

**Minutes of the  
Tobacco Education and Research Oversight Committee (TEROC)  
Monday, February 13, 2017**

Location:  
Marriott

Residence Inn  
1121 15th Street  
Sacramento, CA 95814  
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[www.marriott.com/sacdt](http://www.marriott.com/sacdt)

**MEMBERS PRESENT:**

Dr. Michael Ong (Chair), Dr. Alan Henderson (Vice Chair), Dr. Claradina Soto, Dr. Mark Starr, Dr. Pamela Ling, Dr. Wendy Max, Dr. Lourdes Baézconde-Garbanati, Mr. Richard Barnes, Ms. Debra Kelley, Ms. Patricia Etem, and Ms. Vicki Bauman.

**MEMBERS ABSENT:**

Ms. Mary Baum and Dr. Robert Oldham.

**OTHERS IN ATTENDANCE:**

April Roeseler, California Department of Public Health (CDPH),/California Tobacco Control Program (CTCP)

Dr. Bart Aoki, University of California, Office of the President, Tobacco-Related Disease Research Program, (UCOP/TRDRP)

Dr. Norval Hickman, TRDRP

Dr. Phillip Gardiner, TRDRP, African American Tobacco Control Leadership Council (AATCLC) Dr. Xueying Zhang, CTCP

Jerry Katsumata, CTCP

Darren Yee, CTCP

Lindsey Freitas, American Lung Association (ALA)

Vanessa Marvin, ALA

Diana Douglas, ALA

Nadine Roh, CTCP

Richard Kwong, CTCP

Valerie Quinn, CTCP

Sarah Planche, California Department of Education (CDE)

John Lagomarsino, CDE

Margarita Garcia, CDE

Tim Gibbs, American Cancer Society/Cancer Action Network (ACS/CAN)

Jim Knox, ACS/CAN

Dennis Cuevas-Romero, American Heart Association (AHA)

Tonia Hagaman, CTCP

Julie Lautsch, CTCP

Lynn Baskett, Consultant  
Rod Lew, APPEAL/ADEPT  
Vikki Ueda, CTCP  
Sandra Soria, CTCP  
Amanda Wallner, Health Access  
Sohab Arif, California Indian Rural Health Board  
Joanne Wellman, California Department of Health Care Services  
Robert Zivkovich, State Board of Equalization (BOE)  
Guadalupe Manriquez, California Department of Finance (DOF)  
Phuong La, DOF  
Sergio Aguilar, DOF  
Koffi Kouassi, DOF  
Adam Dorsey, DOF  
Teresa Calvert, DOF  
Kevin Clark, CDPH  
James Hart, California Department of Justice  
Steven Greenhut, R Street Institute

## **1. WELCOME, INTRODUCTION**

The TEROC Chair, Dr. Ong, called the meeting to order. TEROC members and guests introduced themselves.

## **2. GENERAL BUSINESS**

### **Approval of Minutes**

Dr. Baézconde-Garbanati moved to accept the December 15-16, 2016 meeting minutes without revisions, seconded by Dr. Henderson. Motion passed unanimously.

Dr. Ong reviewed TEROC-related correspondence:

### **Incoming Correspondence**

- January 9, 2017 letter from Governor Edmund G. Brown Jr. to Dr. Mark Starr, re-appointing him to serve on TEROC through January 1, 2019.
- January 25, 2017 letter from State Senate President pro Tempore Kevin de Leon to Dr. Michael Ong, announcing the re-appointment of Dr. Wendy Max to TEROC through January 1, 2019.

### **Outgoing Correspondence**

- February 6, 2017 letter to Dr. Karen Smith, State Public Health Officer and Director of the California Department of Public Health (CDPH), expressing TEROC's elation for the opportunity to work with CDPH to ensure effective Proposition 56 implementation.
- February 6, 2017 letter to Diana Dooley, Health and Human Services Agency (HHSA) Secretary, expressing TEROC's elation for the opportunity to work with HHSA to ensure effective Proposition 56 implementation.

- February 6, 2017 letter to Janet Napolitano, University of California (UC) President, expressing TEROC's elation for the opportunity to work with UC to ensure effective Proposition 56 implementation.
- February 6, 2017 letter to Tom Torlakson, State Superintendent of Public Instruction, expressing TEROC's elation for the opportunity to work with the California Department of Education to ensure effective Proposition 56 implementation.
- February 10, 2017 letter to Jahmal Miller, CDPH Office of Health Equity (OHE) Deputy Director, requesting a meeting with OHE and the OHE Advisory Committee to discuss approaches to achieve health equity among California's priority populations disproportionately impacted by tobacco use.

#### **General Discussion:**

Ms. Etem inquired whether TEROC's letter to OHE invited Mr. Miller to a future TEROC meeting. Dr. Ong replied TEROC's letter did not specify a venue for a meeting, but rather it served as an initial invitation to begin a dialogue with OHE. Potentially OHE could be invited to the June 2017 meeting in Sacramento and/or invited to participate in TEROC's Master Plan Health Equity Objective Subcommittee calls.

Dr. Baézconde-Garbanati announced that an abstract Dr. Ong, Ms. Etem and herself submitted to the Society for Research on Nicotine and Tobacco Conference was accepted. She shared the poster, "Resurrecting a Giant: Getting California Back on Track as a Leader in Tobacco Control in the World" that will be presented at the March 8-11, 2017 conference and requested review from members prior to finalizing it. Members congratulated Dr. Baézconde-Garbanati on the acceptance.

### **3. ENVIRONMENTAL UPDATE**

TEROC discussed tobacco control issues in the media, including the following news articles and reports:

#### **Research Article from the Journal Pediatrics on E-Cigarette Use Expanding Among Youth**

([http://pediatrics.aappublications.org/content/early/2017/01/19/peds.2016-2450?sso=1&sso\\_redirect\\_count=1&nfstatus=401&nftoken=00000000-0000-0000-0000-000000000000&nfstatusdescription=ERROR%3a+No+local+token](http://pediatrics.aappublications.org/content/early/2017/01/19/peds.2016-2450?sso=1&sso_redirect_count=1&nfstatus=401&nftoken=00000000-0000-0000-0000-000000000000&nfstatusdescription=ERROR%3a+No+local+token))

#### **Top Scientists Weigh In on the Health Effects of Marijuana**

(<https://www.nap.edu/catalog/24625/the-health-effects-of-cannabis-and-cannabinoids-the-current-state>)

#### **Walgreens Refuses To Kick Its Cigarette Habit and Continues to Sell Cigarettes**

(<https://consumerist.com/2016/01/27/walgreens-refuses-to-kick-its-cigarette-habit/>)

#### **Research Letter from the Journal of American Medical Association about Pregnant Women Turning to Marijuana, Perhaps Harming Infants**

(<http://jamanetwork.com/journals/jama/article-abstract/2594398>)

**News article about the Patent Application from Apple Suggesting that Apple Might Be Eyeing The Vaping Industry** (<http://www.digitaltrends.com/cool-tech/apple-vaporizer-patent/>)

**CNN article about two Of the World's Biggest Cigarette Companies Are Being Rolled into One** (<http://money.cnn.com/2017/01/17/investing/british-american-tobacco-reynolds-merger-bat/index.html>)

**Sacramento Bee newspaper article on CalPERS Opting to Keep a Ban on Tobacco Stocks** (<http://www.sacbee.com/news/business/article121830108.html>)

**The Center for Disease Control and Prevention Launched a Marijuana Webpage** (<https://www.cdc.gov/marijuana/index.htm>)

#### **General Discussion:**

Dr. Ling was pleased to represent TEROC at the CalPERS investment committee meeting on December 19, 2017 about whether to maintain its ban on tobacco investments. She stated CalPERS committee voted to extend its tobacco investment ban to include third-party investment managers.

Dr. Ong discussed a pilot smoke and tobacco free presidential fellowship for students approved by UC President Napolitano last year and announced it was re-approved and expanded to include ten additional fellows, presumably one for each UC campus, and progresses towards TEROC's objective to build capacity.

Dr. Henderson inquired whether studies on the health effects of marijuana use addressed only smoking or other means of ingestion as well. Dr. Starr commented California (CDPH) was one of a number of states that contributed funding to the National Academies of Sciences, Engineering, and Medicine (NASEM) report, which analyzed all means of marijuana consumption and reviewing 15 years of human (not animal) studies. Dr. Starr noted some of the limitation of the report such as only including studies going back 15 years of human (not animal) studies and not including environmental or toxicology studies. The report included one chapter on marijuana's potential therapeutic benefits, such as treating nausea associated with chemotherapy, while the other chapters addressed the hazards of marijuana use. The report did not find good evidence of marijuana use's associations with lung, head, or neck cancers but recommended a strong research agenda in light of the limited research to date. Dr. Starr noted the report was an important first step towards more marijuana-related research. Ms. Etem inquired how the NASEM report is being disseminated, to which Dr. Starr stated it is posted on the NASEM website.

#### **4. CALIFORNIA DEPARTMENT OF HEALTH CARE SERVICES (DHCS) PRESENTATION**

Ms. Joanne Wellman of DHCS presented on tobacco cessation services for Medi-Cal beneficiaries. Ms. Wellman stated that DHCS released its first All Plan Letter (APL) in September 2014 to managed care plans (MCPs) on required tobacco cessation benefits. An updated tobacco cessation benefit APL was released to MCPs in November 2016.

The APL promotes the implementation guidelines for tobacco cessation. All managed care plans are required to provide all preventive services identified as United States Preventive Services Task Force (USPSTF) grade “A” and “B” recommendations.

Ms. Wellman discussed eight tobacco cessation policy requirements on MCPs as follows:

1. Initial and annual assessment of tobacco use
2. Cover all FDA-approved tobacco cessation medications
3. Individual, group and telephone counseling
4. Services for pregnant tobacco users
5. Prevention of tobacco use in children and adolescents
6. Provider training
7. Identifying tobacco users – new requirement on MCPs per the November 2016 APL
8. Tracking treatment utilization – new requirement on MCPs per the November 2016 APL

Ms. Wellman expanded on the eight above requirements as follows:

#### **1. Initial and Annual Assessment**

- Complete the Staying Healthy Assessment (SHA)
- Annually assess tobacco use status
- Document in their medical record at every visit

All Medi-Cal beneficiaries are required to complete a SHA (a risk assessment questionnaire) with every visit to a provider. Each age-appropriate SHA questionnaire asks about smoking status and/or exposure to tobacco smoke. If the beneficiary answers Yes to either question, the provider is required to provide counsel and document it in the medical record. Since the Individual Health Education Behavioral Assessment (IHEBA) must be reviewed or re-administered on an annual basis, smoking status can be re-assessed through the use of the SHA.

#### **2. FDA-Approved Medications**

<b>Medication</b>	<b>Prescription Needed</b>
Bupropion SR (Zyban)	Yes
Varenicline	Yes
Nicotine Gum	No
Nicotine Inhaler	Yes
Nicotine Lozenge	No
Nicotine Nasal Spray	Yes
Nicotine Patch	No (a prescription generic version is also available)

**MCPs are required to cover all (7 currently) FDA-approved** tobacco cessation medications for adults, including over the counter meds with a prescription from the provider.

- At least one must be **available without prior authorization** (in original slide indicated varenicline did not need a prescription).
- Provide a 90-day treatment regimen without other requirements, restrictions or barriers.
- Cover any additional medications once approved by FDA to treat tobacco use
- Does not require beneficiaries to receive a particular form of tobacco cessation service as a condition of receiving any other form of tobacco cessation service (aligned with Assembly Bill (AB) 1696 signed in 2016).
- Does not require proof of counseling to a pharmacist to get the meds

Dr. Baézconde-Garbanati asked if there is a minimum age requirement to receive medications. Ms. Wellman replied the minimum age is 18 years. However, medications are not recommended for pregnant women; medications are only provided to children and adolescents if medically necessary. There is no co-pay requirement for medications.

### **3. Individual, Group and Telephone Counseling**

- Encouraged to collaborate with LLAs providers
- Review the SHA's questions on tobacco with the beneficiary (individual counseling)
- All types of counseling offered at no cost
- Providers or other office staff to use the "5 A's"(Ask, Advise, Assess, Assist, and Arrange), the "5 R's" (Relevance, Risks, Rewards, Roadblocks, Repetition)
- At least four counseling sessions of at least ten minutes.
- Given the option of choosing the type of counseling
- At least two separate quit attempts per year
  - no prior authorization
  - no mandatory breaks between quit attempts
- Refer to the Helpline
- Web referral or e-referral
- Provide referral for tobacco cessation services
  - no cost referrals
  - beneficiaries can choose

### **4. Services for Pregnant Tobacco Users**

- Ask about tobacco use or if exposed to secondhand smoke
- At least one face-to-face counseling session per quit attempt
- Refer to the Helpline
- Coverage for 60 days after delivery plus any additional days needed to end the respective month
- The APL provides the American College of Obstetrics and Gynecology (ACOG) guidelines websites and other resources for providers

Dr. Max inquired whether the Helpline has a different protocol for pregnant women. Ms. Roeseler replied that it does.

### **5. Prevention of Tobacco Use in Children and Adolescents**

- Early and Periodic Screening, Diagnostic and Treatment (EPSDT, aka the Child Health and Disability Prevention (CHDP) in California) benefit includes the provision of anticipatory guidance and risk-reduction counseling up to age 21.
- Education or counseling to prevent tobacco initiation in school-aged children and adolescents through the American Academy of Pediatrics Bright Futures periodicity schedule and anticipatory guidance
- Counseling parents in a pediatric setting is also recommended

### **6. Provider Training**

- MCPs shall use the USPHS “Clinical Practice Guideline, Treating Tobacco Use and Dependence: 2008 Update”
- Special requirements for providing services to pregnant tobacco users
- Informing providers about available online courses in tobacco cessation

### **7. Identifying Tobacco Users (added in 2016)**

MCPs must ensure their practices institute a tobacco user identification system, per USPSTF recommendations, in the medical record to record tobacco use. Options to do so include:

- Tobacco use as a vital sign
- ICD-10 codes
- Chart stamp or sticker on the chart (if not EHR)
- SHA or other IHEBA (Individual Health Education Behavioral Assessment)
- CHDP’s Confidential Screening/Billing Report (PM 160)
- Reviewing nicotine replacement therapy (NRT) claims

It is DHCS’ intent that providers not only assess tobacco use but report it to MCPs, in order to more fully coordinate treatment. DHCS is working on making the SHA electronic.

### **8. Tracking Treatment Utilization**

- Pharmacy claims data for NRT products
- Helpline web-based referral system
  - This is a work in progress due to the Helpline not receiving individual data
- Helpline e-referral program
  - This has a feedback loop but needs to be expanded for providers
- Current Procedural Terminology (CPT) codes (billing) for tobacco use
  - 99406: symptomatic; smoking and tobacco use cessation counseling visit, greater than 3 minutes, up to 10 minutes
  - 99407: symptomatic; smoking and tobacco use cessation counseling visit; greater than 10 minutes
- Individual and group counseling outcomes

Dr. Max inquired about enforcement. Ms. Wellman replied that MCPs are audited to determine compliance. To date, DHCS has not withheld funds for non-compliance.

### **Results of MCP Survey - October 2015**

In the fall of 2015 DHCS asked the MCPs to complete a survey about 2014 tobacco APL implementation. One of the questions was “What has your MCP done to promote tobacco cessation activities to your providers?” 19 responded.

#### Providers

- 84% (16) promoted the Helpline
- 79% (15) encouraged or recommended counseling patients who smoke
- 79% (15) encouraged or recommended referral to counseling other than through a quit line
- 79% (15) distributed online cessation training resources

Another question: What has your MCP done to promote tobacco cessation activities to your members? (19 responses)

#### Members

- 100% (19) promoted the Helpline
- 74% (14) distributed Medi-Cal Incentives to Quit Smoking (MIQS) materials
- 74% (14) included promotional messages and materials on their website

Ms. Wellman is developing a follow-up survey to see if there are improvements on the above measures.

### **General Discussion**

Dr. Baézconde-Garbanati inquired, given changes to the Affordable Care Act (ACA) and some of the population served includes Medi-Cal expansion, does Ms. Wellman anticipate changes in the short- or long-term, and if so, how would DHCS deal with that? In addition, are e-cigarettes included in the SHA? Ms. Wellman replied she initially wanted to include e-cigarettes in the SHA and stated they should be included in the SHA. Ms. Wellman did not have an answer on Dr. Baézconde-Garbanati’s question on the ACA.

Dr. Hickman stated Dr. Elisa Tong has a TRDRP grant to look at the feedback loop with the Helpline and providers, focused on Los Angeles County Health Department. Dr. Ling agreed with Dr. Baézconde-Garbanati on the growing use of e-cigarettes and alternative tobacco products, and the general trend in California for people not to identify as smokers means the SHA question is important. Dr. Ling asked if would be helpful for Ms. Wellman to have a TEROOC letter of support to ensure the SHA questions fits the Medi-Cal population? Ms. Wellman replied Yes. Ms. Etem inquired about whether the Medi-Cal pool of smokers could be quantified (prevalence). Ms. Wellman stated Dr. Neal Kohatsu, DHCS Medical Director, also wants to figure out Medi-Cal smoking prevalence which can be provided from the California



Health Interview Survey (CHIS) and the CAP survey (medical assessment). Dr. Gardiner inquired about the content of provider training; counseling needs differ by gender, socioeconomic status, ethnicity, menthol smokers. Does training reflect these different needs? Ms. Wellman stated DHCS provides the training resources (Smoking Cessation Center, UC Quits); it is the MCPs' responsibility to provide to the providers, and the providers are responsible for utilizing. DHCS has discussed providing trainings on the website. Regarding e-cigarettes, Dr. Gardiner stated TRDRP can also provide Ms. Wellman with a support letter. Ms. Wellman accepted and stated it should go to Dr. Kohatsu and DHCS Director Jennifer Kent.

Ms. Roeseler inquired what Ms. Wellman thought about AB 1696 (Holden) since the bill deleted a provision to require a uniform tracking Healthcare Effectiveness Data and Information Set (HEDIS) measure. Unless there is a standard for all 24 MCPs to use, Ms. Roeseler said that it will be difficult to understand the quality of cessation services provided by all the plans. Ms. Wellman agreed and recommended that there be one. Regarding AB 1696, Ms. Wellman did not see any changes/additions to Medi-Cal's current APL requirements.

Dr. Baézconde-Garbanati inquired whether the SHA and consumer assessment survey data are public for uses; and if it asks about ethnicity and national origin? Ms. Wellman replied yes to both questions. Dr. Starr inquired whether SHA responses include other smoke such as marijuana. Ms. Wellman replied she did not know but the MCPs may know. She is re-vamping the SHA to include social determinants of health and adverse childhood experiences (ACES) questions, so adding marijuana use could be considered. Dr. Ong commented it is great to see the APL; however he is concerned about the accountability of MCPs. Ms. Wellman stated MCPs are required to provide "A" and "B" recommendations per their contract. Dr. Ong stated it is helpful for health educators to go to LLAs because it is a community issue to ensure MCPs are complying with requirements. However, if it revealed that MCPs are not compliant with existing requirements, then that would encourage them to do more. If we had more information on what MCPs are providing, then that would be helpful to impel them to do the right thing.

#### **Action Item**

Dr. Starr made a motion for TEROc to send a letter to Dr. Kohatsu and Ms. Kent at DHCS requesting to add to the SHA questions to include electronic nicotine delivery systems and marijuana. Seconded by Dr. Ling. Motion passed unanimously.

Ms. Etem made a final comment about the large absolute number of Medi-Cal beneficiaries that are smokers and that this should be addressed in TEROc's 2018-2020 Master Plan under development.

#### **5. CALIFORNIA DEPARTMENT OF FINANCE (DOF) PRESENTATION**

Koffi Kouassi and Phuong La presented on the Prop 99 budget update for the 2017-2018 Governor's Budget.

For the 2015-16 revenues, actual revenues were higher by \$6.9 million compared to the 2016-17 Budget Act.

- 2016-17 Budget Act: \$269.5 million
- 2017-18 Governor's Budget: \$276.4 million

For 2015-16 expenditures, actual expenditures were lower by \$75.4 million compared to the 2016-17 Budget Act.

- 2016-17 Budget Act: \$266.5 million
- 2017-18 Governor's Budget: \$191.1 million

The ending account balances in 2015-16 increased by a total of \$80.7 million, compared to the 2016-17 Budget Act estimates:

- Estimated balances totaled \$79.6 million at 2016-17 Budget Act
- Actual balances now total \$160.3 million at 2017-18 Governor's Budget (for Prop 99)

Note: this amount will be rolling forward, but not entirely available for expenditures since a portion will be set aside for a fiscally prudent reserve.

For the 2016-17 projected revenues, estimated revenue decreased by \$1.5 million:

- Estimate at 2016-17 Budget Act: \$262.6 million
- Estimate at 2017-18 Governor's Budget: \$261.1 million

For the Proposition 10 Backfill decreased by \$0.6 million:

- Estimate at 2016-17 Budget Act: \$12.5 million
- Estimate at 2017-18 Governor's Budget: \$11.9 million

For the 2016-17 expenditures, there were minor changes from the 2016-17 Budget Act for various state operation costs, such as adjustments for Employee Compensation, Retirement, and other statewide administrative cost changes. The 2016-17 projected revenues and expenditures will be visited in May revision, and will revisit the BOE fee as a result of the statewide administrative charges.

**For the 2017-18 revenues, the Governor's Budget projects a year-over-year revenue decrease of \$39.3 million compared to updated estimates for 2016-17:**

- 2016-17 Revised Estimates: \$261.1 million
- 2017-18 Governor's Budget: \$221.8 million

The Proposition 10 backfill remains at \$11.9 million, as in current year.

As a result of the implementation of Proposition 56, the **backfill is estimated to be \$13.6 million.**

Funds were rolled over from projected 2016-17 ending fund balances, but the decrease in total revenues resulted in expenditure authority decreases in almost all subaccounts.

Expenditure changes to each account:

- Health Education Account -\$10.9 million
- Hospital Services Account -\$97,000
- Physicians' Services Account +\$8.3 million
- Research Account -\$3.9 million
- Public Resources Account -\$2.2 million
- Unallocated Account -\$2.3 million

Total decrease of \$10.8 million over 2016-17 Budget Act in Department of Public Health projected expenditures relating to tobacco use prevention:

- Health Education Account decreased by \$9.4 million
- Research Account decreased by \$1.3 million
- Unallocated Account decreased by \$122,000

### **General Discussion**

Ms. Etem asked the presenters how there is a \$39 million decrease in the budget considering the \$80.7 million surplus that rolls over and with the increase in revenue from Prop 56? Mr. Kouassi clarified that the slides are just about Prop 99 revenues, and that as a result of the implementation of Prop 56, the revenues came in lower for Prop 99 by \$39 million.

Dr. Ong asked for clarification about the reduction in allocations to the Media Campaign under the Health Education Account, and if that reduction was due in part because of Prop 56 funds. Ms. Roeseler summarized that the gap between 2016 Budget Act and the Governor's 17-18 Budget was due in part to an extra, one-time-only \$2 million funding that was received in 2016-17.

Ms. Freitas asked presenters about the increase in the Medi-Cal Hospital Services Account. Ms. La replied that it was due to that specific account having savings from the previous year that rolled into the 2017 Governor's Budget. Ms. Etem and Mr. Katsumata were curious about the funds rolling over from prior years and overall budget decrease and how it all adds up. Ms. Phuong La replied that she will follow up with TERO.

### **Proposition 56 Presentation**

Sergio Aguilar and Guadalupe Manriquez from the DOF presented:

Prop 56 increased the excise tax rate on cigarettes and other tobacco products, effective April 1, 2017. Prop 56 applies the other tobacco products excise tax rate to electronic cigarettes for the first time. The excise tax increases by \$2 from 87 cents to \$2.87 per pack of 20 cigarettes on distributors selling cigarettes in California and from a \$1.37-equivalent to a \$3.37 equivalent tax on other tobacco products. Electronic cigarettes, which were not subject to excise taxes prior to Prop 56, are now subject to the other tobacco products \$3.37-equivalent tax.

### **Summary of Annual Allocations of Prop. 56**

1<sup>st</sup>, the revenues shall backfill:

- Proposition 99, Proposition 10, Breast Cancer Fund, the General Fund, lost revenues for local and state government sales tax

2<sup>nd</sup>, the revenues shall be annually allocated for specified purposes.

3<sup>rd</sup>, the revenues shall be distributed based off of percentages to certain issues.

Prop 56 created two funds:

1. The CA Healthcare, Research and Prevention Tobacco Tax Act of 2016 Fund (3304)
2. Health Care Treatment Fund

Five additional funds were created by DOF to help with administration and to make sure the DOF is meeting the intent in statute. Revenues will first flow into the 3304 fund, then allocated into other funds.

### Revenue Forecast

Projections of cigarette tax revenues are based on:

- Projected per capita consumption of cigarettes
- Population growth
- Impact from increasing the smoking age from 18 to 21 in effect as of June 9, 2016
- Impact of increased prices due to Prop 56

Prop 56 will take effect on April 1, 2017, and will bring in one quarter of revenue for FY 2016-17. FY 2017-18 will be the first full year of revenue.

- Revenue is projected to be \$367.9 million in 2016-17 (one quarter) and \$1.4 billion in 2017-18
- DOF forecasts a 20% decline per year of cigarette consumption
- Revenue forecasts will be updated as part of the Governor's May Revision

Additional tax calculations are based on:

1. Projections of tobacco product consumption
2. Resulting revenue that would have been expected prior to any changes in law compared to consumption and revenue after Proposition 56 takes effect

2017-18 backfills for lost revenue in 2016-17 (one quarter) (In million)	
Proposition 99	\$13.6
Breast Cancer Fund	\$.8
Proposition 10	\$22.7
Local and State	\$0
Total	\$37.2

DOF is not assuming a backfill allocation for the State and Local Sales Tax in 2017-18 because they do not expect the decrease in consumption to be large enough to have an effect. For the General Fund backfill requirement, DOF will look at those calculations, and they will be included in the Governor's May Revision.

### Defined Allocations:

Purpose	Annual Allocation
Graduate Medical Education	\$40 million to University of California
State Dental Program	\$30 million to Department of Public Health
Law Enforcement Efforts	\$48 million annually as follows: <ul style="list-style-type: none"> <li>•\$30 million for Department of Justice/Attorney General</li> <li>•\$6 million for Board of Equalization</li> <li>•\$6 million for Department of Public Health</li> <li>•\$6 million to Attorney General</li> </ul>

After two years, BOE will determine what the resulting decrease in revenue is and then these defined allocations may be decreased proportionally. The above are the amounts in statute, but after two years, they may change.

**The remaining revenue after the backfills and defined allocations are distributed**

Allocation	Purpose
82 % to the Department of Health Care Services	Funding for existing healthcare programs and services including those that provide healthcare, treatment, and services for Californians with tobacco-related diseases and conditions.
13% for Tobacco Prevention and Control: <ul style="list-style-type: none"> <li>•85% to Department of Public Health</li> <li>•15% to Department of Education</li> </ul>	Department of Public Health funding for the implementation, evaluation, and dissemination of evidence-based health promotion and health communication activities.  Department of Education funding for school programs to prevent and reduce the use of tobacco and nicotine products by young people.
5% to University of California	Funding for medical research of cancer, heart and lung tobacco-related diseases.

**2017-18 Governors' Budget**

2017-18 GOVERNOR'S BUDGET PROPOSED APPROPRIATIONS (Dollars in Millions)			
Investment Category	Department	Program	2017-18 Amount <sup>1/</sup>
Enforcement	Department of Justice	Local Law Enforcement Grants <sup>2/</sup>	\$37.5
	Department of Justice	Distribution and Retail Sale Enforcement <sup>2/</sup>	\$7.5
	Board of Equalization	Distribution and Retail Sales Tax Enforcement <sup>2/</sup>	\$5.8
	Department of Public Health	Law Enforcement <sup>2/</sup>	\$7.5
Education, Prevention, and Research	University of California	Cigarette and Tobacco Products Surtax Medical Research Program	\$80.7
	University of California	Graduate Medical Education <sup>2/</sup>	\$50.0
	Department of Public Health	State Dental Program <sup>2/</sup>	\$37.5
	Department of Public Health	Tobacco Prevention and Control	\$178.5
	State Department of Education	School Programs	\$31.5
Health Care	Department of Health Care Services	Health Care Treatment	\$1,237.4
Administration and Oversight	State Auditor	Financial Audits	\$0.4
	Board of Equalization	Sales and Use Tax	\$1.1
Revenue Backfills	Proposition 99, Breast Cancer Research Fund, and Proposition 10		\$37.1
Total			\$1,712.5
<sup>1/</sup> 2017-18 figures include one quarter of 2016-17 revenue and four quarters of 2017-18 revenue.			
<sup>2/</sup> Annual amount specified in statute.			

Source: 2017-18 Governor's Budget Summary (page 57)

This table identifies the revenue for **five quarters: the last quarter of 16-17 and the first full year of 17-18.**

### General Discussion

Dr. Ong made a point of clarification that with the Tobacco 21 passage, there is a revenue loss from the sales from 18-21 year olds, which also needs to be taken into account. Mr. Aguilar agreed. Dr. Max asked for clarification on Mr. Aguilar's point that the impact on state and local sales taxes would be negligible and thus DOF projected no backfill needs for the first year. Mr. Aguilar stated that since the increase of the product will be \$2, there will be more revenue, and will offset any potential decreases. Ms. Manriquez added that because the DOF projects a 20% decrease in consumption, there will not likely be a state and local backfill.

Ms. Etem asked about the 82% of defined allocations going to Medi-Cal. Ms. Manriquez replied that it's approximately \$1.2 billion. Bart Aoki asked if the presenters had a sense of how stable Prop 56 figures will remain between now and the May Budget revise. Ms. Manriquez replied that it's very early to tell.

## 6. CALIFORNIA STATE BOARD OF EQUALIZATION (BOE) PRESENTATION (General Discussion Throughout)

Robert Zivkovich from the BOE presented on Prop 56. He began the presentation with some definitions related to tobacco sellers.

- Manufacturers - make or imports cigarettes or tobacco products. Typically, no tax liability with CA
- Distributors - first entity to sell cigarettes or tobacco products in CA and are responsible for paying state excise tax to BOE. Purchases ex-tax cigarettes or tobacco products from Manufacturer. 84 in CA.
- Wholesalers - Sells stamped packages of cigarettes and tax-paid tobacco products to other wholesalers and retailers. Can buy only from licensed distributors or other licensed wholesalers. About 295 in CA.
- Retailers - Sells packages of stamped cigarettes and tax-paid tobacco products to retail customers. Purchases packages of stamped cigarettes and tax-paid tobacco products from licensed wholesalers and licensed distributors only. About 34,000 retailers in CA

#### Prop 56 Legislation Overview

April 1, 2017 - Most provisions take effect

##### Cigarettes

- Additional \$2.00 (per pack of 20) excise tax
- One-time floor stock/stamp adjustment tax
- Limits the tax stamp discount to the first one dollar (\$1.00) of denominated value of stamp

##### Cigarette Retailers and Wholesalers must:

- Take inventory of their stamped packages of cigarettes in their possession or control as of 12:01 a.m., April 1, 2017
- Report their inventory on a Floor Stock Tax Return
- Pay a floor stock tax of \$2.00 per pack of 20 cigarettes in their inventory
- File return and pay cigarette floor stock tax by July 1, 2017 (additional penalties for being late)

Dr. Starr asked if the Floor Stock Tax is different from the \$1 one time discount mentioned earlier. Mr. Zivkovich replied that the \$1 one time discount is separate. Dr. Baézconde-Garbanati raised concerns about the cost impact of the Floor Stock on retailers. Mr. Zivkovich replied that BOE will send notices to retailers. The notices will be available only in English, but many investigators speak multiple languages and often help retailers.

#### Provisions of Prop 56 – Cigarettes Continued

##### Cigarette Distributors must:

- Take inventory of their affixed and non-affixed cigarette stamps in their possession or control as of 12:01 a.m., April 1, 2017
- Report their inventory on a Stamp Adjustment Tax Return
- Pay a stamp adjustment tax of \$2.00 per 20 denomination stamp in their inventory
- File return and pay stamp adjustment tax by July 1, 2017

The Proposition also changes the definition of “tobacco products” to include:

- Little cigars

- Products containing any tobacco or any nicotine for human consumption
- Electronic cigarettes sold with nicotine
- Any device/delivery system or any component, part, or accessory when sold with nicotine

Dr. Max asked if a nicotine delivery device is sold separately from nicotine, would it be taxed. Mr. Zivkovich replied it would not be taxed alone. Dr. Max asked if the strength of the nicotine in e-liquids impact the tax rate. Mr. Zivkovich replied that if the product has any level, it would be taxed. Dr. Max had concerns that this may incentivize people to buy the strongest e-juice they can, and then water it down. Dr. Baézconde-Garbanati asked about the number of vape shops in CA. Mr. Zivkovich replied that there are approximately 4,000.

#### **The Proposition Does Not:**

- Apply a floor stock tax to tobacco products
- Change the point of taxation of tobacco products (remains at the first distribution and applied to the wholesale cost of the tobacco product)
- Change the tobacco products tax rate (remains at 27.30% of the wholesale cost of the finished product on April 1, 2017)

#### **Tobacco Products Tax Rate is:**

- Currently 27.30% of the wholesale cost
- Determined annually by the BOE (released in May)
- Effective July 1 through June 30
- Forecasted to increase to 65-68% of the wholesale cost of finished tobacco products on July 1, 2017

#### **Implementation of Prop 56 – Returns and Special Notices:**

All special notices and floor stock tax returns will be available on BOE's website. A special notice will go out to entities who have recently registered as a vape shop about registering as a distributor because many purchase stock from out of state. As the result of SB 5-X2, these entities will need to register with BOE as distributors and pay the appropriate taxes.

#### **Implementation of Prop 56 – Technical and Administrative Actions**

March 2017

- Updating online registration system
- Establishing new fund code
- Updating website information (tax rates, industry guide, frequently asked questions)
- Updating other outreach (newsletter articles)

March 2017 to July 2017

- Posting revised versions of forms and publications to website with new definitions of tobacco

April 2017

- New cigarette tax stamps
- New fiscal year 2017-18 tobacco products tax rate and published on BOE website in May



Ms. Roeseler asked why e-cigarettes are being defined as a tobacco product only if they contain nicotine since state law (Business and Professions Code Section 22950.5) states that a tobacco product is defined to include e cigarettes that deliver nicotine or other vaporized liquids. Mr. Zivkovich replied the BOE uses the definition from Revenue and Taxation Code Section 30121(b) and (c) for taxation purposes which is a different definition for registration purposes.

BOE will conduct outreach meetings with members of the nicotine/vapor industry to provide guidance and understand business models

- Begin March 2017
- Completed by April 2018

### **Senate Bill X2-5**

Effective January 1, 2017

- Retail businesses selling nicotine products and nicotine delivery devices now required to obtain a Cigarette and Tobacco Products Retailer's License
- \$265.00 application fee and annual retail license fee for each location that sells nicotine products and nicotine delivery devices
- Affects retail businesses that sell "vape" products that do not sell cigarettes or traditional tobacco products

Mr. Kwong asked if BOE has a mechanism to make sure licensure requirements are applied to all of the vape shops even if they claim to not sell nicotine products. Mr. Zivkovich said those shops all need to be licensed retailers, but they may not need to be registered as a distributor.

### **Assembly Bill X2-11**

Effective January 1, 2017

- Cigarette and Tobacco Products Retailer's License application fee - \$100.00 to \$265.00 per location
  - New annual renewal fee - \$265.00 per location
- Distributor's license application and renewal fee increase - \$1,000.00 to \$1,200.00 per location

### **Assembly Bill 2770**

Effective January 1, 2017

- Tobacco Products Retailer's License fee may not be prorated (license is valid for a 12-month period)
- Aligns the license renewal date of a new retail location to a single date for all Cigarette and Tobacco Products Retailer's License holders who add a new sub-location

January 1, 2019 and every January thereafter

- Report due to the Legislature, Governor and Department of Finance regarding the adequacy of funding for the Licensing Act

July 1, 2019

- Prohibits cigarette and tobacco products tax revenue from being appropriated to the BOE for Licensing Act administration and enforcement

Dr. Ong said his main concern is the flat tax on nicotine e-liquid rather than a graduated one and the incentive to purchase the highest concentration.

## **7. VOLUNTARY HEALTH AGENCY UPDATE**

Mr. Dennis Cuevas Romero, with AHA, provided a legislative update:

Upcoming deadlines

- Legislative Bill introduction is February 17
  - Followed by a 30 day period after submission when bills cannot be amended
- Last Policy Committee April 28
- Bills must leave their first house on June 2

Mr. Tim Gibbs of ACS/CAN summarized AB 62 (Wood) which would require all public housing agencies to implement a policy prohibiting smoking of tobacco products, including e-cigarettes. It would codify the federal smoke free housing rule into CA law, using CA's definition of tobacco product. ACS/CAN currently does not have an official support decision, but is likely to support. Mr. Gibbs asked TEROC support the bill. Ms. Lindsey Freitas encouraged TEROC to remain vigilant to making sure Budget Committees are following through on how dollars are being spent.

### **General Discussion**

Dr. Ong clarified that historically TEROC has been concerned that Prop 99 dollars may be allocated for other issues, and this letter could serve as a reminder to legislative bodies that TEROC wants to work with them to ensure appropriate implementation. Ms. Freitas added that TEROC can help protect fund allocation by letting legislative bodies know that TEROC is watching to make sure that funds from Prop 99 and 56 funds are being used in the way voters said they would be.

Ms. Etem and Dr. Ong asked whether or not there are enough specifications in Prop 56 that say where those funds are to be spent within Medi-Cal. Ms. Freitas says it is fairly clear in Prop 56 where funds should be allocated to and she's looking more into it. Her concern is that with the potential threat of loss of federal funding, Prop 56 funds will be used in ways it wasn't intended for, similarly to the mid-90s when Prop 99 funds were inappropriately used and there was a lawsuit.

Dr. Ong asked for a formal motion for TEROC to write a letter of support for AB 62.

### **Action Items**

Ms. Etem motioned. Dr. Henderson seconded the motion. The motion passed with one abstention. The letter will go to the author, Assembly Member Wood, who then circulates it as appropriate.

Dr. Ong asked for a formal motion for a TERO letter of support to the Committees of Budget and Finance that would remind them that TERO is enthusiastically in support of Prop 56 and its appropriate implementation and looks forward to working with Legislature to ensure appropriate utilization of funds. Ms. Etem motioned. Dr. Henderson seconded the motion. The motion passed unanimously.

## **8. CALIFORNIA DEPARTMENT OF PUBLIC HEALTH, CALIFORNIA TOBACCO CONTROL PROGRAM (CTCP) REPORT**

Ms. April Roeseler presented on behalf of CTCP:

- On January 3, 2017, the California Department of Public Health initiated GRIP meetings
- CTCP met with ADEPT about collaboration opportunities to advance health equity
- Released a Fact Sheet about Tobacco use among American Indian and Alaska Native Populations
- Health Equity Report Card – Nine Indicators Under Consideration
  - Building spreadsheets with indicators and TERO's 17 priority populations
    - Missing data for formerly incarcerated
- Beginning January, 2017, ads were displayed at gas stations and convenience stores as a reminder about Tobacco 21 law and the California Smokers' Helpline

### **General Discussion**

At 32:34, an unknown speaker asked about health equity funding proposals. Ms. Roeseler replied that CTCP gave LLA information about anticipated funding for 2017-18 and that CTCP also plans to:

- provide augmentations to the Training and Technical Assistance grants and the CA Smokers Help Line
- put out regional and state-wide grant opportunities targeting priority populations
- provide funding opportunities for tribes, community-based orgs working with priority populations, and funds for behavioral health and rural area

Dr. Soto said she was glad to see more grants for priority populations, and is wondering about those populations themselves applying for the grants. Ms. Roeseler said CTCP wants to layer and time funding opportunities to build capacity and boost technical assistance to folks who have been working directly with priority populations then reach out to newer local groups working with or are priority populations. CTCP is looking into model mentoring programs from ADEPT to help foster the growth and capacity of new organizations.

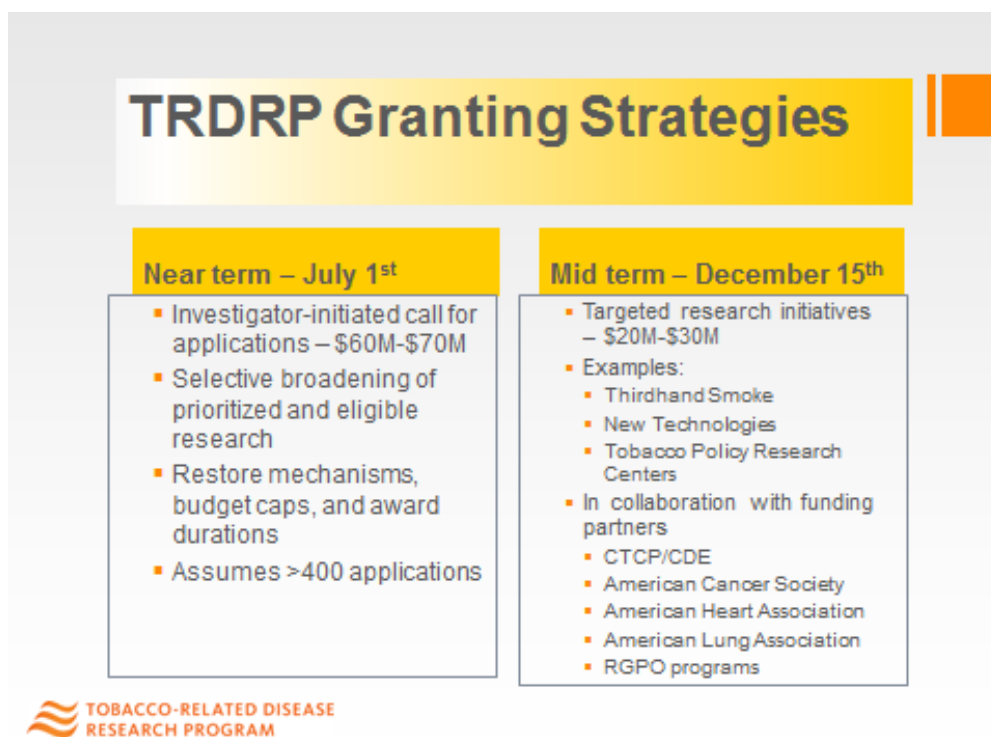
## **9. UNIVERSITY OF CALIFORNIA OFFICE OF THE PRESIDENT TOBACCO-RELATED DISEASE RESEARCH PROGRAM REPORT**

Dr. Bart Aoki, Dr. Phil Gardiner, and Dr. Norval Hickman reported on behalf of TRDRP:

TRDRP peer-review meetings are scheduled for 144 applications

- February and early March 2017

- Committees for:
  - Health Disparities and Policy Research
  - Tobacco-Related Cancer
  - Cardiopulmonary Disease
  - Environmental Exposure & Toxicology
  - Neuroscience of Nicotine Addiction
- SAC Funding Meeting
  - Mid-April
- Funding Notifications
  - Late April and early May
- Prop 56 brings added flexibility in funding topics and new opportunities
  - Basic, applied, and translational medical research into the prevention, early detection of, treatments for, complementary treatments for, and potential cures for all types of cancer, cardiovascular and lung disease, oral disease, and tobacco-related diseases
  - Triangulum
  - Comprehensive health promotion
  - Access to health care



### General Discussion

Ms. Etem asked about an equity strategy. Mr. Bart Aoki replied that they have elements of one, but would like to have one written down and mentioned in the Cycle 27 Call.

Dr. Ong encouraged TRDRP to play a more active role around the data because there are a limited number of data sources that exist in CA that could be supplemented and asked to collaborate more and provide the CA-specific data we need.

Dr. Ling emphasized that TRDRP funding is one of the few opportunities for non-citizens or immigrant communities because of very limited federal level funding.

## **10. CALIFORNIA DEPARTMENT OF EDUCATION REPORT**

Sarah Planche presented on behalf of CDE for the period of December 16, 2016 through February 12, 2017.

Ms. Planche reported:

- With increased revenues, CDE is considering the following positions:
  - 3 Education Program Consultants (one position to focus on Health Equity)
  - 1 Education Research and Evaluation Consultant
  - 2 Associate Governmental Program Analysts
  - 1 Office Technicians
  - 1 Staff Services Manager
- CDE had a re-organization due to the retirement of Deputy Director Ellerbee and will now report to Glen Price and Michelle Zuman
- CDE posted a webinar “How Schools Can Implement New Tobacco Laws” posted on CDE’s Youtube channel [https://www.youtube.com/watch?v=xHk\\_mCRgg7](https://www.youtube.com/watch?v=xHk_mCRgg7)
  - In process of creating a handbook to go along with webinar
- CDE is in discussions with CA School-Based Health Centers about opportunities to provide brief interventions as well as youth advocacy and development with Prop 56. In January, the San Mateo County Office of Education and the Health Department hosted a seminar called “Racial Equity in our Schools and Communities”
- CDE received 23 applications for TUPE CohortM Tier 2 grant funding
- New smoking cessation groups at two continuation schools in Contra Costa
- The Contra Costa Tobacco Prevention Coalition will present to their Board of Supervisors on a suite of policies that would greatly reduce the availability of tobacco products and density of tobacco retailers near schools

## **General Discussion**

Ms. Vicki Bauman asked if the CDE has plans to work with the Attorney General’s (AG) Office to help support at-risk youth. Ms. Planche’s said she would bring back the recommendation to the Division Director.

Dr. Baézconde-Garbanati asked how many CA School-Based Health Centers there are. The presenter was not sure if there were 100 or 200 and would get back to TERO. Dr. Baézconde-Garbanati followed up and asked if they are in coordination with the American Indian Health Centers. Ms. Planche wasn’t sure, but Mr. Lagomarsino said that through the TUPE grants there are five American Indian Centers being funded and are considering ways to also move funding

to other Centers not receiving funding (regional approach). Dr. Baézconde-Garbanati also asked about an efforts happening given current cultural stressors for students around immigration raids, which could increase the likelihood of using tobacco and other substances. Mr. Lagomarsino replied the State Superintendents sent a letter to all Superintendents to make school districts sanctuaries.

Ms. Etem asked if CDE has contacted school districts that are not competitive for funding to support them or if there are now different types of available funding for non-traditional schools? Ms. Planache responded that a separate procurement may be a better way to go for non-traditional schools.

Dr. Ong commented that CDE has worked hard to help schools who typically are not competitive when they apply for funding; maybe CDE can think about a different kind of procurement for groups that have not traditionally been funded on a trial basis. Mr. Lagomarsino said CDE is trying to do the training upfront with groups so they feel prepared to apply for the funding when it becomes available. Dr. Ong encouraged all of the agencies to re-think how to support those groups to apply in ways other than upfront training. Dr. Ling agreed that with more funds available, she encouraged CDE to think creatively about how to engage lower resource schools. Also, she encouraged CDE to collect data.

Ms. Etem suggested that the new positions don't necessarily have to be located in Sacramento since schools are all over the state. Mr. Lagomarsino says that CDE will look into that.

Dr. Ong added that some centralization of resources may have benefits as well, and encouraged CDE to think about distance learning and to centralize some resources or universal packages of media and outreach that could be used.

## **11. PUBLIC COMMENT**

Lynn Basket requested TEROC members come to tomorrow's meeting having picked their top five key policy recommendations.

Dr. Ong asked for agreement from the Committee to recognize folks involved with the passage of Prop 56 by presenting them a Certificate of Presentation.

### **Action Item**

Dr. Ong motioned to have an appreciate event at the next TEROC meeting for Prop 56 folks. Motion passed unanimously.

Dr. Ong adjourned the meeting.