing inspections of tobacco retail establishments. At the time the report was made, they have inspected almost all the retail establishments in major centres in Saskatchewan.

They report that virtually all retailers are complying with the display provision, and they also observe that compliance appears to have been achieved at minimal cost to retailers. They report that no stores to their knowledge have closed and no staff have been laid off.

In talking to the Saskatchewan Pharmaceutical Association which represents over 350 retail outlets, Ray Joubert, who is their spokesperson, says: Compliance is high and implementation has gone smoothly. There have been no significant problems or failures, economically or otherwise.

In addition, it might also be mentioned that all 33 Saskatchewan health districts also signed on to support The Tobacco Control Act and the "power wall" ban.

We have some information for you from different parts of Saskatchewan so that you can hear also what residents in different parts of Saskatchewan are saying about it. Saskatchewan people have been very positive about not allowing the tobacco industry to advertise tobacco products on a daily basis to children and youth, and we feel that part of this is the increasing recognition of what the tobacco industry is doing.

Because, as you are aware, hundreds of thousands of Canadian smokers quit annually and over 45 000 die from tobacco industry

products, the industry must make up these losses by acquiring new smokers. Children are the only new source of tobacco industry customers, since very few people begin smoking after the age of 18. In Saskatchewan the average age of a new smoker is 13. Children become addicted quickly and approximately half of these die prematurely. You have there a number of comments from people in different parts of Saskatchewan: Prince Alberta, Saskatoon, Regina, Moose Jaw, Weyburn, La Ronge, and North Battleford.

It is quite accepted. It is something that is quite accepted by the population, and it is nice to see that after five months. I think the final thing that it would be good for you to know is that the tobacco industry has had a role in opposing the legislation in Saskatchewan. The industry hired a paid lobbyist to lobby members of the Legislative Assembly in order to weaken the proposed legislation. In addition, a Saskatchewan committee for responsible tobacco retailing appeared and, while proclaiming themselves to be poor retailers, mounted a \$10,000 fax campaign to retailers, urging them to oppose the legislation by calling their members of the Legislative Assembly. The committee provided Saskatchewan retailers with a great deal of misinformation, some of it similar to what we have heard tonight. Suspicions of links between the retail committee and the tobacco industry were actually confirmed when a spokesperson for the above committee admitted to the Government it was a subcommittee of the Canadian Coalition for Responsible Tobacco Retailing, which is a tobacco industry coalition described on the industry's Web site. This was admitted to a person with the Government. In addition, the ad agency hired by the committee is the same one later hired by the tobacco industry.

There are a number of arguments I suppose or misinformation that retailers said in Saskatchewan and some of them you may have heard before: The fact that banning tobacco product displays will not affect youth smoking when there is a mountain of evidence to prove otherwise. The Cancer Society has a report to that effect. Youth possession laws have been recommended when in fact none of the world's most respected tobacco control organizations support this. The undue economic hardship has not happened and the only business that does suffer is the tobacco industry.

So, in conclusion, the banning of tobacco product displays has been well accepted by people in Saskatchewan and retailer acceptance and compliance are good. I just draw your attention to some of the attachments. One is July 23, just a few days ago, a page in the *Leader Post*; it was a full-page ad talking about how good economics was in Saskatchewan and a Canadian Cancer Society information sheet, and some more information that you might find interesting to read.

Thank you once again for this opportunity.

**Hon. Jon Gerrard (River Heights):** Thank you for your presentation and update on how things have gone in Saskatchewan. Has there been any attempt to assess a change in smoking habits or cigarette consumption since the legislation was introduced and proclaimed?

**Ms. Greaves:** Yes, I understand the provincial government is monitoring this, but of course almost within a few weeks of the ban being proclaimed there was an increase in tobacco tax. So we have both of those and we have quite a bit of anecdotal information that shows there are a lot of people quitting smoking. Physicians and so on are telling us that, but the monitoring is being done by the provincial government who could maybe make that available to you.

**Mr. Chairperson:** Thank you for your presentation.

#### **Bill 31—The Medical Amendment (Physician Profiles and Miscellaneous Amendments) Act**

**Mr. Chairperson:** We will now start with other presenters, beginning with Bill 31. The first being Lissa Donner, representing the Coalition for Access to Physician Profiles.

The next name is Bill Pope, College of Physicians and Surgeons. Please proceed. Do you have a written presentation?

**Mr. Bill Pope (College of Physicians and Surgeons):** Not for circulation, Mr. Chair.

Thank you, Chair, ladies and gentlemen. My name is Bill Pope. I am a physician, and I am the

registrar of the College of Physicians and Surgeons of Manitoba, who will be implementing and operating the physician profile. Thank you for the opportunity to speak to this bill

\* (20:40)

First, let me say that all the amendments, other than the amendments to permit the creation of physician profiles, were requested by the college, and we fully support those amendments, as drafted. The balance of the college's comments are with respect to the amendments to permit the creation of physician profiles. Generally, the college has no issue with legislation, enabling the creation of physician profiles, and we have, in fact, worked continuously with the minister and the Department of Health since the discussions on this began. In fact, since the release of the Thomas committee report and, certainly, more recently the college has been an active participant in the steering committee that the minister established to consider issues respecting physician profiles, and I co-chair that committee. I believe that all participants in the steering committee understood that the committee's work was directed at achieving as much consensus as possible on those issues with a view to introduction of legislation permitting physician profiles and, notwithstanding the general acceptance of the concept of physician profiles, we do have a number of issues which I would just like to raise about Bill 31.

The college, firstly, is strongly of the view that the legislative amendment is premature. The steering committee has yet to finish its work, and there are still some fairly significant issues under discussion. Furthermore, the detail of the proposed system is to be found in the regulations which, of course, have yet to be drafted. It is, therefore, extremely difficult to provide a comprehensive comment at this time. The college is of the view that it would be preferable to have a comprehensive plan in the form of an act amendment and draft regulations, and we have indicated this already to the minister. One of the examples of this is that Bill 31 states that it applies to members of the college. Under the registration and the licensure scheme that The Medical Act creates, a person may be registered with the college for up to two years but not

actually licensed. During that time, a member may be practising in another jurisdiction and so some questions arise such as: At what point does an individual's profile, should it be no longer posted or otherwise available to the public, and, if it is at the time that registration ceases as opposed to the time that licensure ceases, is there an obligation to keep information current on those members who are not practising in Manitoba? Will it be acceptable, for example, to post a disclaimer respecting the lack of current information? I put this example forward just as one of the very complex issues which we have yet to determine.

Secondly, the council of the college is concerned about the posting of criminal offences which may be unrelated to the practice of medicine. Surely, all of the information to be contained in any profile must be relevant to the purpose of creating the profiles. If the information is not relevant to the practice of medicine, council believes that the privacy interests of physicians should prevail.

Subclause 19.1(2)(a)(7) refers to "other medical malpractice claims." My council believes that it would be inappropriate to require claims to be posted when there is no finding or settlement, because the claim may ultimately be found to have no merit. As well, council is concerned about posting settlements, as the rationale behind the settlement may be factors other than merit, for example, the cost of proceedings through court. Before including in a profile anything other than court judgments, we must give careful consideration to issues such as the implications that this might have for civil cases and the great difficulty in monitoring compliance.

Fourth, individual physicians are given an opportunity to review their profiles, but there is no dispute resolution mechanism if a disagreement arises about the content of a profile.

Fifth, council noted that the physicians are being targeted for this initiative and the principles behind the arguments in favour of physician profiles apply equally to other types of health care providers. One of the previous speakers mentioned the Law Reform Com-

mission Report some years ago which approached all professionals. My council was concerned that this appears somewhat discriminatory and believes that the profile system should be applied at least to all the other health care professionals.

Finally, and the minister is aware of this, council was very concerned that Bill 31 is silent on the issue of the costs of providing for physician profiles. Council noted that the minister did state publicly that Manitoba Health will provide funding for this initiative, and I was present with the minister at that time, which the minister acknowledged could be millions of dollars. I hasten to say that this college does not question the commitment of this minister. However, given the extremely significant expense to establish, and, I emphasize, to maintain physician profiling, my council is strongly of the view that the Government funding for this initiative should be included in Bill 31.

Thank you for allowing me to make my comments.

**Mrs. Myrna Driedger (Charleswood):** Thank you, Doctor Pope. A question for you. Has there been any consideration as to whether or not having mortality rates included in there being something that would be useful or a hindrance in any way to anything?

**Mr. Pope:** Certainly the issue of mortality rates is something that the implementation committee will discuss. It has been raised and I am sure we will be discussing it further.

Other than that, I cannot answer too much further. Much of this would depend, of course, upon the availability and the cost of actually being able to maintain, monitor and present this information in a reasonable and useful fashion.

**Mrs. Driedger:** I was in conversation a few nights ago with one of the nurses who had been involved in the pediatric cardiac inquest, very involved in the cases where the babies died, and we were discussing the issue of physician profiles. I asked her do you believe that the profiles themselves could or would have prevented any of the baby deaths. In her view, she indicated, no.

Probably, in and of themselves, I mean, they are a tool and certainly a step towards increasing

accountability and transparency in the system, but would you agree that there needs to be a number of other partnering activities happening at the same time in terms of addressing the issue of medical errors, hospital communication systems, policies, et cetera?

**Mr. Pope:** The answer is a very strongly worded yes. I do not want to digress because it does not speak to this bill too much, but, certainly, as far as the College of Physicians and Surgeons is concerned, this is one aspect of improving the system to ensure that, in particular, as you mentioned, medical errors are addressed in both a timely and in an appropriate fashion.

This was one of the major recommendations from the College's point of view made by Professor Thomas, and we are working with Minister Chomiak to have this come to pass.

But there were a number of other issues, from the College's point of view, which we are also addressing, and I think some of them have already been mentioned tonight.

There are also other issues that other parts in the field were doing, so the Health Sciences Centre and the WRHA have made enormous changes to their processes. As it happens, this was a piece of legislation which the minister was able to work with, but changing the processes are quite dramatic, and quite a number of those things have already occurred.

As you may be aware, Manitoba Health, the College of Physicians and Surgeons, the College of Registered Nurses of Manitoba, the WRHA and the Manitoba Pharmaceutical Association are all promoting, over a period of time, every six months now, a major session to look specifically at medical errors and how those can be addressed and how the approach of the community to the system can change, which is really what we need to do.

One of those has already occurred. There are others coming up in the future. We look very much to changing the culture which is the only way to really ensure, I think, that this does not happen again.

**Mrs. Myrna Driedger (Charleswood):** I have one very significant concern related to this, and

that is in relationship to I guess whether or not you can actually—I do not even know what the word is. Let me just tell you the story and then maybe it will all come to me.

I was informed that the pediatric cardiologist who was involved here in Winnipeg and had worked here for seven years went to work in the United States. Where he went to work had physician profiles. Somebody went onto that site to look at the profile of doctors working at that particular facility, and while this pediatric cardiologist's name and profile were on the site, the whole seven years or whatever that he was involved here in Winnipeg was totally missing off his physician profile.

How could we prevent something like that from happening? The person who was commenting to me said, well, you then end up with basically lies by omission where you have no obligation perhaps to state your full medical practice. So how do we get around something like that? In that case, the profiles are totally useless because the piece that was significant to a parent whose baby is going to be operated on—and here the cardiologist's profile of his whole tenure in Winnipeg where he ran into all the trouble was not on there. So a call was made from Winnipeg by somebody to this facility to indicate that, in fact, that piece was missing. How do we get around avoiding that?

**Mr. Pope:** Firstly, remember, he was a pediatric cardiac surgeon, not a cardiologist. *[interjection]* Right. The issue, I think it depends in this particular circumstance on the organization which enters the information. I am not sure, of course, what the organization was that did not have the appropriate information, but, if we are talking about past history, if this is going to be one of the things, then certainly I cannot, at the present time, imagine that we would license someone where we have a blank. So it will be the college as the licensing authority that will enter the information, because we are the ones that have access and can require our members to produce all information.

Under those circumstances, as we will be entering it, were there to be a gap, we would want to know why and what the issues were. In many circumstances, right across this country,

that would likely go to either refusing or a significant review of that physician's licensure because of failure to report. So I think those are the kinds of systems, certainly, that the Canadian medical licensing authorities already utilize very strictly, that would help to prevent what you are mentioning.

\* (20:50)

**Mr. Chairperson:** We are out of time. Is there leave for Mrs. Driedger to ask one brief question? *[Agreed]*

**Mrs. Driedger:** It is actually not a question. It is just clarification. The person that I was referencing was the cardiologist that was the physician that had been referring the patients to the cardiac surgeon and was part of the inquest review. So it was his profile that I was referring to.

**Mr. Chairperson:** Thank you for your presentation. We have some committee business. We have a written presentation by Mr. Hans Bhangu. Is there leave of the committee to include this written submission in the transcript of tonight's committee meeting. *[Agreed]*

Bill 36, Paul Moist, CUPE Manitoba - Canadian Union of Public Employees. Is Paul Moist in the room? Proceeding on to Bill 37, Shelly Wiseman, Canadian Federation of Independent Business. Please proceed.

#### **Bill 37—The Non-Smokers Health Protection Amendment Act**

**Ms. Shelly Wiseman (Canadian Federation of Independent Business):** On behalf of the Canadian Federation of Independent Business and our many members who sell tobacco products such as convenience stores and service stations, I am here to present our members opposition to the proposed regulations and policies surrounding The Non-Smokers Health Protection Act.

As many of you know, CFIB represents the interests of small- and medium-sized businesses in Canada and Manitoba. We have 102 000 members in Canada, 4700 in the province of Manitoba, so to begin.

It is important to state that CFIB agrees with the Government's main goal with respect to tobacco control, which is to keep youth from smoking. However, many of our members believe the Government's heavy-handed approach to ban the display and promotion of tobacco products will not prevent young people from smoking but instead create significant difficulties for small business. Rather than simply putting in place more restrictions on tobacco retailers, we believe the Government should consider making underage possession of cigarettes illegal.

I note the Government news release states the timing and details of the amendments will be determined after a consultation with business and other stakeholders. However, the information package sent regarding the consultation process clearly spelled out the details of how the legislation would be interpreted, implemented and enforced.

It is evident that this was not a true consultation with business, rather an information session on the amendments to the legislation. CFIB is extremely disappointed that government has not fulfilled its obligation and commitment to the business community by not having true consultation. Our members have expressed concern over the extra costs associated with rebuilding their checkout counters in order to abide by the legislation, which would ban all cigarettes from public view.

Many small businesses simply do not have the room to move their existing stock of cigarettes under the counter. This space is already occupied with computer equipment, other supplies to the cash register and often a safe.

Lacking the extra counter space, many businesses will be faced with storing the cigarettes in a separate room which raises additional concerns related to safety. The safety risk of clerks who will now have to retrieve cigarettes and leave the cash register unattended may prove to be a recipe for additional robberies and shoplifting. Business owners would not be able to afford to simply hire an additional employee to cover those employees who would

need to retrieve the cigarettes from the other room.

Overall, we believe the main impact of the requirement will be to give large tobacco retailers an added advantage over small retailers and have no beneficial effect on underage tobacco consumption.

CFIB surveyed affected members on the impact of the proposed amendments to the act. In addition, members were asked their views on the industry-led Operation I.D. program, whether the Government should compensate retailers for the costs associated with re-configuring counters and checkouts, and suggestions on how to reduce tobacco consumption by minors.

An overwhelming 88 percent of respondents felt that prohibiting the display and advertising of tobacco and tobacco-related products would have a very negative or somewhat negative impact on their business. Less than 5 percent stated it would have a positive or somewhat positive effect.

The following are comments from an open-ended question on the impact this legislation might have on business. These are taken right from our survey. Member comments: a loss of profit, sales and staff cutbacks. The Government has hurt the retailer enough; first an increase in the minimum wage and now this. What is next? The law in place now is working. There is limited space available to have the product nearby but hidden. It will be costly and inconvenient for us as well as the customer. Being a new business owner, I would have the added expense that I cannot afford. It would cause an increase in costs keeping cigarettes out of sight and an increased cost of staffing because the tobacco would not be handy. It would require us to again spend money on something that will be absolutely pointless.

The above sample of comments clearly indicates that the proposed legislation will have a negative impact on business in this province. In addition, it is evident business owners do not believe the changes will prevent minors from smoking.

Saskatchewan announced legislation that would ban all tobacco-related advertising, in-

cluding the elimination of the successful industry-led Operation I.D. In that province, industry-paid signage has been replaced with government created, tax-paid signage. Given that Manitoba has followed the lead of Saskatchewan in this legislation, the federation surveyed our Manitoba members to determine what impact a similar ban would have on their business. Over two-thirds, 68 percent of members surveyed responded that they participate in the Operation I.D. program.

The following are comments on what impact the elimination of this program would have on retailers: It would cause our business to incur extra costs for signage and developing training manuals. Very negative. This is an effective program as most youth have I.D. ready. It has become the norm. One less tool to help us prevent sales to minors. It would lead to more abuse of sales staff and increase the likelihood of businesses being fined as a result of lying customers. Staff would not be as focussed on refusing sales to minors. It would make it harder on young employees.

We believe the Government should be working with the private sector, not in opposition. By replacing or eliminating the Operation I.D. program, retailers will lose a successful tool for identifying minors. In addition, retailers will likely lose the tobacco advertising money provided by the industry.

The information provided by the Government related to the legislation indicates that retailers will not be compensated for the costs associated with meeting the legislated requirements. However, CFIB survey results show that over three-quarters, 76 percent of respondents felt the Government should compensate retailers for the costs associated with reconfiguring counters or checkouts.

The proposed changes to the legislation will come at a significant cost to retailers in this province, particularly small independent owners. Without some type of cost relief, many business owners will be facing financial difficulty. CFIB notes that the Government announced it will provide funding to municipalities to support nonsmoking by-laws, yet retailers have been left out of any funding provisions.

As a result of the amendments, retailers will be forced to incur the costs of retrofitting counters, will potentially lose industry-paid advertising and display allowance and will be forced to hire more staff. Government cannot overlook the financial implications the proposed legislation will have on small retailers in the province.

As noted above, CFIB recommends the Government make the possession of tobacco products by minors illegal. Member comments gathered from CFIB surveys indicate penalties or fines for minors caught in possession of cigarettes is a viable option. Others recommend that government ban the use of artificial flavouring and filters in cigarettes to allow smokers the true taste and effect of tobacco. Education is also viewed as an important component in preventing youth from smoking. Ultimately, it must be recognized that the Government cannot pass this burden solely on the shoulders of those selling tobacco products. As one member commented, we must make the Government responsible for policing, not retailers or minors who work part-time.

We are also concerned such legislation may prevent workers under 18 years of age from handling tobacco products. Given the significant shortage of qualified labour in Manitoba, this would exacerbate the problem and reduce employment opportunities for young people. CFIB urges government to consider the full implications of this legislation before adopting it.

\* (21:00)

It is important to note that CFIB members from across Canada are closely watching the outcome of this legislation. Many have called our Winnipeg office to raise their concerns with this new act, specifically prohibiting the display and promotion of tobacco. CFIB believes the proposed changes to The Non-Smokers Health Protection Act will only introduce additional irritants and regulations for the business community. CFIB has said for years that streamlining the regulatory burden is a low-cost way of freeing up business resources and enhancing competitiveness. Unfortunately, these amendments will do the exact opposite.

There are a number of unanswered questions related to this legislation. As government has not provided full or meaningful consultation, CFIB would like to raise the following questions and concerns:

Will it be a violation if a youth sees cigarettes that his or her parents are buying? How does a retailer show the product to a potential customer without breaking the law? Retailers are essentially playing the role of parents in this situation.

Will there be a time limit as to how long the customer can inspect the product before purchasing it?

Will youth under 18 be allowed to work in retail stores that sell cigarettes? If they are prohibited from seeing the cigarettes, are they prohibited from handling them while on the job? If so, this will have a huge impact on those youth that often find their first jobs in the retail sector.

For those retailers open 24 hours, it is unclear when they can restock their shelves without violating the law.

Retail outlets get extremely busy and cabinet doors may be accidentally left open for a few minutes for a few inches. Will fines be issued if this is the case?

Renovations will be costly and without merit as such changes will not curtail smoking amongst minors. Removing products from view will do little to affect the attitudes that minors have towards products. In fact, friends, family and availability of educational material are the key factors that influence the behaviour of young people.

Our next question was asking how long this will take to comply. I know that it has been passed to January 1, 2004.

Will government ban or replace the Operation I.D. program?

CFIB reminds government that the proposed amendments to The Non-Smokers Health Protection Act will have significant implications for business, particularly small employers. We

urge the Government to engage in meaningful consultation with the appropriate stakeholders before further pursuing this issue. It is clear that there are a number of unanswered questions that could have dire consequences for retailers. CFIB members have clearly stated they do not believe the proposed amendments will prevent minors from accessing tobacco products. Government should not be passing the sole responsibility of prevention on to employers, and should instead consider making it illegal for minors to possess tobacco products.

Lastly, CFIB notes that members of the tobacco industry in Saskatchewan have filed a lawsuit against the provincial government. It is their contention that this legislation is in violation of the Canadian Charter of Rights and Freedoms. The outcome of this case is sure to have implications for Manitoba legislation. Therefore, CFIB argues that this legislation is not only harmful to business but is inappropriate for the Manitoba government to be pursuing at this time.

There are a number of unanswered questions surrounding this legislation. CFIB urges government to address these concerns and fully consider the impact such changes will have on retailers in this province.

Thank you for your consideration.

**Mr. Chairperson:** Thank you for your presentation.

The next presenter is Noel Bernier. Mr. Bernier.

The next presenter is Liz Ostiguay, Canadian Cancer Society, with a written brief. Please proceed.

**Ms. Liz Ostiguay (Canadian Cancer Society):** I will not scare you with this, but I will get to it in a minute. Good evening. My name is Liz Ostiguay, and I am representing the Canadian Cancer Society. I want to thank the committee for allowing me the privilege to address a few comments tonight in the context of the review of Bill 37.

The society wishes to take this opportunity to acknowledge the efforts of the Manitoba

government to protect the health and well-being of your citizens, in particular, the youth of this province. When three of ten persons over the age of 15 are smokers, this places a tremendous burden on society. This supports the adoption of an aggressive tobacco control strategy to reduce the burden of smoking-related diseases in Manitoba and to protect children and others, the starters, to use the tobacco companies' terms, from advertising and other inducements to use tobacco.

The world-wide evidence that tobacco promotion increases consumption is overwhelming, and I would like to table for your consideration these documents, which summarizes the evidence that has been brought together by the Cancer Society. This may address some concerns people expressed earlier that you guys had not done your homework, so we brought you a little bit to look at.

I am here tonight to address the real impact of point-of-purchase displays and the role that such sales promotion plays in increasing tobacco consumption. The purpose of any corporation is to make profits for its shareholders. These profits are obviously connected to sales, and sales are increased by the implementation of marketing strategies. The basis of any marketing strategy is to influence the response of buyers. According to Marshall McLuhan the steady trend in advertising is to manifest the product as an integral part of large social purpose and processes, thus making the product more appealing. Fundamentally, marketing moves good from the producer to the consumer. This applies equally to tobacco companies as it does to car manufacturers, as it does to telecommunications companies. Companies promote, display, advertise, provide free trials for one reason and one reason only, to increase overall demand for their product.

Sales promotion plays a particular role in the overall strategy towards corporate profits. Authors of advertising a framework stated: Sales promotion is an extra incentive for a customer to make an immediate purchase. Whereas advertising creates awareness and brand preference, sales promotion closes the sale. Cents-off coupons, point-of-purchase displays, sweepstakes and other contests are examples of

sales promotion. Working in concert, advertising builds long-term brand loyalty while sales promotion acts as a short-term boost to sales. Restrictions in advertising has pushed the tobacco industry to place more emphasis on point-of-purchase advertising to achieve their corporate goals. Following the establishment of advertising restrictions in the U.S., the new president of Imperial Tobacco Canada, Mr. Bexon stated increasingly the store will be treated, not just as an outlet for volume, but as a targeted communication channel.

Marketing experts agree that point-of-purchase advertising is a tool that communicates directly to consumers. The tobacco industry contends that point-of-purchase advertising has no effect upon demand and is only used to influence brand preference amongst active smokers. A study by the point-of-purchase advertising international group found that specific in-store recall was highest when placed at the register, precisely where the tobacco industry pays for its space. This afternoon, I walked down from the cancer office to go get some gum, and, at the local convenience store, I hardly had any place to put my gum on the counter because there were packs of cigarettes, there were containers of tobacco for rolling your own cigarettes and back behind the wall was wall-to-wall cigarettes, a little bit of an impact.

The industry study also found that top-performing product categories for recall were carbonated beverages and cigarettes. This is not surprising as an accepted marketing principle is eye-level placement. By the way, Operation I.D. was above my head, so misses the eye-placement concept. An example of product placement is just around the corner at your local grocery store. Supermarkets consider that the choicest display is located at a level of 51 to 53 inches off the floor. The most profitable items and brands garner this most valuable position and manufacturers pay to have their products placed optimally.

Parents understand the impact of the eye-level candy display at the corner store or as you get to the grocery register. As you stand in line, you have the little kids saying, hey, mommy, mommy, get me a package of Smarties, please. One of us caves in from time to time.

\* (21:10)

In another point-of-purchase study looking at brand selection among teenage smokers, Doctor Wakefield and her group indicated that it is known that brand choices are usually made early during the life of a smoker, with a high concordance between the brand first smoked and the brand eventually selected as the usual brand. Tobacco company documents indicate that cigarette companies appreciate the significance of recruiting the young to their own brands. Research demonstrates that young smokers are three times more sensitive to brand share of tobacco advertising than older smokers, leading to the conclusion that competition between cigarette companies seems predominated by the battle of brands for market share among the young.

Smokers are fiercely loyal to their brands of first choice. According to experts, only one in ten smokers will switch brands in their lifetime. The argument that point-of-purchase advertising only influences brand choices contradicts proven marketing research. Those within the marketing community understand that point-of-purchase advertising is a sales promotion method that is highly effective at communicating with consumers and will increase net sales. In Canada, approximately one-fifth of the smokers are non-daily smokers. These individuals buying milk at a convenience store are presented with a vast display of cigarettes at the cash register. The power wall acts as a stimulus and could result in a purchase that, but for that display, would not have occurred.

Quitting smoking is extremely difficult due to the addictive nature of cigarettes and other tobacco products. Seeing this display might result in an impulse purchase and could be the difference between an individual being a smoker or remaining an ex-smoker. The most important benefit of restructuring point-of-purchase advertising is that it will eliminate a physical stimulus for young people. It will ensure that the overall smoking rate in Manitoba will decline, as virtually all smokers begin smoking before the age of 18. It is precisely at this time in a person's life when they are seeking independence that they are most vulnerable to societal influences.

Most people regret certain choices they made in their youth. All smokers regret their decision to begin smoking. This law is an important step to protect our youth from beginning to smoke. The tobacco industry contends that its point-of-presence advertising is only directed to current smokers. Imagine Pepsi arguing that it directs its advertising only at current soft drink drinkers. It is hard to believe that consumers of all ages are not influenced in some way by point-of-presence advertising every time they buy something at a convenience store.

ImpacTeen, a group from the University of Illinois, indicated in a study that there is growing evidence that cigarette advertising and promotion increases youth smoking, and that youth are more responsive to cigarette advertising than adults. Let us face it. Advertising works. It increases profitability. Money spent on marketing efforts ensures a satisfactory return, or there would be no advertising. Point-of-purchase displays are in-your-face marketing that encourages children and youth to experiment with and initiate regular use of cigarettes. It deters current smokers from quitting. It prompts former smokers to give in to temptation. It encourages consumption by serving as an external stimulus to smoke. Children are vulnerable. They are highly influenced by advertising, and they remember the messages. Young people use cigarettes as social crutches to deal with social acceptance and with adolescent stresses. They believe they will not become addicted.

According to a United Kingdom report, young people in particular should not be exposed to tobacco advertising or to the images associated with sports promotion or other forms of indirect advertising. These counteract public health messages, undermine proper understanding of the real size of the hazard, and promote the social acceptability of cigarette smoking. There is a societal responsibility to reduce the cultural significance of tobacco use in the eyes of young people. You have the power to make a difference and remove this influential tool from making its impact on the potential starters. Right now, in convenience stores, tobacco products have the same status as milk, bread and candy. Any type of cigarette

promotion implies that the use of cigarettes is desirable, presumably harmless, and adds to the cultural acceptability of smoking. The Canadian Cancer Society urges you to pass and implement Bill 37 as quickly as possible. I would also like to note that we have provided to the members of the committee to consider a few recommendations that might fine-tune the bill. Thank you for your commitment to the people of Manitoba.

**Hon. Dave Chomiak (Minister of Health):** As I have indicated, thank you for your presentation, and to all presenters, and we will also take a look at the item. I just alert all the members, there are some proposed amendments that are also part of the package. Thank you.

**Mr. Chairperson:** Thank you for your presentation.

The next presenter is Doctor Barwinsky, Manitoba Medical Association, Professor Emeritus, Department of Surgery, Cardiac Surgery, University of Manitoba. Please proceed.

**Mr. Jaroslaw Barwinsky (Manitoba Medical Association):** Mr. Chairman, ladies and gentlemen, first of all, I wish to thank you for the privilege to participate in this meeting today. My name is Jaroslaw Barwinsky and I am Professor Emeritus, Department of Cardiac Surgery, University of Manitoba. I am also a retired cardiac surgeon, after 38 years of clinical practice in this town. I also served on the executive, and then as the president of the Canadian Society of Cardiovascular Thoracic Surgeons. I am also a recipient of the Distinguished Alumni Award for the Alumni Association of the University of Manitoba. Tonight, I am speaking on behalf of the Manitoba Medical Association, which is really delighted to support Bill 37.

The Manitoba Medical Association is a professional association of physicians with the primary objective of helping, and I underline "of helping", to chart the direction of health care in Manitoba. We are active in health promotion and professional and public education for the benefit of all Manitobans. As the voice of organized medicine, we are an important source of information and opinion whenever health care is at issue.

I come here tonight to tell you that Bill 37 is a very important piece of public health legislation and deserves your unanimous approval. This bill will protect our children from tobacco company marketing and abuses. It will reduce smoking among children. It will also protect the future of health care budgets.

Let us be clear about what Bill 37 will accomplish. Bill 37 will reduce children's exposure to tobacco marketing. Retailers receive more money, over \$60 million, to promote cigarettes, which is more than any other advertising medium. Even before there were federal restrictions on advertising, tobacco companies paid more to retail this to promote their products than they paid to television and radio, billboard companies, newspapers or direct mail. Removing retail displays, like power walls, disarms tobacco companies from their most highly-valued way of advertising smoking.

Bill 37 will change the message that children receive about smoking. Because of this legislation, cigarettes will no longer be displayed around and behind a cash register in Manitoba stores that children enter. Cigarettes will no longer be shelved along benign consumer goods such as candy bars, chewing gums, batteries and film. This bill will require cigarettes to be handled at the retail level in a way more consistent with their inherent harmful effects.

Bill 37 will reduce tobacco advertising and will reduce smoking. Banning tobacco advertising is an effective policy to reduce cancer, heart and lung disease by reducing smoking. Studies by the World Health Organization and World Bank, mentioned today, that advertising bans work to reduce smoking and that total advertising bans work the best. The World Bank recently concluded that a comprehensive ban on cigarette advertising and promotion covering all the media and all uses of brand names and logos would reduce tobacco consumption by over six percent in high-income countries, and, I believe, we are one of these countries.

\* (21:20)

Let us be frank about what opponents of this bill merely want. During the course of this

legislation, I predict that you will hear suggestions from retailers and other businesses that will suggest that this legislation is headed in the wrong direction. I hope you will compare their suggestion with what we know to be a tobacco company strategy to avoid measures like Bill 37.

They will try to convince everyone that they have constitutional rights to free enterprise, irrespective of the nature of the enterprise. We all have constitutional rights, also, particularly, our rights to freedom, but none of us can or should be engaged in any enterprise that is definitely harmful to the others. My personal observations here today are that most of us present here tonight are either parents or grandparents, or probably both. If we really love our children and grandchildren the way we say we do, then we should support this bill wholeheartedly to protect our offspring from unnecessary harm resulting from tobacco use and to protect them from premature and painful dying.

I have circulated with these comments a copy of recent scientific articles from the American Journal of Public Health. Leading American researchers reviewed previously secret tobacco industry documents that were made public as a result of American court actions. Their review of nine tobacco industry document sites produced almost 500 documents relating to the youth smoking prevention programs of these multinational companies, including strychnine and nicotine in tobacco. This scientific paper found evidence that the tobacco industry's intention with these programs was to shift the focus away from its advertising policies and to place responsibility for youth smoking on parents' inability to control peer pressure, or even on the children themselves. It is a well-structured device.

I think you will find this article provides you with more than sufficient rationale to discount any proposals you hear tonight encouraging you to abandon a well-crafted Bill 37, and to reject any arguments which suggest that the industry-funded program like Operation I.D. are of any public benefit.

In addition, Statistics Canada reports that, today, there are almost a quarter-million Manitobans below the age of 14, about 238 000. If they smoke at the rate of their older siblings and parents, then 85 000 of these children will take up smoking, which is significant; 42 000 will be unable to overcome their addictions, and 21 000 of those kids will die 15 years earlier than otherwise expected, as a result of their addiction to tobacco.

It might not be realistic to hope that Bill 37 will create a world where none of these children start to smoke, but it would be irresponsible, in my view, if the Government did not follow through with Bill 37 and with other measures that protect children from tobacco industry marketing and help reduce tobacco use. With Bill 37 and with a re-invigorated tobacco control strategy, Manitoba, as a province, should be able to move from the highest-smoking province to the leadership role in public health.

Therefore, I urge you to pass this bill quickly, in as strong a form as possible. The Cancer Society and Manitoba Medical Association strongly supports you. Thank you.

**Mr. Chomiak:** Yes, again, thank you, Dr. Barwinsky, for taking the time to present us with this information.

**Mr. Chairperson:** Thank you for your presentation.

The next presenter is Teresita Tena of Garven Convenience Store.

**Ms. Teresita Tena (Garven Convenience Store):** Good evening everyone, good evening members of the committee. My name is Teresita Tena. I am here on behalf of my family and other families that have convenience stores.

*Madam Vice-Chairperson, in the Chair*

I have been operating the store for 20 years, and we are remitting \$3,000, average, a month to the Government of Manitoba. I want to let you know that my family depends solely on this convenience store for the past 20 years. I want to thank you for giving me the opportunity to voice my concern of covering the cigarette display.

Take, for example, my own family. As I said, we have been operating the convenience store for 20 years. I have four children, and they are exposed to cigarettes for all those years, but none of them smoke. So what I can say is this covering the cigarette display would not have any effect on the young children.

What I suggest is for you, members of the committee, to find a way for each member or a family unit should start the non-smoking, because these children, they copy what they see. Me and my husband do not smoke, so none of my children smoke. I have four of them. They are exposed to the cigarette display for 20 years, but none of them smoke. I am already 56 years old. My parents do not smoke, my uncle. No one smokes in the family. So they do not smoke. I am already 56 years old, but I never tasted a single puff of a cigarette.

That is why I strongly believe that this non-smoking should be started from a small unit, from the family itself, a single family, because what the children see is what they do. The parents that smoke, I believe 50 percent or 75 percent of the children smoke, too, because that is what they see. The parents are the role model for their children.

\* (21:30)

So I therefore suggest that the committee make an amendment to start from the family unit. There is none smoking by-law. If you approve that covering of the cigarettes and tobacco display, you are killing our honest way of living, our honest means of livelihood. Thank you very much. Thank you for the attention.

**Madam Vice-Chairperson:** Thank you, Ms. Tena, for your presentation.

The next presenter is John Tropak from Video Cellar. I do not believe he is here. He will drop to the bottom of the list.

The presenter, then, is Arlene Draffin Jones from the Manitoba Lung Association.

**Ms. Arlene Draffin Jones (Manitoba Lung Association):** Thank you very much for the opportunity to speak in support of Bill 37, the amendment to The Non-Smokers Protection act.

As you heard, my name is Arlene Draffin Jones. I am a registered nurse here in the province of Manitoba, and for the last 40 years, I have practised here non-stop. I have worked in health care facilities in the community, industry, business as a health educator, and, in the last 20, have spent almost my whole professional life working to try and help people who have suffered the effects of smoking.

In the Manitoba Lung Association, right now, I am the director of programs and community services, and much of our work is in advocacy education. We have heard about the need for it, and, certainly, we are prepared to help in that direction whenever we are called on, and we do it now. I think, though, that we have to realize that we have to pass this beginning legislation, and I am calling it beginning. From the Lung Association's point of view, we would be remiss not to even be present. Tobacco use is the single most important preventable risk factor in respiratory disease. Exposure to tobacco smoke can either be direct as a result of your smoking, or indirect as a result of maternal smoking in pregnancy, or exposure to environmental tobacco smoke when it is around you.

Whether direct or indirect, exposure to tobacco smoke contributes to asthma and chronic obstructive pulmonary disease, which we call COPD. You are all familiar with Peter Gzowski's fate in the last little while, and lung cancer amongst adults. Among children, we are looking at bronchitis, bronchiectasis, sudden infant death syndrome and infant respiratory distress syndrome. Therefore, tobacco prevention and strategies to reduce its sales must form the cornerstone of any effort directed at preventing respiratory disease.

Tobacco advertising is the major way that that happens. It can perpetuate the use of tobacco products in many direct and indirect ways. Advertising can entice non-smokers, especially young children. We have heard all those kinds of comments in young adults to experiment and initiate an addiction. But what about those people who are currently smoking and it recharges them every time they go through the cash register, people who have tried to quit or are trying to quit and it is a stimulus as they go

by, people who have quit and may be tempted because a new brand package looks rather attractive?

I was interested to hear that the pictures on the tobacco packages may dissuade people from smoking, but they have already bought it, and I can tell you from working with smokers for many years, after you have spent that many bucks, you ain't going to throw it away after looking at the picture, and that is a fact. They do not do it. They will say, well, I will just smoke this pack because I have already spent that money, and you can bet that they are going to go back again because all they need to do is smoke that one pack.

We also know that sometimes the very fact that it is there, and we have heard, again, when you are going through the cash counter it is the acceptability, the normalcy of seeing it there, along with products that we do need in our daily lives.

Tobacco companies have attempted to use different kinds of marketing tools. We have heard about those, but nothing beats the point-of-sale merchandising, packaging and pricing strategies. The whole idea of brand imagery, sponsorship and point-of-sale promotion is what works. The lifestyle approach, which promotes the positive messages about smoking and brand images, is tailored to fit the desired image of the customers, and it is often at that right level.

With the lifestyle approach, smoking is combined with healthy vigorous activities like racing, camping and sports. As I said, I have never seen a great big billboard like inside the cigarette packages, with the diseased gums and damaged lungs, and all the other things. I have never seen that kind of advertising at the display counter at the point of sales. We always see the glamorous ones and the healthy young people who are doing wonderful lovely things.

The tobacco companies argue that they do not target youth in their advertising, but in a national survey recently done, adolescents demonstrated a great deal of knowledge and awareness of cigarette brands and sponsorships, and, without prompting, the survey results showed that teenagers were able to recall five

brands immediately upon the question, and Players and duMaurier being named about 88 percent of the time. That comes from a study done by M. E. Goldberg called, "When Packages Cannot Speak: Possible Impacts of Plain and Generic Packaging of Tobacco Products."

So it is the position of the Manitoba Lung Association with regard to tobacco advertising, that since tobacco advertising has been demonstrated to increase the prevalence of smoking, especially among young children and young adults, that (1) all forms of advertisement and promotions at point of sale should be prohibited, and (2) that the proposed amendments to The Non-Smokers Health Protection act are implemented.

The Manitoba Lung Association supports all initiatives which will prevent the onset of tobacco use, assist in the cessation of smoking, and in the maintenance of remaining smoke free. Thank you very much. I am very privileged to have had the chance to share the Manitoba Lung Association's part in helping making Manitoba smoke free. Thank you.

**Madam Vice-Chairperson:** Thank you, Ms. Jones. I am going to ask leave of the committee to consider hearing from Mr. Kenneth Emberley, who is an elderly gentleman sitting at the front, who has been waiting and would appreciate being able to make his presentation now, rather than waiting, I believe he is last on the list. Is there leave of the committee to hear Mr. Emberley's presentation now? *[Agreed]* Thank you.

**Mr. Kenneth Emberley (Private Citizen):** Forgive me, ladies and gentlemen. This is a very amateurish brief compared to the beautiful presentations you have had tonight. But my first gut reaction was: Non-smokers Health Protection Amendment Act? Manitoba citizens' right to speak on legislation is a rare and priceless right, we appreciate it. We have a good law, working well. It is vitally important. It has not caused the world to collapse, which was forecast. Leave it alone. Lots of people are dying from smoking. Less people. Let us just leave it alone for a few years. Now, that was my original gut reaction.

Maybe you have got so many good presentations tonight, besides your own ideas. It

was a very wise thing to raise the subject. Maybe these hearings have been very helpful to you and will get some better action. So, maybe, my gut reaction was all wrong. There is no wrong in raising the issue.

A couple of things, I think, were forgotten. I wish they had told the 200 buildings with the most smokers to build a small plywood and stucco building on the roof with 12 inches of fiberglass on the walls and a room to smoke, and a room for a fan to bring in fresh air, and cool in summer and hot in winter.

I knew a woman whose daughter-in-law died from working in the Richardson Building, as secretary to four men, smokers, who left the cigarette smoking in ashtrays all day long. They killed her in nine years with second-hand smoke. So that is why they talk about smoking.

The next year, it became a non-smoking building. There is less of that now. We need a law to protect the waiters and the waitresses in bars where drinkers and smokers blow smoke for them to work and die.

\* (21:40)

Now, that is all of my presentation. I thank you for the opportunity to speak to you. This is an incredible Legislature venture and it has been exciting to hear all of the other briefs. Thank you for your courtesy.

**Madam Vice-Chairperson:** Thank you, Mr. Emberley, for joining us tonight.

The next presenter is Jerry Medina, the owner of Valour Convenience Store. Is Mr. Medina in the room? Excuse me, there was a written submission by Mr. Medina.

The next presenter is Jeff Kendel, Private Citizen. Jeff Kendel. Jeff Kendel's name will drop to the bottom of the list.

Young Park. Young Park? Young Park will drop to the bottom of the list.

Sanjiv Kaushal. Sanjiv Kaushal? His name will drop to the bottom of the list.

Margaret Bernhardt-Lowdon.

*Mr. Chairperson in the Chair*

**Mr. Chairperson:** Go ahead.

**Ms. Margaret Bernhardt-Lowdon (Heart and Stroke Foundation):** My biggest fear tonight in coming was that I would be unable to see over the podium. So I am on my tippy toes now. Hopefully, that will do that. I am fine, just a bit of levity. I will keep my comments short tonight because I know the night is probably wearing on for you.

As was said, I am Margaret Bernhardt-Lowdon, and I am representing the Heart and Stroke Foundation of Manitoba, where I have the role of the Director of Health Promotion and Advocacy. I would like to thank you for the opportunity of speaking with you tonight, and you need to know that the mission of the Heart and Stroke Foundation is to eliminate health disease and stroke in our province. We do that through education. We do that through research. We do that through advocacy. We would like to commend you for taking a leadership role in tobacco control in Manitoba. We think that Bill 37 will be part of an effective strategy to protect the health of Manitobans.

Tobacco is a burden. We know that tobacco use is one of the major preventable causes of disease, disability and premature death in our province and in Canada. We know that it has serious and widespread effects on the health of citizens and our economy. Tobacco use increases the incidence of all heart disease, all stroke and all vascular diseases. We know that, unfortunately, heart disease and stroke is still the leading cause of death in Manitoba, still the leading cause of death in Canada.

We also know that this year about 45 000 Canadians will die, 2000 Manitobans will die, because they have used tobacco products. We also know that Manitoba has the highest smoking rates in Canada. About a third of Manitobans smoke. We know those people who now smoke, that three million Canadians or approximately 76 000 Manitobans will die prematurely. The remaining group of smokers who do not die prematurely will probably go on to having to cope with a debilitating illness that severely reduces the quality of their live.

We also cannot afford, not just the social consequences of tobacco, we cannot afford the economic costs. The latest stats I have show that, in 1992, Manitoba spent \$354 million because of tobacco used. That is health costs. That is also indirect costs from lost productivity. Those stats are 10 years old. So you can imagine what we are spending now.

We also know, in terms of marketing, that children and youth are especially vulnerable to the type of advertising that make products desirable and highly visible. We know that openly displaying tobacco products in retail establishments has been shown to increase their acceptability and increase their use. We know that it also increases consumption. It decreases the desire to quit. It encourages people who quit the habit to start again.

We feel at the Heart and Stroke Foundation that the future of our youth is in jeopardy. Our kids are using tobacco at an alarming rate. We have got the second highest rate of tobacco use in Canada, 28 percent. The only one that is ahead of us right now is Québec, and they only have a .4 difference in that statistics. We also know that, of all the kids that we have got in Manitoba that smoke, 70 percent want to quit; 70 percent cannot. They have tried. We also know that, in time, our youth will go on to developing heart disease and stroke. We know that smoking will account for more than 50 percent of deaths before the age of 70 in our kids right now that are 15 and who smoke on a regular basis. So we feel we need to increase our focus on children and youth so that we can make a significant contribution towards preventing heart disease and stroke in our adult population.

Knowing what we know about the devastating effects of tobacco and how hard it is to quit, we have to take effective steps to prevent our kids from smoking in the first place. What we feel is necessary is Bill 37 but also other strategies that will help kids from stopping smoking in the first place. We know that the devastating effects of tobacco will continue to pervade Manitoba in the future, unless something can be done to reduce the use of tobacco. We know that any strategy that we use, in order to be effective, has to have a variety of strategies. Bill 37 would be just one of them.

We need to look at preventing smoking in the young and in adults. We need to protect people from second-hand smoke. We have to offer smokers smoking cessation programs that work, and we have to de-normalize this tobacco industry, and we have to de-normalize the use of tobacco in our society. We feel that Bill 37 will be an integral part of this strategic approach. It certainly will not eliminate all tobacco use, but it will make an important contribution.

In closing, I would like to thank you for inviting us to come and speak today. We feel that this has been a great opportunity that you have provided us with. Thank you.

**Mrs. Myrna Driedger (Charleswood):** Thank you, Margaret. A brief question. Do you think that all public places should be made non-smoking?

**Ms. Bernhardt-Lowdon:** Yes.

**Mr. Chairperson:** Thank you for your presentation. The next presenter is Fred Meinzer, Logan Gas and Car Wash. Please proceed.

\* (21:50)

**Mr. Fred Meinzer (Logan Gas and Car Wash):** Good evening. Thanks for giving me the opportunity to speak. I also had an opportunity to listen, and I am standing now for 12 years on that counter, selling everything, including tobacco, including smokes. I think the intent that the Government has to reduce smokers is good, but the way you go about it, officials, I say, is not good.

You had a lady here not long ago speaking. She says none of their family smokes. None of mine smoke. My wife does not smoke. We handle that tobacco every day, and we do not smoke, so the problem lies in the family that raises the kids and tells them how to smoke. The first step, as far as I can see, officials, would be to clear your schools. That is government property. Clear your schools with smoking. Instead of going to the school, you come to us retailers, and say, you bad guys, you have got to cover that. Maybe we are bad guys, but I can say that the point is, it has got to stop at home. You will not stop it by covering up, I can tell you that much.

Just like you cannot stop smoking marijuana. Marijuana, we do not sell it, but it is available and people pay \$7 for a cigarette. If you do not know, you know it now. To pay \$7 for one, or \$20 for six grams, if you want to know more. I know all these things, because I see it happen around me. They are not afraid to tell me.

There is another good example. We sell Lotto 649. We sell scratch tickets. Mom comes and buys scratch tickets. The child is maybe six, seven years old. She buys for the kid too. There you are. Same thing, mom comes and buys cigarettes for herself. She buys a package for her 15-year-old son. She gives it to him. Can I stop him? Can I say, you cannot have that cigarette? Many times, I feel like saying, Mom, this is ridiculous. It is enough that you smoke. Now you teach your kid to smoke. There is the biggest problem in our society. Mom smokes, and she passes it on to the kids. If we cannot clear the schools, we will not clear it with covering up. We will not clear it. We will not manage.

I am not smoking, and I am not promoting smoking. I am not. But I try to say this is our problem in our society, that mom and dad buys it for the youngsters and passes it on, and then the Government comes along and does not know how to cope with it and says, maybe if we cover up, we will solve the problem. I do not think so.

Now I am going to go one step further. We talk about clear air. That is what we had today, clean air. That is what we want. I operate a car wash. In my opinion, that car wash is a very dangerous place. People drive in to wash their cars and do not shut the motor off. I go there many times, sometimes, I even got beaten up, to tell them they have to shut off the motor because it is an inside unit, here. You cannot run the motor because you are putting out carbon monoxide. Not, yes, you get the shaft in the face and say, mind your own business.

In my opinion, these old cars that put out so much high carbon monoxide, they should be included in this clean air business. They should be checked every two years. If your car is using too much carbon monoxide, either you fix it or you take it off the market, because that carbon monoxide is more dangerous than smoking, much more dangerous. Yet, there is nothing

emphasized until today, where I have an opportunity to bring this to your attention. A car wash is a place where it should be on the driver's licence. As soon as people pass the driver's licence, they should know that when they come into an enclosed place, they have to shut off their motor. It is true, sir. I have been beaten up because I went and shut off the motor for somebody.

So clean air is not only smoking. You should include the car wash, too, despite I operate one. You can have the biggest fans. You can have the doors open. It is still carbon monoxide if they do not shut the motor off.

So I suggest you include in your clean air business the car wash education to the society. I want to suggest there should be a checkup more often on these old cars that burn oil like gas, every day a couple of litres almost, you can say. They put out lots of carbon monoxide and that should be taken off the market if you want clean air.

I say again, I am not saying that I promote smoking, but we sell it, and I would say if the Government can go ahead with the bill, would you compensate us for remodelling? Would the Government consider compensating, because that is quite a bit of cost involved? There is lots involved.

Okay, now I am going to stop here and I am going to come back. The lady, here, from the Heart and Stroke Association, she spoke, right. She says there is so many heart failures. Now, I have a cousin that died of a stroke. He never smoked. I know of a good salesman, he never smoked. I know of a good friend who had a stroke. He never smoked.

But this association, they take the whole lump sum and say, everybody that has a stroke is a smoker. It is not quite right, either. Then, this doctor, here, represented us and says, we have 240 000 children in Manitoba. We have to prevent them from smokers. I agree, but not all of them will become smokers automatically. A lot of them, their parents will prevent them from becoming smokers. So we are not going to have 240 000 people exposed. We may have 100 000 exposed, and even that is too much. But the

cover up system will not do it unless we find ways and means to educate the society. That is what I would like to say tonight. Thank you, gentlemen.

**Mr. Chairperson:** Thank you for your presentation.

The next item of business is we have a written submission from Glennys Fairbairn. Is there agreement of the committee to include this in the written transcript of tonight's meeting? *[Agreed]*

The next presenter is Myron Sleeva, Kern Park Shell. That name is dropped to the bottom of the list.

Bruce Thompson, Chair, Alliance for the Prevention of Chronic Disease. Is Mr. Bruce Thompson in the room? That name is dropped to the bottom of the list.

Dr. Garey Mazowita, Winnipeg Regional Health Authority and the College of Family Physicians of Manitoba. Mr. Mazowita. Please proceed.

**Mr. Garey Mazowita (Winnipeg Regional Health Authority and the College of Family Physicians of Manitoba):** Thank you very much. This really has been a wonderful education for me tonight. I have enjoyed it very much. I am speaking today as medical director of Community and Long-Term Care for the WRHA, and also representing the College of Family Physicians of Manitoba, and I have been asked to represent Nor'West community clinic and the Women's Health Clinic, as they were unable to send representatives.

I have not come to repeat all the studies and statistics that you have heard, which talk about the dangers of smoking, or to debate the impact of advertising. As a physician and an educator and administrator, I am utterly convinced of the danger of the former and the power of the latter.

Currently in our society, individuals are bombarded with health and safety information from sources of varying quality and credibility, and, not infrequently, there are disconnects between what we know and believe and learn, and how we act.

It is not unusual to overhear children saying, Daddy, why do they sell cigarettes if they are so

bad for you? These sorts of disconnects or inconsistencies of thought and action send very powerful lifelong messages to the young that often result in cynicism, with resultant lack of confidence in educators, in health professionals, in parents, in policy makers. At its worst, this can translate into an almost surreal world, and maybe we are there; where nothing is credible, anyone can make a claim, evidence is discounted, common sense is often absent, and where personal interest comes before societal interest.

\* (22:00)

Tonight, for example, it is okay to model the selling of cigarettes, because there are these awful warnings on the packages. I mean, I imagine a four- or five-year-old watching this occur, and having heard from the kindergarten and Grade 1 teacher how bad this is and there it is going on, and there are these warnings on the packages. Just image the somersaults that the mind of that child has to do, and how that becomes incorporated in their belief system and in their future behaviour.

The things that we, as a society, do or do not do in supporting healthy behaviour, through the translation of health knowledge and to consistent public policy, really will have a profound effect on the values and the actions of the young, as well as our aptitude for making informed decisions as adults. The young thrive on consistency. It helps to create a world for them that is founded on reality, evidence and coherency. This, in turn, translates into rational adult problem-solving skills, and, ultimately, one would hope that this results in a future society that is healthier in many, many ways.

There is no question that the acceptance of highly visible ads for smoking is a tacit endorsement of acceptability and even safety to the young. This is precisely the opposite message than the one provided by teachers, doctors, nurses, parents and others. I can tell you this as a family physician, having seen this in my office many, many times. The young simply cannot maintain these kinds of contradictory messages, and what they do is they choose one, and they invariably devalue the other, and for the young who make the wrong devaluation, it likely

will not be until later that they start to really accept the harmful course that they have taken, and by then, of course, they are addicted.

So it is not by having more MRIs or more hospitals that will most impact the health of our children and our grandchildren, but rather it is the way in which we choose to endorse ideas as simple as: We will not send our children mixed messages about dangerous behaviour. We need to support that with public policy. In fact, I suggest that this issue might be viewed as one of the many pieces of the elusive primary health care puzzle. We struggle with this, we talk about it. It really is a path to a healthy society, where all partners including health providers, educators, legislators, even retailers, have to affirm the value of basic health prevention strategies that are consistent as a way of preventing or minimizing future morbidity, and allowing our Canadian health care system to survive and, hopefully, to thrive. This simply cannot be accomplished without that consistency. Without that consistency, we cannot possibly have responsibility from health care consumers.

If we fail to do this, we will put more strain on the health care system that our children will be facing. We will continue to have smokers huddled outside hospitals. We are just not going to be able to sustain our health care system. This issue belongs to everybody, not just to health providers, but to all of us. That includes advertisers, retailers and policy makers. Someone once said that successful leaders must be out in front, but not too far out in front. This issue is no longer too far out in front. It may have been 15 years ago, but it certainly is not now. We, as a health-conscious public, who are really desperate to maintain a publicly funded health care system, are ready and eager for this bill. Thank you very much.

**Mr. Chairperson:** Thank you for your presentation.

**Mr. Denis Rocan (Carman):** I am intrigued by your presentation, sir. I do not expect you to be aware of the fact, but, and this is why I want to touch on this, you say something about, and I am trying to find it very quickly here. In the last

statements that you made, you made reference to being ahead of our time, that it is time.

**Mr. Mazowita:** Yes.

**Mr. Rocan:** I have introduced a bill in this House, Bill 204, to protect the health of non-smokers, if you will, with banning smoking in all public places. I guess what bothers me is when I get a minister of the Crown telling me that I am ahead of my time, and you just happened to make this comment. Am I ahead of time by introducing legislation, sir, that would ban smoking in all public places to help and to prevent these young people from attending your office?

**Mr. Mazowita:** I think—

**Mr. Chairperson:** Excuse me, I need to acknowledge you. Doctor Mazowita.

**Mr. Mazowita:** Thank you. Likely, the answer depends on who has asked the question. Speaking as a physician, you are not ahead of your time.

**Mr. Rocan:** Doctor, again, I ask you the question, sir, and I am assuming that you were in the crowd here a few minutes ago when there was an individual from the Heart and Stroke who brought forward the stats that there are 2000 people who will die every year because of the use of cigarette smoking. Is that a true statement?

**Mr. Mazowita:** Yes, it is a true statement. In fact, if I could just take a moment. One of the most distressing things to me as a physician is to have, and this is a common occurrence, smoking parents bring in a sick child, sick with asthma, sick with a respiratory illness, and to watch the hoops that they go through in trying to convince themselves that smoke has nothing to do with it. I mean, we see it over and over and over again. With all respect to the last speaker, absolutely, there are people who are not smokers who suffer from these illnesses, but you are just inundated on a daily basis with smokers who are experiencing the effects, the morbidity, the premature death. I mean, the gamut, the cancers, the respiratory disease, the heart disease, the gum

disease. So there is no question, second-hand smoke is not a good thing.

In fact, I did have some conversation with public health out in British Columbia when I was involved in making a presentation to City Hall. I spoke to their tobacco office there and they said, you know what, the public reaction is wonderful. The politicians are all getting re-elected who supported this, and this was designed as a workplace safety issue. So I phoned compensation here and, I think, the reply I got was, oh, those guys in B.C. are smoking those funny cigarettes again. So, you know what? You do have to be a bit of a visionary. It is easy to be skeptical, and, I agree. You cannot be too far out in front because society will only tolerate so much change, but I do not think there is any question that society is ready for this change, at least not in my mind.

**Mr. Rocan:** Thank you very much again, doc. I mean, I am getting a great dialogue with you because like you are reading my mind. I have to travel with my good friend, the doctor. I smoked two packs a day for 33 years. I travel with my good friend, the doctor. This good doctor supported my bill, as we were moving it through the House. You are right, sir. As, when I smoked my two packs a day for 33 years—my son, who has asthma really bad, but we were not smart enough to see it. I think of the times when I drove my car and my son sitting in the back seat having to put up with it. My son in the same house where we live where I smoked, but we were not smart enough. We go to a restaurant, sir. Again, the smoking.

If we had a law in place that would ban smoking in all public places, would we have been better off?

**Mr. Mazowita:** I am sure we would have. My grandmother had a little sign in her house that said: We get too soon old and too late schmart. As long as we get schmart, I think we are okay, eventually. I think it is coming. I think 10 years from now, this really will be self-evident, no brainer. People will say, why did you even argue about it. But it is like so many things. It is a question of timing.

**Mr. Chairperson:** We have run out of time. Is there leave for Mr. Rocan to ask one short question? *[Agreed]*

**Mr. Rocan:** Again, good doctor, you make reference to 10 years from now. We will be asking ourselves: Why did we even have this discussion? I want to say publicly, right here and now, sir, I will be searching you out because I have a commitment from this Minister of Health (Mr. Chomiak) right now that the bill that I am talking to you about, Bill 204, will remain on the Order Paper till the House comes back for the next session, hopefully, this fall. At which time, I am going to be searching out individuals such as yourself to support us in our endeavours to ban smoking in all public places. Do we have your support?

**Mr. Mazowita:** I will be proud to support both you and the minister.

\* (22:10)

**Mr. Chairperson:** Thank you for your presentation. The next presenter is Murray Gibson, representing MANTRA, Manitoba Tobacco Reduction Alliance.

**Mr. Murray Gibson, MANTRA, Manitoba Tobacco Reduction Alliance.** Good evening, and thank you for the opportunity to be here tonight and to present to you on behalf of MANTRA.

MANTRA is a newly formed, broad-based coalition whose main purpose is to reduce tobacco use in Manitoba. To put it on the table, so I do not get asked the same questions, we support all reasonable efforts to see that goal accomplished. That is our purpose in being here tonight. We are committed to support the efforts of government when they take steps to promote tobacco reduction, and, I have to say, to equally oppose them when we feel the measures taken are ineffective and purely politically motivated.

I am not here tonight because of a political agenda. We have no quarrel with retailers in our community, but I have to tell you we do take exception to the products and the practices of the tobacco industry. Again, let me repeat that I have no quarrel with the retailers who are here tonight, but I do take exception to the products and practices of the tobacco industry.

You have been faced with a very difficult evening, because, so many times we have heard:

I support the intent. What often follows it is: But not in my territory, please. Tonight I have just two questions that I am going to ask, very simple ones. I will direct them to whoever they may fall to. I think all of us around this table, even, need to ask ourselves some important questions.

My first question is this: Why do we allow this carnage? Why do we allow this wanton destruction of human life? This year, tobacco killed more Manitobans than motor vehicle accidents, drugs, homicide, AIDS, all combined. More than 45 000 Canadians die annually from smoking-related diseases. That just sounds like a nice statistic. Let me frame it for you. Let me try to put that into some perspective. That is a city like Brandon disappearing every year. That is like an airliner with 123 people leaving the airport every day, crashing, and no one survives, and it happens 365 days year. That is the kind of thing we are talking about when we talk about tobacco-related disease and deaths.

Could you imagine the public outcry if that happened every day with the airlines? We would move swiftly and definitively to rectify the problem. When we were threatened by West Nile virus or are, we moved quickly to protect the health of the citizens and to direct our energies to the source of the problem.

Several years ago in this province, when glue sniffing in our city reached what we believed was epidemic proportions almost, we quickly moved to control the problem. Yes. Glue and solvents are legal products, but they were quickly moved off our store shelves, put into locked cabinets and made available only to responsible adults.

I stand here somewhat ashamed tonight. More than 50 years ago, the Surgeon General in the United States was issuing health warnings about this product, and those of us who worked in the health care field, and in related health care organizations, have quietly gone about doing our job when it came to tobacco-related illnesses.

Oh, we educated the public. We diagnosed related illnesses. We treated where possible. We raised money for research in pursuit of the elusive cure. We listened patiently. We consoled families, and then we quietly stacked up the

bodies of the victims. I am ashamed of that. I am ashamed that it took us so long to ask ourselves that question: Why do we allow this carnage? We were perhaps silent too long. I think that is why you see so many of us standing here tonight, because we deal with this problem on a day-to-day basis, and we know that we have to do more—much more.

My next question to you is: Why do we put prosperity of a few ahead of the well-being of many? I stood in the Legislature not long ago, and every session of this Legislature begins with this invocation, and it goes like this:

O Eternal and Almighty God, from Whom all wisdom and power come, we are assembled before Thee to frame such laws as may tend to the welfare and prosperity of our province. Grant, O Merciful God, we pray Thee, that we may desire only that which is in accordance with Thy will, that we may seek it with wisdom, know it with certainty and accomplish it perfectly for the glory and honour of Thy name and for the welfare of all our people.

Here is the dilemma: sometimes that is an impossible task. It seems to me, at this point, we do not need to wait on that issue for the divine direction, because we have seemingly two contradictory things here, where we are talking about the welfare, and, in some cases, what some believe to be prosperity.

When you come to that dilemma in life, I think there is only one choice if you have to choose, and you must put the welfare of your people ahead of the prosperity aspect.

My next question: Why do we politicize matters of life and death? Any attempt to use this critical issue of tobacco reduction for purely political gain should be viewed as crass and uncaring. I have taken the opportunity personally to address my concerns about the seriousness of the tobacco issue to members of both the party in power and the Official Opposition. I would remind you that a poll of 36 Manitoba MLAs conducted in 1996, '97, let us go back there, not this current Government, but all MLAs were invited. Thirty-six of them responded, and you know what they said? Ninety percent of them said they believed that tobacco should be considered a hazardous product. We all said that, almost unanimously.

I would also remind you that the Health ministers from all across Canada agreed to the national tobacco control strategy, and whether Health Canada wants to live up to that or not, I happened to phone the other day and let them know, I believe it is something we must deal with; it is called denormalization, and it is defined this way: Educating Canadians about the marketing strategies and tactics of the tobacco industry, the effect the industries products have on the health of Canadians, in order that social attitudes are consistent with the hazardous, addictive nature of tobacco and industry products. Let us call it what it is. We believe that this is, in all, an opportunity before us with the tobacco issues, not just this one, but all of them, for all of us to live up to our commitments and also say under the de-normalization aspect to the tobacco industry, it is no longer business as usual.

Why do we not act responsibly? We often have heard that word tonight, about responsible. You know what it means? It means liable to be called to account; liable to legal review or, in the case of fault or to penalties, able to answer for one's conduct and obligations.

You know, I have heard of drinking responsibly, but I am not sure how you can smoke responsibly or, for that matter, I am not sure how you can promote this product responsibly. I am particularly disturbed, and I have to say this: That an association of drug-stores would align itself to support the promotion of the product that is so clearly hazardous to the health of those who use it. I find it extremely contradictory that an industry that is so connected to the health of the public would see no contradiction in a huge power wall of tobacco products at the front entrance of their facility, and then invite people to go to the back and receive their medications from behind the counter, often to cure the ills of what they are selling at the front. There is something wrong with that.

**Mr. Chairperson:** Excuse me. I need to remind the audience that our rules prohibit participating in the proceedings in any way, and, also, to remind the presenter that he has a time limit of 10 minutes. You have approximately one minute left in a long brief, so, maybe, you could jump to your conclusions.

**Mr. Gibson:** I would just ask you four "when" questions. When will the tobacco industry admit that tobacco is hazardous to the health of the majority of those who use it? They continuously try to avoid that. When will the tobacco industry admit that the advertising and promotional displays are intended to attract new business and drive consumption? You can read the stats for yourself. When will they admit that they target youth in their marketing to obtain new recruits, because 90 percent of this tobacco use happens amongst young people? When will the tobacco industry admit that it wants no controls exercised over it and cannot control itself? Read the little story that goes along with it. When will they act responsibly? I guess I know the answer to that question, and it is, probably, never. That is precisely why this legislation and other legislation and other remedial acts will need to be put in place to ensure that these kinds of industries are accountable and are responsible.

So I want to say in conclusion, tonight, pass this legislation. It is not the be-all and the end-all. It is one step, and, yes, there is a series of steps that need to be taken in a tobacco-control strategy. Everywhere that we have been effective with tobacco control, there has been a tobacco-control strategy that is comprehensive, and I want to encourage you to take this step and many more steps. Thank you.

**Mr. Chairperson:** Thank you for your presentation.

Is there leave of the committee to include a written presentation by William Libich as part of the transcript of this committee hearing?  
*[Agreed]*

The next presenter is David Scott. David Scott? Please proceed.

\* (22:20)

**Mr. David Scott (Private Citizen):** Good evening. Thank you for the opportunity to speak to you this evening and providing me with a chance to lend my full support to Bill 37. Actually, as a relatively new member of Canadian society, this is my first opportunity to play such an active role in a democratic process in my new country, so it is a proud moment for me.

To introduce myself, my name is Dr. David Scott. I am a scientist with many years of experience in researching the profound ill effects of tobacco smoke on the immune system. I work at the University of Manitoba, where I take seriously my responsibilities to educate future dentists and other health professionals about their responsibilities to promote tobacco control.

I do not think that any reasonable person can argue that cigarettes and other forms of tobacco are anything other than profoundly detrimental to human health. Therefore, I am not going to be standing here talking about how bad cigarettes are for you.

Rather, I would like to point out that the latest official statistics that I have had access to show that almost 30 percent of Manitobans smoke, and that, perhaps, this figure of almost 30 percent should be digested in relation with the statistics from other Canadian provinces.

Actually, Manitoba measures up very poorly, being comparable to the worst of the Canadian provinces. B.C., on the other hand, now has a smoking rate of 17 percent. This shows that discrepancy in tobacco use rates is by no means an accident.

To protect British Columbian children, B.C. has placed certain restrictions on tobacco advertising, in addition to strengthening laws banning sales to children. These restrictions are fundamental to the success of the overall anti-tobacco strategy in British Columbia. There is effective enforcement of the anti-tobacco laws. Tobacco retailers, who do contravene B.C. law, are subjected to heavy fines of up to \$5,000; long suspensions from selling tobacco products, up to 24 months; they must publicly display a notice stating that they are banned from selling products with the reason for the ban also stated; and it is also publicly listed by the Ministry of Health in British Columbia.

For your information, I am submitting to you access to a synopsis of B.C. strategy to protect kids from tobacco, along with this written transcript of my talk. I am also leaving the Web site for B.C.'s Tobacco Sales Act, and for a synopsis of its enforcement measures.

So is B.C.'s legislation effective? Well, B.C. has succeeded in reducing overall smoking rates

from 22 percent to 17 percent in only five years. So it is important to note that B.C.'s anti-tobacco legislation has been highly effective. It has resulted in reductions in the uptake of tobacco habits by British Columbian children, actually, a drop of seven percent in only three years, and has been awarded a prestigious award from the World Health Organization for its legislation and anti-tobacco strategies. It is also critical to note that since the introduction of the tougher legislation in British Columbia in 1995, retailer compliance rates with tobacco sales laws, with respect to sales to children in B.C., has improved from 65 percent to 90 percent. Therefore, B.C.'s legislation, which is similar to Bill 37, is effective legislation.

To change tactics slightly, I have noted certain important new studies that provide evidence that suggest that the tobacco industry in North America might be shifting advertising monies away from billboard advertising and aggressively using tobacco product retails to market cigarettes, and that a greater amount of cigarette advertising visible from the outside of tobacco retailers is associated with greater sales to children. I have left details of the publications that report these findings.

#### *Madam Vice-Chairperson in the Chair*

Furthermore, I would like to briefly talk about Health New Zealand that has recently evaluated New Zealand's existing anti-tobacco laws and its tobacco control strategies. New Zealand, as a country, has recently projected that a combination of political support for quit smoking campaigns, increased taxation and the elimination of displays of tobacco products on sale, and tobacco retailers, can theoretically half tobacco consumption in only three to six years.

So, back to Bill 37. If point-of-sales advertising were not successful in luring people to buy tobacco products, and, subsequently, into a life of addiction, then there would be absolutely no need for any opposition to Bill 37. In other words, the fact that there is opposition to Bill 37 can only mean that those opposing the bill must believe that tobacco advertising at the point of sale is effective. Therefore, the motivation to support tobacco advertising, i.e. to oppose Bill 37, can only be based on two major

premises: financial, i.e. a fear of loss of sales and revenue to retailers; or addiction, i.e. it is in the interest of the tobacco companies who are attempting to snare the next generation of nicotine addicts to oppose Bill 37. Both of these reasons to promote tobacco, I consider unacceptable.

As a member of the International Society for the Prevention of Tobacco Induced Diseases, I am organizing a conference that will bring experts in anti-tobacco war from all over this world to the province next summer. The society has been provided with letters, for which we are very thankful, from Glen Murray, from Premier Gary Doer, and from Manitoba's Health Minister, David Chomiak. In his letter to my society, Premier Doer refers to the recent laws implemented in Manitoba in order to provide children with a truly smoke-free environment. Thus, Manitoba is promoting itself on the back of these recently enacted anti-tobacco laws. I hope that Manitoba can provide a good example by taking the next step in this legislative agenda, started by Premier Doer's government, and enact Bill 37.

In closing, I just want to say that tobacco smoke is the world's largest preventable killer. What is sometimes forgotten is that those who do not die as a direct result of tobacco products are prone to a large variety of debilitating diseases, such as osteoporosis, non-fatal malignancies, lung diseases, impotency.

There is evidence that suggests point-of-sale advertising induces sales of tobacco, and evidence that strong legislation against the sales of tobacco products to children is effective. The children of Manitoba, including my own, cannot vote. They deserve our protection. So I am here to ask you, as a concerned citizen, to advise the Legislative Assembly of Manitoba to pass Bill 37.

I want to leave you with a quote from the Director-General of the World Health Organization, a Doctor Brundtland, who recently said: "If we do not act decisively today, a hundred years from now our grandchildren and their children will look back and seriously question how people claiming to be committed

to public health and social justice allowed the tobacco epidemic to unfold, unchecked."

We need to do our part in protecting society from the dangers of tobacco, including combatting the promotion of tobacco products by the tobacco companies. Please pass Bill 37. Thank you for listening.

**Madam Vice-Chairperson:** Thank you for your presentation, Doctor Scott. The next presenter is Shannon Pidlubny. I do not think she is here. She will drop to the bottom of the list. After that is David—*[interjection]* Oh, we did him. Excuse me. Sharon Boonov. Sharon Boonov will drop to the bottom of the list. The next presenter on the list is Sanjiv Kaushal. So he would be dropped to the bottom of the list. The next presenter is Joe Monaco. That name will be dropped to the bottom of the list. Gordon Anderson.

Welcome, Mr. Anderson. Please proceed.

**Mr. Gordon Anderson (Private Citizen):** I am just trying to get a drink of water.

Okay. My name is Gordon Anderson. I am a member of a minority group that is being persecuted almost out of existence. I am a smoker. I have been smoking for 64 years which is older than many of the people here who talk with authority about smoking who have never tried smoking. They do not know anything about it.

A lot of the hyperbole that you have been listening to—I mispronounced that on purpose. It is exaggeration of the actual facts. Most of these people believe what they are talking about, because that is what they have been taught, and it has been passed on.

\* (22:30)

Years ago, in the forties and fifties, I worked as a salesman door to door through Manitoba, Saskatchewan, Alberta, parts of B.C. and Ontario, and I knocked on almost every door. I met lots of lots of centenary—people over 100 and people in their nineties and that sort of thing, and in those days most people smoked, and in those days most of these old people smoked.

Now, if smoking was the poison that people say, I would have been dead long ago. Most of the people that told me that I was going to die if I did not quit smoking, they are dead. They are dead; they are gone. I am here. That is something I have never been given a proper answer to is, why are some people able to live despite smoking, while others drop dead at the sight of it? That is baloney. It is baloney.

The tobacco companies have been given a bad rap. They did not create the demand for tobacco. The demand for tobacco created the tobacco companies, in the first place. If it was not for the demand, the tobacco companies would not have existed. They grew out of small plantations supplying tobacco to traders that supplied them to other people. The pioneers, if they smoked, they brought a good supply of tobacco with them to roll their own cigarettes. There was no big cigarette suppliers. That is a modern invention.

So much of what I have heard tonight is hyper bull. It is real hyper bull. If you are really interested in people, you will not go causing trouble for small retailers and that sort of thing. I am not a retailer, although I did have businesses in the past. I understand something about business, and I know that it would be unfair. I would say, shame to you, if you pass this thing. I would say, shame to you. The persecution, the bigotry that is going on against smoking these days is unbelievable. I just cannot believe that so many people are so against smoking that they are willing to disregard the rights and freedoms of everybody else.

Why is there not a place where I can go and have a cigarette in this building without going out to the front? I have got a sore leg, a sore hip. I have got a pinched nerve, and I have to go walking all the way to the front to have a cigarette. Now, this is not right. Why are people forced to go outside in the middle of the winter? That is not right, especially older people, at least most older people.

I do not think that you are doing the right thing if you pass this legislation. It is absolutely wrong, in my point of view. It is a terrible thing; these people, they all believe in what they are doing. I am not saying that they are bad people.

They believe in what they say and what they do, but it is not the full truth. I disbelieve most of their statistics. I have done studies of my own for my own purposes back in the fifties, again in the sixties, and then, again, in the seventies, and I bet my life on my own results that smoking was not harmful to me, and it is not. I am still here, and most of the people that said I was crazy, they are not here. So I would urge you and plead with you stop the bigotry.

Do you know what people in the coffee shops say about you people? You would be surprised. I mean, in the places where you can still go and have a cigarette. I cannot use that kind of language here, but it is not as common as you think. Even people who smoke say that most of the things are ridiculous because they are propounded by young people who do not know what they are talking about.

Why do you believe so strongly that you have a right to snuff out my rights? You destroy my rights, you are destroying yours as well. You are destroying everybody else's rights when you do that. If you do not protect my rights, why should I protect your rights? Think about it. Think about it hard. Think about it really, really hard.

Those people with shirts on, that is hate literature, as far as I am concerned. That is real hate literature. The doctors that have signs up in their offices that say there should be a smoke-free society, that is hate literature. It should be stopped. That is the kind of thing you should be stopping, not having cigarettes on the shelf. Do you think that is going to make any difference? Do you think you are going to stop me from smoking just because you do that? You are not. The prices are sky high, yet I am still smoking. I will continue to smoke. Even if you make it illegal, I will organize people to fight you. I am not going to take this anymore. I will fight you.

\* (22:40)

I ran for mayor at one time. I did not win, and I vowed to have nothing to do with politics again, but this has got my dander up, and I will fight you if you continue to pull all these dirty tricks on smokers. You should have smoking facilities in this building. Why do you not have

smoking facilities in this building? Do you think there is no smokers in this building? If I ran for office today, would I be allowed to smoke in here? No. I mean, in the building. I mean, sure, I could go and smoke in the next room if you want me to, but to bar me from the building, that is real discrimination and that is terrible.

I have other things I wanted to say, but I cannot think of them right now. I am running out of steam, but I plead with you for the sake of the store owners. I have nothing to do with any of these store owners or jazz shop people or anything. I have nothing to do with the tobacco industry. I am a smoker. That is why I am here. I am against prejudice, and I have seen it run rampant. It should stop, and that is what I have to say. Thank you.

**Madam Vice-Chairperson:** Thank you, Mr. Anderson, for your presentation.

**Mr. Anderson:** Do you have any questions? Do you have any questions for me?

**Madam Vice-Chairperson:** I do not see any hands, Mr. Anderson. I do not believe there are any questions. Thank you for your presentation.

**Mr. Anderson:** Okay, thank you.

**Madam Vice-Chairperson:** Is there leave of the committee to have the written presentation by Bruce Thompson, the chair of the Alliance for the Prevention of Chronic Disease Inc., read into the record and accepted as a written submission?  
*[Agreed]*

I will now read the presenters that were dropped to the bottom of the list after being called one time. For those people, if they are now in attendance, please make themselves known.

Fern and Ginette Piche. No? They are now dropped off the list. Bryan Walton; Bryan Walton is now dropped off the list. Joe Brunner; Joe Brunner is now dropped off the list. Lissa Donner; Lissa Donner is now dropped off the list. Paul Moist; Paul Moist is now dropped off the list. Noel Bernier; Noel Bernier is dropped off the list. John Tropak; John Tropak is dropped off the list. Jeff Kendel; Jeff Kendel will be dropped off the list. Young Park; Young Park is

dropped off the list. Sanjiv Kaushal; Mr. Kaushal is dropped off the list. Myron Sleeva; Myron Sleeva is dropped off the list.

Bruce Thompson provided a written presentation.

Shannon Pidlubny; Shannon will be dropped off the list. Sharon Boonov; Ms. Boonov will be dropped off the list. Sanjiv Kaushal; Mr. Kaushal will be dropped off the list. And Joe Monaco; Mr. Monaco will be dropped off the list.

That concludes the list of presenters that I have before me this evening. Are there any other persons in attendance who wish to make a presentation? Seeing none, is it the will of the committee to proceed with detailed clause by clause consideration of Bills 31, 36 and 37?  
*[Agreed]*

Which order would you like to proceed with clause-by-clause consideration of the bills?

**An Honourable Member:** Numerical.

### **Bill 31—The Medical Amendment (Physician Profiles and Miscellaneous Amendments) Act**

**Madam Vice-Chairperson:** Does the minister responsible for Bill 31 have an opening statement?

**Hon. Dave Chomiak (Minister of Health):** No.

**Ms. Vice-Chairperson:** Thank you, Mr. Minister.

Does the critic for the Official Opposition have an opening statement?

**Mr. Glen Cummings (Ste. Rose):** Just a question. I do not think a bill of this nature should go through. I wanted to ask a question of the gentleman representing the physicians, but I will settle for the minister. There are a number of "mays" that seem to govern the action of this bill, No. 1.

Secondly, I think it went by, maybe, pretty quietly, but one of the presenters here tonight, certainly, recommended that the bill be strengthened and felt that there were issues, probably around providing further information

on the historic performance of physicians. I am not presenting an amendment at this time, but my concern is that the number of "mays" that govern this bill tell me that, on the one hand, I believe the principle of this bill is important that it be brought forward, but I have to believe that this looks like about a two- to three-year window before we will see any real action with this bill.

I would like to hear from the minister if he believes that we will see some movement towards enforceable regulations, because even the area of the regulation-making power is governed by "may" and I saw in the answers that we received this evening, in questioning Doctor Pope, that, perhaps, any recognizable standard will be a long time before it will be implemented. I would like to hear the minister's response to that before dealing with this bill.

**Mr. Chomiak:** The member raises some good issues. I think the Registrar of the College of Physicians and Surgeons indicated that the regulations were not prepared and he would prefer if the regulations were prepared. The member will know that is not always the case the way we do legislation. There is a variety of ways that legislation is done. It is true that this could be a protracted experience to get the bill in place. On the other hand, there are provisions in the bill, there are lots of "mays" and lots of non-mandatory provisions, but there is a catch-all provision, as I am sure the member has noted, regulation-making power contained within this act that does prescribe powers to the minister with respect to regulation. The minister does have the ability, whomever the minister is, through Order in Council, to make regulations. There is that ability within this bill.

It was made clear that there is not legislation of this kind in the country. We are proceeding ahead of the rest of the country. We are probably at the beginning of a wave that is moving across. The registrar of the College of Physicians and Surgeons talked about this issue of medical error, et cetera; and, as I indicated to the health critic, at the federal-provincial health ministers' meeting that I am attending in less than a month from now, one of the main agenda items is medical error. It is being led by the Minister of Health for Alberta.

This could be protracted. It is not our intention to have it protracted. We are moving

this thing along as quickly as possible, because, as the registrar of the College of Physicians and Surgeons indicated, this did come out of the Sinclair-Thomas report. We wanted to move quickly on it. We are pushing it, and we will continue to push it. We are trying to do it in a collaborative sense, because this is new legislation for this country. I hope that helps the member to understand—to clarify the bill.

**Mr. Cummings:** I thank the minister for those comments, and would only say that I can appreciate that a lot of discussion may still be necessary. I can also point out that, if the roles were reversed, I am pretty sure that there is a number of members on the other side of the table that would be on any minister who introduced a bill with this much of a window in it. The fact that this is a forerunner of legislation, I take the minister's word on that, means that I am prepared to accept that wide window of fulfilment. Beyond that, we will wait and see how it unfolds.

\* (22:50)

**Mrs. Myrna Driedger (Charleswood):** I would like to ask the minister if there is any consideration of putting mortality rates in there.

**Mr. Chomiak:** As the registrar of the College of Physicians and Surgeons indicated, the steering committee that is dealing with this bill has looked at the issue of putting mortality on. I have indicated, in response to questions in the Legislature, that it is a consideration. There is the ability within the regulations, within the act, to either have it added or, at some point, even have it mandated, if it is so desired.

**Madam Vice-Chairperson:** During the consideration of a bill, the enacting clause and the title are postponed until all other clauses have been considered in their proper order. Also, if there is agreement from the committee, the Chair will call clauses in blocks that conform to pages, with the understanding that we will stop at any particular clause or clauses where members have any comments, questions or amendments to propose. Agreed? [*Agreed*]

**Madam Vice-Chairperson:** Clauses 1 and 2—pass; clause 3—pass; clauses 4 to 6(2)—pass; clauses 6(3) and 7—pass; enacting clause—pass; title—pass. Bill be reported.

*Mr. Chairperson in the Chair*

**Bill 36—The Drinking Water Safety Act**

**Mr. Chairperson:** Bill 36. Does the minister responsible for Bill 36 have an opening statement?

**Hon. Dave Chomiak (Minister of Health):** No.

**Mr. Chairperson:** We thank the minister. Does the critic from the Official Opposition have an opening statement? No. We thank the member.

During the consideration of a bill, the table of contents, the enacting clause and the title are postponed until all other clauses have been considered in their proper order. Also, if there is agreement from the committee, we will call clauses in blocks that conform to pages. Agreed? *[Agreed]*

Clause 1(1)—pass; clauses 1(2)-4(2)—pass; clauses 5-7(1)—pass; clauses 7(2)-8(1)—pass; clauses 8(2)-9(1)—pass; clauses 9(2)-11(2)—pass; clauses 11(3)-11(4).

**Mr. Glen Cummings (Ste. Rose):** I would like the minister to expand on the issue of the potential staffing. This is a little unusual where we have a Minister of Health, and I understand why it is happening this way, so I do not need an explanation there. But it does create an interesting situation where we have two departments involved, and many of the employees who will be dealing with this are under the Department of Conservation. I quite simply wanted to know: Does the department expect to be able to staff up the requirements of this act any time within the next six months?

**Mr. Chomiak:** Yes, I believe we do. The requirements under some portions—some of these requirements do not necessarily, by the way, the Minister of Conservation who is more familiar with this than I is affirming it as well. To put it short, yes.

**Mr. Cummings:** I believe the Office of Drinking Water is going to have about 13 employees. So I will expect that, within the next four months, the Government will be able to demonstrate that they will, in fact, have

seconded or hired the employees to fill those positions. On those grounds, we will proceed then.

**Mr. Chairperson:** Clauses 11(3)-11(4)—pass; clauses 11(5)-13(1)—pass; clauses 13(2)-14(2)—pass; clauses 15(1)-16(2)—pass; clauses 16(3)-17(1)—pass; clauses 17(2)-17(5)—pass. Shall clauses 18(1) to 19(2) pass?

**Mr. Cummings:** Mr. Minister, when you are undertaking to provide regular testing of community water distribution wells, and I know that there are signs up that those wells are there for commercial use, not for domestic drinking or, occasionally, where they supply domestic drinking water. An example that has come to my attention, and I want it on the record, that this legislation may lead to some interesting situations. An example would be that where a boil water order is slapped on a domestic community well standpipe, that may be a very minimal coliform reading that causes that. The fact is that that can be caused by the hands of the previous person or touching the tank that was previously filled.

So I would suspect that the result of complete implementation of provisions in this bill will lead to boil orders all over the place in rural Manitoba. I not suggesting that they should not be there, but there is going to have to be an education process so that people understand that that boil order that suddenly shows up on their local well does not mean that it has, all of a sudden, been contaminated by the feedlot a half a mile down the road. It is, in fact, a better examination of quality of the water that is coming out of that standpipe.

\* (23:00)

I do not think that that comes as any surprise to the minister, but I did want to put that on the record because I have already had examples of where that has created considerable consternation in communities who are used to drawing water from public standpipe, for lack of a better term, provisions for water that they expect will be potable at all times, but, in fact, it can be contaminated by very minor activity, in some cases, simply by a person handling the distribution pipe incorrectly.

**Mr. Chomiak:** Just several points. Firstly, thank you for the comment. There will be a second test done with communication. Thirdly, there is a significant education component that will be rolling out with this. Fourthly, there are some significant boil water orders at present.

**Mr. Chairperson:** Clauses 18(1) to 19(2)—pass; clauses 20(1) to 20(3)—pass; clauses 21(1) to 23(3)—pass; clauses 22(4) to 25—pass; clauses 26(1) to 26(3)—pass; clauses 26(4) to 27(3)—pass; clauses 27(4) to 27(8)—pass; clauses 28(1) to 28(2)—pass; clauses 28(3)—29(2)—pass; clauses 30 to 31(3)—pass; clauses 31(4) to 32(1)—pass; clauses 33(1) to 33(4)—pass; clauses 33(5) to 36—pass; clauses 37 to 39(1)—pass; clauses 39(2) and 40—pass; clauses 41 to 44—pass; table of contents—pass; enacting clause—pass; title—pass. Bill be reported.

**Bill 37—The Non-Smokers Health Protection  
Amendment Act**

**Mr. Chairperson:** The next bill is Bill 37. Does the minister responsible for Bill 37 have an opening statement?

**An Honourable Member:** No.

**Mr. Chairperson:** We thank the minister. Does the critic for the Official Opposition have an opening statement?

**An Honourable Member:** No.

**Mr. Chairperson:** We thank the member.

During the consideration of a bill, the preamble and the enacting clause and the title are postponed until all other clauses have been considered in their proper order. Also, if there is agreement of the committee, the Chair will call clauses in blocks that conform to pages. Is that agreed? *[Agreed]*

Clauses 1 to 3—pass; clause 4—pass; clause 5—pass; clauses 6 to 7(2)—pass; clauses 7(3) to 9(2)—pass; preamble—pass; enacting clause—pass; title—pass. Bill be reported.

What is the will of the committee?  
Committee rise.

**COMMITTEE ROSE AT: 11:03 p.m.**

**WRITTEN SUBMISSIONS PRESENTED  
BUT NOT READ**

Re: Bill 31

Consumers Association of Canada, Manitoba Chapter (CAC, Manitoba) has a long history of providing balanced information on a variety of topics. Our organization distributes a quarterly newsletter and consumer alerts. We organize public meetings on topics that are often complex with the goal of giving consumers tools for making informed decisions. We act as representatives for the consumer voice within a wide area of issues, one of the most important being quality of health care. Our organization is pleased to support this legislation.

CAC Manitoba is a member of the Coalition for Access to Physician Profiles, because we strongly believe that it is both a right and a responsibility for consumers to participate knowledgeably in matters affecting the quality of their health care. We view physician profiles as an effective means to knowledgeable participation when interacting with a medical practitioner. That position has been supported by the public in every instance when accessible physician profiles have been a topic of public discussion.

As noted in the coalition's presentation, Bill 31 is consistent with recommendations contained in the recent Paediatric Cardiac Surgery Inquest Report; the 1994 Report of the Manitoba Law Reform Commission, Regulating Professions and Occupations and the Report of the Review and Implementation Committee for the Report of the Manitoba Paediatric Cardiac Surgery. CAC Manitoba supports the coalition's concerns, as stated in their presentation, that Bill 31 enables the College of Physicians and Surgeons to implement physician profiles. We believe that this should be mandatory to ensure continuity.

We also support the concerns, again, as stated in the coalition's presentation that Bill 31 does not ensure that physician profiles be easily and readily accessible to the public through a variety of means and physicians are required to report their concerns about the professional

competence of colleagues to the college for investigation.

In conclusion, the Government is to be commended for introducing Bill 31 at this time. The implementation of physician profiles is an important step in improving the health care system and CAC Manitoba will continue to actively support improvements to the system for the benefit of all Manitobans.

Respectfully submitted on behalf of CAC Manitoba

Gloria D'Sorcy, Executive Director

Marge Soper, Member, Health and Safety Committee

\* \* \*

Re: Bill 37

Dear Sirs or Madams,

I, along with my partner, own a small independent grocery/liquor vendor in rural Manitoba. I have looked into costs of having a new counter/cupboard made to hide my cigarettes and it will cost approximately \$2,000 or more. That may not seem like a lot of money to you but with my bottom line being stretched further and further it is another expense that I can ill afford.

I also have a concern for my staff's safety and myself as we will have to turn our backs on customers to get these hidden cigarettes. As one of my customers so eloquently said upon hearing of this new law coming into effect, and I quote: "Quick, hide you groceries, I may want to buy some."

People and kids will smoke if they choose to whether we hide the cigarettes or not, but that is their choice and hiding cigarettes is not going to change anything.

Sincerely,  
Catherine S. King, Co-Owner  
Dugald Convenience Store Ltd.

\* \* \*

As a retailer in Manitoba for over 25 years, I respectfully submit the following in opposition

to the proposed amendments to The Non-Smokers Health Protection Act.

It would seem the Government of Manitoba feels it is fitting and just that the retailers in this province should bear the financial responsibility for changes the Government deems may deter children and adults from smoking. There does not appear to be any research to indicate that the proposed solution to the problem – hiding the product from sight – will in fact result in any desirable results. If the Government is so sure this is the case, and that thousands and thousands will be "saved" then surely they will be willing to entertain the prospect of financing the consequences facing retailers if this legislation passes the House.

This Government and the Government of Canada continue to collect millions of dollars a year in tax revenue from tobacco sales. With the recent increase in tobacco prices this tax revenue skyrockets yet again.

So it appears governments continue to make more and more money from the sale of tobacco products, while this proposed legislation asks the independent retailer to bear added expense and loss of revenue. Where is the equality in this equation?

As you are well aware, tobacco companies currently pay retailers for display space in our stores. They also supply display fixtures. Personnel from the tobacco companies assemble and set up the fixtures and face up the displays. This results in revenue or at least \$1,000 per year. A lot of money for some of our smaller retailers.

With the proposed legislation it would seem the retailer is being asked to build a separate room, or at the very least new counter facilities to conceal the tobacco products. How can the staff we currently employ cover the counter and be available to go and fetch the product from off-site or thrash around under a counter while the customer waits? We will have to hire additional staff to cover the floor while staff fills tobacco orders. Distracted or absent staff busy with tobacco orders could well mean an increase in shoplifting.

This product is legal in Canada. If the Government does not have the wherewithal to

ban tobacco products completely, it at least has to have the good sense to let the retailers make their margin as well. Why should the retailer bear the brunt of renovations to premises that have already been renovated to comply with the last round of legislation, that of keeping all tobacco products out of the reach of the consumer and restricted behind counters.

Is the Government implying by this proposed legislation that they truly believe "out of sight, out of mind"? Do you really believe that if older children and teenagers do not see tobacco products they will not be interested and in fact forget they exist?

Sadly, the instance of drug abuse among the young people of our province continues to be a problem. Soft and hard drugs are not available at retail outlets, yet some of our youth want the product and continue to purchase same. "Out of sight, out of mind" certainly does not work in this instance.

When will all this stop, and we will be allowed to continue to serve the people of our communities unencumbered by misplaced bureaucracy.

\* \* \*

On behalf of Dominion News & Gifts, I would like to offer my opinion in regards to the amendments proposed to Bill 37, tobacco legislation, known by the public as The Non-Smokers Health Protection Act.

Here before us lies circumstances that could undoubtedly put some, many or all retailers in somewhat of a financial bind. Contrary to what the Government may think, removing cigarettes from plain view does absolutely nothing to prevent minors from taking up this particularly nasty and unhealthy habit. The popular expression out of sight, out of mind definitely does not apply to this particular scenario. Why you may ask? Here is the answer. When a minor takes a stroll up the street or goes for a leisurely stroll through the park, would he or she not be subjected to seeing people out on the street or in the park enjoying a cigarette? Would that not also be considered exposure to a proven toxic killer? So, whatever the retailers are forced to

do, I hope the Government realizes no matter what the underage crowd will always be exposed to cigarettes in some way, shape or form.

The retailers should absolutely not be bearing the brunt of the duties that the Government has decided to pass the buck on. How about this as a suggestion. Four billion dollars is collected in tax revenue from the sale of tobacco products. Why not contribute more than the amount of \$100 million to inform today's youth about the health problems that tag along when one smokes; presentations for elementary students to inform them when they are at a young and impressionable age. Once the elementary level has been informed, another presentation of facts and statistics should be brought to their attention once they arrive to middle school and finally high school. A three-step program which informs at different levels of their lives when they are most impressionable.

But then falls into our laps the Government idea that the retailers should be the ones with all the headaches and all the expenses, some which can ill afford a blow of that magnitude, not to mention the policing duties that come along with it. Not saying that retailers mind asking for identification. That comes with the territory and I think is a big enough contribution from the retailers. We will put more signs. Just do not ask us to dip into our already bare cupboards to make costly renovations that will not do anything but encourage theft, one among many other losses; J.F. tobacco allowance.

I implore for the Government to reconsider this ludicrous idea and try to find a solution that will not put the retailer in financial jeopardy, when there is billions of tax dollars available that are collected on tobacco revenue that could be put to use in discouraging the younger generation of taking up this unhealthy habit.

Our staff is well informed and up-to-date in the battle against youth smokers. I hope that the Government realizes we do want to be part of the solution and not a hindrance. We will do our part, but let us be reasonable in sharing the duties. Do not put it all on our backs.

Howard Maslove

\* \* \*

I am extremely concerned with your government decision to make changes to The Non-Smokers Health Protection Act. I know you believe it will butt out youth smoking. Instead, it will do nothing more than kill my corner store. As a result, many Manitoba businesses and their families will be devastated.

For you cigs are simply one more tax that feeds government spending. For my corner store, they are a core product that keeps us financially alive. At a time when many businesses are already in tough shape please do not pound another nail in our coffin. I urge you to rethink this negative decision.

Find a better way to butt out youth smoking. I do believe it will not help reduce the number of youth smokers in Manitoba. Rather, it will force retailers to hide cigs from public view and would result in costly renovations that would affect the profitability of small businesses.

Please do not kill my corner store.  
Valour Convenience Store  
Mr. and Mrs. Jerry Medina

\* \* \*

Please accept the following letter as our written contribution in the matter of deliberations of the Standing Committee on Bill 37.

The Canadian Council for Tobacco Control (CCTC) supports The Non-Smokers Health Protection Amendment Act.

The CCTC exists since 1974 as an umbrella organization for non-governmental organizations and individuals concerned by the tobacco epidemic in Canada.

In this capacity one of the Canadian Council for Tobacco Control's mandates is to manage the National Clearinghouse on Tobacco and Health Program on behalf of the federal, provincial and territorial governments as well as major non-governmental organizations such as the Canadian Cancer Society and the Heart and Stroke Foundation of Canada. In fact, the National Clearinghouse is the biggest and most comprehensive repository (library) of tobacco control documentation in Canada. The case for controlling and banning advertising tobacco products is well established.

Many life-saving medications cannot be advertised all together and can only be obtained through designated health care professionals such as doctors and pharmacists. We know of no other product other than tobacco that kills half its long-term users that does not fall under severe governmental limitations such as controls at point-of-sale and advertising restrictions. In the absence of measures to control the sale and promotion of tobacco products, it is the Manitoba health care system that carries the burden of tobacco-related disease and mortality at a time when human and technical resources are being stretched to the limit.

Considering these facts, the measures contained in the act could have been much more stringent, yet we note the positive provision in the act to include retailers in the advisory committee.

We congratulate the Government of Manitoba for the recognition of traditional use of tobacco by Aboriginal, spiritual or cultural practices or ceremonies.

Please be assured of our entire support for the implementation of The Non-Smokers Health Protection Amendment Act.

Sincerely,

Maurice Gingues  
Executive Director

\* \* \*

Small businesses are the backbone of the Canadian economy, and we are poor entrepreneurs, not investors. Our profit margins are very low, only about 6 to 7 percent, and we do not have enough cash flow for extra labour and renovation costs.

Hiding cigarettes is a safety risk. Leaving the till to go and get cigarettes is a recipe for shoplifting, robbery and maybe even death.

Hiding cigarettes will only result in increased curiosity of what is behind the closed doors. Kids will still know that there are cigarettes there.

All the studies that were done to link smoking with visual stimulation have already

been enforced on the packages. Now when any person looks at the cigarette display all they see is rotting teeth, black lungs, and other deterrents.

The laws on cigarettes should be the same throughout Canada, and should not differ from province to province.

The government gets 4 billion dollars in taxes every year. They should use more of this money on education and prevention.

I believe prohibition does not work, but precaution does. Rather than retailers doing these things, there should be emphasis on training parents and teachers to stop addictions.

It is obvious that there is a problem, but I think that it is even more obvious that Bill 37 is not the solution.

Hans Bhangu  
Pal's Supermarket

\* \* \*

Re: Bill 37

I own a small grocery store in St. Norbert, the very south end of Winnipeg. I have been in this business for twenty-two years now. This is not a business where you make a lot of profit, and we depend on tobacco sales to keep people coming into our small store. We keep our cigarette prices as low as we can and depend on the advertising allowances we receive from the three cigarette companies to compensate a little for our low prices.

If you bring in this new law and make me hide my cigarettes, the cigarette companies will no longer pay me to display their brands prominently, thereby taking approximately \$4,000 to \$5,000 right out of my pocket. When your income for the year is only \$20,000 to \$25,000 a year, that represents 20 percent.

We own our own building and pay a lot of money out on property taxes, gas, hydro, income tax. I am already paying out more in taxes than I bring in for rent on the two retail spots I rent out. Now you also want to take away my business. Telling me when and how I can advertise my retail goods is one thing, completely hiding them

from view is another. That is the whole idea of having a store, is it not? To display your goods for sale!

Right now 80 percent or better of our total sales are tobacco and cigarettes. You would effectively be putting me out of business.

I follow all the rules set out by the government, checking IDs of anyone I think is not 18 and refusing to sell to minors.

The recent increases in tobacco prices have already cut into my tobacco sales because people are quitting, which health wise is good, but now it has become really dangerous selling cigarettes. I get two orders a week, each containing between \$6,000 to \$8,000 worth of cigarettes. If we were to be robbed on delivery day, we would be out of business also, or physically harmed.

Hiding cigarettes from view will not deter young people from smoking. They see their parents smoking and their friends smoking and they try it. The only thing you can do is make smoking at all against the law and, like prohibition, you will find you cannot legislate what people do with their own bodies.

Please rethink this impossible legislation or you will find you will be tied up in court cases because, like me, small convenience stores, smoke shops, et cetera, will be suing for loss of business and loss of income. Instead of collecting taxes from sales and from the sellers of tobacco, you will be losing thousands by putting us all out of business.

To sum it all up:

- 1) This law will take money, my income, right out of my pocket by taking away display allowances we receive from cigarette companies.
- 2) This law will infringe my right to carry on my business by making me cover up my main retail sales product.
- 3) This law will probably put me out of business: taking 20 percent of my income right off the top; then by destroying my chances of making a living by selling tobacco; making the actual selling process so difficult hurting me.
- 4) This law will not deter even one young person from smoking.

5) It makes more sense to display the cigarettes with all their ugly warnings and labels to the people over 18, maybe causing them to quit smoking, than to hide cigarettes from little kids not old enough to buy cigarettes anyway.

6) I propose you pass a law making it illegal for young people under 18 to possess tobacco. Making it illegal for me to sell it does not help, if an 18-year-old buys smokes and then gives them or sells them to underage children.

Thank you for reading this note.

Yours truly,

Glennys Fairbairn  
Fairbairn's Foods

P.S. I managed to quit smoking myself 15 years ago. Advertising did not have anything to do with starting or quitting.

\* \* \*

Re Bill 37

Much has been discussed regarding reasonable regulation of tobacco products, especially with the recent Proposed Amendments to the Non-Smokers Health Protection Act in Manitoba. As a family physician continuing training in the field of Public Health, I have a strong interest in this issue. I support the legislation for many different reasons. The issue is complex and includes a number of opinions, facts, and agendas towards business and public health goals. I hope to offer an assortment of facts on the matter, as well as some of my own opinions and what I feel are logical arguments.

The World Health Organization recommends a complete and total ban on tobacco advertising. Many jurisdictions around the world and around Canada are considering legislation in this regard. The majority of Canadians support advertising restrictions on tobacco.

Retail displays are felt by many to contribute to impulse purchases, and weaken the resolve of many trying to quit. Such displays confer false images of acceptance of tobacco. As well, it is difficult enough to quite smoking without the extra pressure the displays provide.

### "Brandon"

The statistics are overwhelming. Each year about 45 000 people die from smoking related

illness. Consider what this means. This is the equivalent of a population the size of Brandon, Manitoba (just over 40 000 persons) being killed each year, every year.

A Canadian dies every 12 minutes of a smoking-related illness. And about eight out of every ten people who try smoking get hooked.

### Smoking in Children

The literature is ample for negative effects smoking has on children's health. It is not to be taken lightly. The following are a fraction of known examples:

- Long-term health consequences include respiratory effects: cough and increased frequency of asthma, chest colds and bronchitis;
- Heart disease and stroke: early signs of such found in adolescents who smoke;
- The younger people start smoking, the more likely they are to become strongly addicted to nicotine;
- Most young people who smoke regularly continue to smoke throughout adulthood;
- Smoking reduces the rate of lung growth and it can hamper the level of maximum lung function;
- Smoking hurts young people's physical fitness in terms of both performance and endurance;
- Smoking at an early age increases the risk of lung cancer.

### The Target Audience

One doesn't need to be a market researcher to know the displays you see at checkout lines are there for a reason. They are there to allow for impulse buys, and to act as reminders to consumers. I argue that the displays are seen by children and influence them, just as all we see and do has an effect on us.

One of the points the tobacco companies will try to sell is that displays don't affect the amount of cigarettes sold, but rather the type, and that they are only competing for market share. I don't believe this. However, EVEN IF

THIS WERE TRUE, it would STILL be wrong. To advertise to children in this way, or any way, is unethical.

The tobacco companies claim the displays are for targeting adults alone. Perhaps what we need to better understand these intentions is the concept of the "Magic Bullet" advertisement: displays and advertisements that are so creative and imaginative that they selectively target adults and yet remain completely invisible to minors.

### **Tobacco Companies and Statistics**

I have difficulty accepting the research or distortion of research by the "kinder-gentler" tobacco companies of today. As we all know, despite evidence to the contrary they claimed for years:

- smoking doesn't cause lung cancer;
- smoking is actually GOOD for you;
- smoking is not addictive;
- second-hand smoke is not harmful;
- children are not influenced by cigarette ads.

This amounts to a serious credibility problem with the public. When their sales are inversely proportional to the overall health of Canadians, you know something is wrong. And now, the tobacco industry will bring out "studies" showing that point-of-sale (POS) advertising only serves to increase market share, not total sales, despite intensive evidence in existence to the contrary.

### **"Smoking is the Result of a Person's Free Choice"**

This is one of the arguments often used against restrictions on cigarettes. Opponents of the bill may claim we are talking about adults exercising their right to choose. I'm starting to give this argument less and less credibility. Hypothetically, if I was to force someone to take heroin daily until they were hooked, and then try to get them to do something they would not normally have done, they may still have free will, but they are much more likely to do it. In this example the "forcing" is akin to the

tremendous peer pressure and social influences that, like it or not, play a tremendous part in a teen's decision to smoke. And likening heroin to one of the most addicted substances known to man, both physically and psychologically, is not a stretch of the imagination.

Some of the examples I have personally witnessed include:

- children as young as 15 trying to QUIT (I know there's even younger out there);
- a man with a heart attack in emergency, asking me to remove his IV so he could go outside for a smoke;
- malnourished youth on the streets of Toronto whose first question when we came by in an outreach van is "got any cigarettes?";
- soon-to-be-widows of dying smokers, continuing to smoke themselves (one of the strongest examples of the addictive potential).

Well over 90% of the adult patients I've seen either wish they could quite or wish they never started.

### **The "Freedom of Speech" Argument and Tobacco Advertising**

We are all aware that in some cases it's acceptable to restrict or suspend someone's right to express themselves, where the safety of the public is the greater concern. The old saying "No one has the right to yell fire in a crowded theatre" holds true. This applies especially in the case of our children, where countless examples exist where we limit what can be said or displayed to them.

The Ontario Court of Appeal has stated that the display of goods and ware is NOT a form of expression guaranteed by the Charter. And yet the tobacco companies deny concerns with a situation that has children advertised one of the most dangerous substances known to man. This is made to appeal to them, in just about every store you can go into.

### **Public Health Crisis**

Many examples exist where, due to public health concerns individual, so-called "freedoms"

can succumb for the greater good of society. For instance, most jurisdictions do not allow individuals to ban mosquito fogging on their private properties when concern exist about virus-carrying insects. This proposed legislation, in my opinion, is removing an even SMALLER freedom for a MUCH LARGER benefit.

### **Retailers: Profit Before Health?**

You're hearing from respectable retailers with strong work ethics, who often have a genuine sense of responsibility towards the community they live in. They claim social responsibility and many retailers certainly exhibit it as shown when they enforce the showing of ID by consumers.

With respect to the retailers here tonight and the ones in Manitoba, I am going to state the following: My biggest concern is NOT the loss of business they might suffer as a result of the new law. What I mean by that is: if this is the RIGHT decision to be made, to protect children, financial gains or losses are irrelevant.

I doubt the proposed measure is as costly as it's being made out. I do not think that any business is going to suffer irreparable damage as a result. If a retailer, is worried, merely increase the price \$0.03/pack. How is this figure derived? The Canadian Cancer Society estimates a total of \$6 million annual revenue from tobacco-company-sponsored displays in Saskatchewan. Divide this by 2 billion packs of cigarettes sold each year, equaling 3 cents a pack. Surely this cost alone can be recovered by retailers either raising the price a few cents a pack, or placing other merchandise in the cigarette displays, or both. How could 3 cents per pack spell the difference between success and failure of a business?

Retailers claim to be proposing other solutions to reduce teen smoking. These can be used with, not instead of, the legislation, and I would welcome discussion on these proposals.

If legislation results in business closure, which I doubt, perhaps businesses were artificially in business to begin with if needing to rely on such potentially damaging practices to stay afloat.

Does the bill work to "break the law" regarding the spirit of the federal tobacco law, as

has been claimed, by "hiding" warnings on cigarettes? This argument is ridiculous and groundless. But if retailers are truly that socially conscious, simply post health warnings without cigarettes being displayed. I could lend them the posters.

Will the legislation lead to job losses, loss of tax revenue, etc . . . OR due to less competition for cigarettes amongst manufactures, will we see higher tobacco prices and more income for retailers? It's difficult to predict such a complex issue. Finally, with this and other smoking control initiatives in place I would speculate an eventual overall benefit to the business community through a drop in business taxes once health care costs are stabilized through a decrease in smoking rates.

### **Will the Legislation Increase the Illegal Tobacco Trade?**

Will this increase minors accessibility to illegal products, as retail outlets argue? I don't know. This is always a concern. But not enough of one to stop the progression of humanistic legislation. The same argument could be said of the "Operation I.D." program, causing a loss of revenue for retailers and causing minors to buy more illegal cigarettes, and yet retailers support his initiative.

I personally feel legislation such as this may result in FEWER teen (and later adult) smokers to fuel the illegal trade. There IS an illegal trade, and teens will certainly continue to access it for tobacco as long as they are being advertised to.

### **The Tobacco Industry**

As a general rule of thumb, when the tobacco companies start bringing out their lawyers, you know you're doing something right.

If marketing does not contribute significantly to the decision to smoke the tobacco industry has yet to explain why it has spent billions of dollars in advertisements over the years, much of it directed toward children. The tobacco industry will continue to lose credibility the longer it claims that advertising in any form, including retail displays, does not encourage smoking. The fact that it sees no problems with advertising to children is

disturbing to say the least. To say that tobacco is a legal product and therefore should not be strongly restricted is ignorant and misleading.

A contradiction exists. Tobacco companies claim displays don't increase total sales. Retail outlets claim to be quite fearful of a loss of total sales. Who's correct? MY biggest concern is a loss of life later on due to children encouraged to smoke from the advertising component of these displays. In my view, you don't have to decide who's telling the truth. Health before profits.

### Conclusion

Everyone has their biases. I'm no exception. But I urge you to do what's right. **This is the single biggest public health crisis that exists.** The proposed legislation is the next step in fighting this battle. Should we wait to see other jurisdictions act? Instead of following others' leads, let's be leaders ourselves.

Be concerned about the health of my fellow citizens. As our elected officials you have a unique opportunity, power, and responsibility to help bring about this change. I urge you to act. Thank you.

William Libich, MD, CCFP

\* \* \*

The opening words of the preamble to Bill 37 says it all: "Whereas there is conclusive evidence implicating tobacco use in the incidence of numerous debilitating and fatal diseases;"

It was the conclusiveness of this evidence even back in early 1998 which led to the founding in that year of the Alliance for the Prevention of Chronic Disease by six organizations representing five major chronic diseases: cancer, cardiovascular disease, diabetes, kidney and lung disease. The founding organizations representing these diseases in Manitoba are today Manitoba Lung Association, Heart and Stroke Foundation of Manitoba, The Kidney Foundation of Canada (Manitoba Branch), Canadian Diabetes Association (Manitoba Region), Canadian Cancer Society (Manitoba Division) and CancerCare Manitoba.

Some of those organizations are presenting here this evening.

Tobacco is recognized as constituting a direct or indirect risk factor for all of the diseases represented by these organizations. Focussing on cancer alone, smoking is responsible for about 30% of all cancer deaths and accounts for about 85% of all new lung cancer cases. Tobacco consumption is also related causally to cancers of the mouth, larynx, esophagus, bladder, kidney and pancreas. About 25% of cases of colon cancer can be attributed to smoking for 30 or more years. Smoking and exposure to environmental tobacco smoke causes more than 80% of all chronic obstructive pulmonary disease.

So there is really no question that tobacco is a hazardous product; if tobacco is used in the manner that those who produce it recommend, it kills people. Were the tobacco companies to be faced with obtaining government approval for consumption of their products today, they could not do so. However, in today's imperfect world, tobacco is a legal product which businesses have the right to sell, subject to such restrictions as governments may be brave enough to impose. Still, tobacco must be recognized for what it is—a hazardous product—and treated as such. And just as any other equally hazardous product, tobacco should be: (1) kept out of general view, (2) safely stored and (3) sold only to those who have reached the age of discretion, if that is indeed a term that can be used in relation to anyone's decision to smoke.

The last two of these strictures would seem to be beyond dispute—the safe storages of tobacco and prohibition of sales to minors. The importance of keeping tobacco products "out of general view" may require further consideration. The display of tobacco products actually constitutes a form of passive advertising. Amongst regular or "seasoned" smokers, there is significant brand loyalty; they do not need the visual stimulus of a tobacco display to persuade them what to buy. They have their brand preferences and that is that. It is, however minors (adolescents and children) who have been found to be most susceptible to displays of different brands. And it is during the teenage years that brand choice is made, with brand

loyalty of 18 year-olds far outweighing any tendency of smokers to switch brands at later ages. It is the young, therefore who are principally being targeted by the passive advertising of the display of tobacco products. This is what in part Bill 37 seeks to eliminate.

In answer to the convenience and other small-store owners who are present in opposition this evening, I would suggest that it would seem unlikely that the removal of tobacco from public display will affect sales to regular smokers. Their habit is too deeply rooted.

There is a very useful article in the literature entitled "Changes in the Cigarette Brand Preferences of Adolescent Smokers" –United States 1989–1993, published in the August 19, 1994 issue of the Centres for Disease Control and Prevention ("CDC") *Morbidity and Mortality Weekly Report*. A copy is attached to this submission as a schedule. As stated in the article, "Increases in adolescents' brand preferences was not explained by a change in the market share for Marlboro versus Camel. Rather, it reflected variability in brand-specific advertising expenditures" by these two companies. And the article concludes that teens are more likely than adults to smoke the most advertised cigarette brands, in this case Camel rather than Marlboro.

The financial consequences of removing tobacco products from public view is the concern of many of those presenting here this evening. There is no more powerful location in a retail store for product display purposes than at the check-out register. Here people have to stand and wait, often for extended periods and, of course, gaze at competing brands of tobacco products. Some large chain stores (such as Superstore) have already removed tobacco from this prime location, at whatever financial cost. Tobacco products are, however often displayed at this location by smaller merchants as well.

Tobacco companies may make extra incentive payments to persuade merchants to more favourably display their products, whether at check out locations or otherwise. It is, however unlikely that the overall volume of sales of tobacco products will decrease if tobacco products are no longer visible, as

required by Bill 37. While tobacco companies are in competition with each other and competitive marketing issues should not be confused with brand recognition, the more likely result of the public display of tobacco is (1) to entice the regular smoker to buy more (a carton rather than a pack); (2) to tempt ex-smokers to return to smoking; and (3) to reinforce in minors the importance of tobacco purchases as part of normal adult shopping practices. It is for these reasons as well as others that the Alliance supports the suppression of public display of tobacco products.

The Alliance sees Bill 37 as an early stage of what we hope will become our provincial government's comprehensive tobacco strategy. Health organizations and charities with which we are associated no longer expect a "business as usual" approach from government when it comes to tobacco, so many lives being at stake due to tobacco's harmful effects.

The tobacco issue is really a moral and an ethical one, rather than a financial one—at least it should be. In supporting Bill 37 this evening, in spite of contrary arguments presented, the Alliance takes the position that any measures that are likely to reduce tobacco consumption, particularly among young people and those who are attempting to quit smoking, must be encouraged. If in fact the financial effect of the passage of Bill 37 would be to reduce the profitability from tobacco sales for some, this is a consequence that must be endured in the interests of the better health of the greatest majority of our community.

We do after all have a particular problem in Manitoba. Not all of you may be aware that in 2001, the Manitoba rate of current smokers—28%—was the highest in all of Canada, which stood at 23%. Manitoba's current smoker rate for males aged 15-24 is 32% (females—38%). The 20-24 year age group has a current smoker rate of 44% for both sexes. These numbers appear to be increasing in Manitoba while they are declining in the total Canadian population.

Incidentally, I have been quoting a number of facts, figures and statistics at you this evening and not bothering you with supporting references. Anyone seeking such references

should contact Ethel Hook of the Alliance, who is appearing with me this evening, and to whom I would suggest that any questions from members of the Committee might best be directed.

I should say before closing that I am myself a partner of a Winnipeg area convenience store, which, in common with all other such stores in the City, conducts a brisk trade in cigarettes. It could therefore be quite contrary in interest for me personally to be making this presentation, but I do so in the strong conviction that while some people will continue to smoke whatever governmental restrictions are imposed upon this undesirable practice, they should not be encouraged to do so through advertising, whether product display or direct. Direct advertising, is of course an entirely different issue with which we are not dealing this evening.

I have had an opportunity to review the amendments that have been proposed to Bill 37 by, I believe, Canadian Cancer Society, and these I understand have also been distributed to members of the Committee. The Alliance wholeheartedly adopts all of the proposed amendments in principle but is not convinced that the present environment is such that all of them should be adopted at this stage. I make reference in particular to the suggestion that

#### **Changes in the Cigarette Brand Preferences of Adolescent Smokers -- United States, 1989-1993**

Approximately three million U.S. adolescents are smokers, and they smoke nearly one billion packs of cigarettes each year (1). The average age at which smokers try their first cigarette is 14- 1/2 years, and approximately 70% of smokers become regular smokers by age 18 years (2). Evaluating the changes in the brand preferences of young smokers can help identify factors that influence adolescents' brand choice and may suggest smoking-prevention strategies (3,4). This report examines changes in the brand preferences of teenaged smokers from 1989 to 1993 using data from CDC's 1993 Teenage Attitudes and Practices Survey (TAPS-II) and comparing them with data from the 1989 TAPS.

there be a total ban on tobacco vending machines and that tobacconists not be exempted from the application of the product display restrictions of Bill 37. I doubt that we have reached the stage that either of these amendments would find general acceptance. I wonder also if we are not reaching too far into home life should we attempt to remove from Bill 37 the concept of exemption of a parent or guardian of a child supplying tobacco to the child in a non-public place, i.e. the home. Paraphrasing Pierre Elliot Trudeau's famous admonition, "The government has no place in any of our living quarters, including the bedroom." Additionally, of course, the difficulties of enforcement are prohibitive.

With these reservations however, the Alliance does support the proposed CCS amendments in principle and most of them for adoption just as proposed.

All of which, Mr. Chairman, Honourable Ministers and members of the Standing Committee on Law Amendments, I respectfully submit to you on behalf of the Alliance for the Prevention of Chronic Disease.

Bruce S. Thompson, Chair  
Alliance for the Prevention of Chronic Disease Inc.

For TAPS, data on knowledge, attitudes, and practices regarding tobacco use were collected from a national household sample of adolescents (aged 12-18 years) by telephone interviews. For TAPS-II, interviews were conducted during February-May 1993. Of the 9135 respondents to the 1989 TAPS, 7960 (87.1%) participated in TAPS-II (respondents were aged 15-22 years when TAPS-II was conducted). \* In addition, 4992 (89.3%) persons from a new probability sample (n=5590 persons aged 10-15 years) participated in TAPS-II. Data for the 12-18-year-olds in each survey were analyzed (n=9135 for TAPS; n=7311 for TAPS-II). Because numbers for other racial groups were too small for meaningful analysis, data are presented for black, white, and Hispanic adolescents only. Data were weighted to provide national estimates, and confidence intervals (CIs) were

calculated by using the standard errors estimated by SUDAAN (5). Adolescent current smokers \*\* were asked if they usually bought their own cigarettes, and if so, which brand they usually bought.

Of the 1031 current smokers aged 12-18 years interviewed in 1993, 724 (70%) reported that they usually bought their own cigarettes; the brand they usually bought was ascertained for 702 (97%). Marlboro, Camel, and Newport were the most frequently purchased brands for 86% of the adolescents (Table 1). Marlboro was the most commonly purchased brand for both male (59% {95% CI= plus or minus 6.0%}) and female (61% {95% CI= plus or minus 5.8%}) adolescents; the second most commonly purchased brand among males was Camel (16% {95% CI= plus or minus 5.0%}) and among females was Newport (15% {95% CI= plus or minus 3.9%}). Marlboro was the most commonly purchased brand among white (64% {95% CI= plus or minus 4.3%}) and Hispanic (45% {95% CI= plus or minus 14.9%}) adolescents; black adolescents most frequently purchased Newport (70% {95% CI= plus or minus 14.1%}). Younger smokers (aged 12-15 years) were more likely than older smokers (aged 16-18 years) to buy Newport and less likely to buy Marlboro; purchasing frequency for Camel cigarettes was similar among all adolescents.

Among adolescents nationwide, Marlboro was the most commonly purchased brand (Table 1). However, by region \*\*\*, Camel was most commonly purchased in the West (27% {95% CI= plus or minus 10.8%}), and Newport, in the Northeast (30% {95% CI= plus or minus 8.8%}).

From 1989 to 1993, substantial changes in brand preference occurred among adolescents (Table 2). The percentage of adolescents purchasing Marlboro cigarettes decreased 8.7 percentage points (13% decrease), the percentage of adolescents purchasing Camel cigarettes increased 5.2 percentage points (64% increase), and the percentage purchasing Newport cigarettes increased 4.5 percentage points (55% increase). These changes did not completely correlate with changes in overall cigarette market share during 1989-1993. During

this period, the overall market share for Camel and Newport remained nearly unchanged, but the overall market share for Marlboro decreased by 2.8 percentage points (11% decrease).

For Marlboro cigarettes, the decreases in brand preference were greatest among white adolescents, younger smokers, and adolescents residing in the Northeast, Midwest, and West (Table 1) (6). Increases in brand preference for Camel cigarettes were greatest among white adolescents and adolescents residing in the Midwest and West, and increases for Newport cigarettes were greatest among younger smokers and adolescents residing in the Northeast.

Reported by: D Barker, MHS, Robert Wood Johnson Foundation, Princeton, New Jersey. Office on Smoking and Health, National Center for Chronic Disease Prevention and Health Promotion, CDC.

#### **Editorial Note**

Editorial Note: Because cigarette sales to adolescents constitute a small percentage of the total market, overall market share can only be used to estimate the brand preferences of adults. TAPS and TAPS-II indicate that brand preference is more tightly concentrated among adolescents than among adults. In both surveys, at least 85% of adolescent current smokers purchased one of three brands (i.e., Marlboro, Camel, or Newport); however, the three most commonly purchased brands among all smokers accounted for only 35% of the overall market share in 1993.

The three most commonly purchased brands among adolescent smokers were the three most heavily advertised brands in 1993 (7), suggesting that cigarette advertising influences adolescents' brand preference. In 1993, Marlboro, Camel, and Newport ranked first, second, and third (7), respectively, in advertising expenditures. However, Camel and Newport ranked seventh and fifth, respectively, in overall market share (8).

Similarly, the increases in adolescents' brand preference for Camel cigarettes and the decrease in preference for Marlboro cigarettes from 1989 to 1993 are not explained by changes in overall

market share for these brands. These changes reflect variability in brand-specific advertising expenditures: from 1989 to 1993, Marlboro advertising decreased from \$102 million to \$75 million (7,9), while Camel advertising increased from \$27 million to \$43 million (7,9). In contrast, the increased preference for Newport cigarettes does not reflect the decrease in Newport advertising expenditures from \$49 million to \$35 million from 1989 to 1993 (7,9). The regional differences in brand preference of adolescents and changes in those preferences during 1989-1993 suggest that analysis of the relation between regional advertising expenditures and brand preferences may help to clarify the role of cigarette advertising in influencing adolescents' brand preference.

The findings that black adolescents most commonly purchased mentholated brands (i.e., Newport and Kool) and that Hispanic adolescents most commonly purchased Marlboro are consistent with a previous report (6). Racial/ethnic differences in brand preferences of adolescents may be influenced by differences in socioeconomic status and by social and cultural phenomena that require further explanation.

The findings of TAPS-II are subject to at least two limitations. First, the potential exists for nonresponse bias in the follow-up of TAPS respondents. For example, smoking prevalence estimates derived from TAPS-II are lower than those based on other national surveys; TAPS respondents who were successfully followed up in TAPS-II were less likely to be smokers in 1989 than those who could not be reinterviewed (Office on Smoking and Health, unpublished data, 1994). Second, the small number of black and Hispanic adolescents in TAPS-II lessens the reliability of the brand preference estimates for these subgroups.

Because cigarette advertising may influence brand choice of adolescents (an important component of smoking behavior), legislation may be needed to restrict cigarette advertising to which young persons are likely to be exposed (10). In addition, antitobacco advertising may be an effective public health strategy to prevent smoking initiation and encourage smoking cessation among adolescents. Understanding the influence of advertising on adolescent smoking

behavior may assist in clarifying the potential role of antismoking advertisements. At least two states (California and Massachusetts) have allocated resources derived from state excise cigarette tax for paid antismoking advertising campaigns aimed at young persons.

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\* TAPS respondents who completed the survey by mail questionnaire were not eligible for the TAPS-II survey. TAPS-II included household interviews of persons who did not respond by telephone.

\*\* Adolescents who reported smoking cigarettes on 1 or more of the 30 days preceding the survey.

\*\*\* The four regions were Northeast (Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont), Midwest (Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, and Wisconsin), South (Alabama, Arkansas, Delaware, District of Columbia, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and West Virginia), and West (Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming).

### **Changes in the Cigarette Brand Preferences of Adolescent Smokers**

The August 19, 1994, issue of the Centers for Disease Control and Prevention's (CDC) *Morbidity and Mortality Weekly Report (MMWR)* contains the article, "Changes in the Cigarette Brand Preferences of Adolescent Smokers-U.S., 1989-1993." The article

concludes that teens are more likely than adults to smoke the most advertised cigarette brands.

The study also found the following:

- In 1993, the three most heavily advertised brands of cigarettes were Marlboro, Camel, and Newport. Although combined sales of these brands accounted for only 35% of the overall cigarette market share, 86% of current adolescent smokers purchased one of these three brands.
- The most significant changes in adolescent brand preference from 1989 through 1993 were an increase in the percentage of youths purchasing Camel cigarettes (+5.2 percentage points, a 64% increase) and Newport cigarettes (+4.5 percentage points, a 55% increase) and a decrease in the percentage of youths purchasing Marlboro cigarettes (-8.7 percentage points, a 13% decline).
- Cigarette advertising appears to influence adolescent brand choice, an important part of smoking behavior.

Whether intended or not, cigarette advertising appears to reach young people and to affect their smoking behavior. Restrictions on advertising that influences young people may need to be enacted. In addition, improved and intensified public health advertising campaigns targeted to youth may be needed to counter the effects of cigarette advertising.

**MMWR — Changes in the Cigarette Brand Preferences of Adolescent Smokers**  
43(32);577-581, August 19, 1994

### **Tobacco industry and young people**

*The following quotes clearly show that tobacco companies were and are still very interested in learning more about the young generation, the future of their business. These quotes could be excellent arguments to be used by tobacco control advocates when working with the media and challenging the tobacco industry's new beloved slogan that they do not market their products to children.*

"If younger adults turn away from smoking, the industry will decline, just as a population which

does not give birth will eventually dwindle." [RJ Reynolds, 1984]

"They represent tomorrow's cigarette business. As this 14-24 age group matures, they will account for a key share of the total cigarette volume for at least the next 25 years." [RJ Reynolds, 1975]

"It is important to know as much as possible about teenage smoking patterns and attitudes. Today's teenager is tomorrow's potential regular customer, and the overwhelming majority of smokers first begin to smoke while still in their teens...It is during the teenage years that the initial brand choice is made...The smoking patterns of teenagers are particularly important to Philip Morris..." [Philip Morris internal document, 1981. One of the researchers who created this report, Dr. Caroline Levy, is now Senior Vice President of Youth Smoking Prevention at Philip Morris]

"The loss of younger adult males and teenagers is more important to the long term, drying up the supply of new smokers to replace the old. This is not a fixed loss to the industry: its importance increases with time." [RJ Reynolds, 1982]

"The younger smoker is of pre-eminent importance: significant in numbers, "lead in" to prime market, starts brand preference patterning....But frustrating to reach: values and behaviour at variance with rest of the population, sceptical, intense peer pressure..." [Brown & Williamson (BAT), 1974]

"the brands which these beginning smokers accept and use will become the dominant brands in future years. Evidence is now available to indicate that the 14 to 18 year old group is an increasing segment of the smoking population. RJR must soon establish a successful new brand in this market if our position in the industry is to be maintained over the long term." [RJ Reynolds, 1976]

"at least a part of the success of Marlboro

Red...was because it became the brand of choice among teenagers who then stuck with it as they grew older." [Philip Morris, 1981]

"The ability to attract new smokers and develop them into a young adult franchise is key to brand development." [Philip Morris, Five-Year Trends 1988-1992, Bates number: 2044895379/484]

"A careful study of the current youth jargon, together with a review of currently used high school American history books might be a good start at finding a good brand name and image name." [RJ Reynolds, 1973]

"the brand loyalty of 18-year-old smokers far outweighs any tendency to switch brands with age." [RJ Reynolds marketing analysis, 1984]

"Today's teenager is tomorrow's potential regular customer, and the overwhelming majority of smokers first begin to smoke while in their teens . . . it is during the teenage years that the initial brand choice is made...the success of Marlboro Red during its most rapid growth period was because it became the brand of choice among teenagers who then stuck with it as they grew older." [Philip Morris, 1981]

"I'm not telling you that our policy is 100 percent respected around the World. It should be, but we are not perfect. We're trying to improve. We have a very, very clear policy. Perhaps not anyone is following it." [Remi Calvert, spokesman for Philip Morris's international division, in: Big Tobacco is accused of crossing an age line, The New York Times, August 24, 2001]

"There were a lot of kids, so many that I couldn't count. All the spectators got some cigarettes. We were really happy. We were clapping because we got free cigarettes. I would go again. I love smoking. I love cigarettes." [A 15-year-old boy from Niamey, Niger, about free sampling at a Philip Morris-sponsored concert, in: Big Tobacco is accused of crossing an age line, The New York Times, August 24, 2001]