Module 5: Tobacco Use

Part 3: Background and Application of Smoke-Free Laws

Okay, we'd now like to cover another key objective within tobacco control and that's establishing laws on smoke-free indoor air, prohibiting smoking in public places and workplaces and this is sub-objective 13 within Health of the Tobacco Control area of Healthy People 2020.

The learning objective for this section is increasing knowledge and policy applications to improve indoor and I'm going to highlight a little bit of outdoor smoke-free laws in a range of settings.

So, as you can see a person using a tobacco product, in this case a cigarette, obviously generating a lot of smoke, both within their lungs and in their system but also outside of their own bodies.

I wanted to show this slide showing the evidence about tobacco smoke itself containing more than 7,000 chemicals. Clearly tobacco smoke is a carcinogen. It has many carcinogens with it and hundreds of these are toxic materials. About 70 are carcinogenic and cause cancer and these are some samples of those materials in tobacco smoke itself.

This is a very quick history of that. We have a fascinating history about second-hand smoke or tobacco smoke. Its defined as either second-hand smoke, using the term "SHS" or environmental tobacco smoke, "ETS", and its the inhalation of smoke by persons other than the intended active smoker. A quick history, before the 1970s there was not any epidemiological research and evidence. It was known, it was in the early Surgeon Generals' reports about calling it a nuisance, getting into the eyes of people not smoking who were around that, concern about vulnerable populations: children, elderly, etc., conditions of asthma and restricted work environments but there weren't any definitive epidemiological studies back before the 1970s.

What's also important is that at that time, especially after the first Surgeon General's report in 1964, consumer advocate groups started forming. These are non-smokers who are saying, "Wait a minute. Why are we being subjected to the tobacco smoke of other people?" And that's what's unique about tobacco use, at least the burning of tobacco products, is that it automatically pollutes and impacts on the air of people around the user and we mentioned about the classification of carcinogen.

Then policies during that time, in the 70s, policies beginning to be created designating smoking areas and non-smoking areas, addressing improved ventilation and air filtration systems, etc. And of course, we have had a history of restrictions of smoking, certainly from the burning and the fire concerns, certainly restrictions there in theaters and various health care environments, inside. Those restrictions occurred well before the evidence because of the risk of the burning product in those environments.

In the early 1980s, the first epidemiological studies of secondhand smoke on non-smokers, and this was done with non-smoking spouses, typically women and wives of smokers. Living in that environment at home and with those smokers, the evidence was very clear. This is more than just an inconvenience or nuisance. This really could impact on the health of the non-user.

That evidence began accumulating with over 100 different studies, so the first Surgeon General's report, remember that, the first Surgeon General's report was 22 years earlier, in 1964. In 1986 the first report specifically on health consequences of involuntary exposure to tobacco smoke. I highlighted the tobacco industry response, which was very strongly against that, saying that there are warnings for the consumer of tobacco products but there's no clear evidence that it impacts on others around the smoker.

Over the past 20 years since then, since 1986, an increasing amount of evidence and studies of the impact of secondhand smoke or environmental tobacco smoke and then 20 years later, in 2006, a report over the evidence of the past 20 years that clearly indicated that secondhand smoke causes a causal relationship with disease and merely the estimate of just being around a person who is using tobacco on a regular basis can cause nearly 50,000 premature deaths of the person who is not consuming. So the conclusion of that is there's no safe level of secondhand smoke exposure and therefore, pure separation between a person who is smoking and non-smoking, particularly indoors, is not going to be effective, that we need to completely restrict smoking in the indoor environment.

So I want to use an example of the airlines because originally in the airlines, back in the 1920s, when air travel became more popular, through the 1970s, the first 50+ years of airline use that tobacco use was permitted on the airlines. I know for some people who say, "How is that possible?" and they're not familiar with that, but it actually occurred for the bulk of air travel. In fact, they would actually be giving out little packs of four cigarettes. If you chose to smoke, you would be given these sample cigarettes provided free by the tobacco industry when you boarded the plane at that period of time.

Clearly by the 1970s the restriction not only with the Surgeon General's report, the first one, but increasing evidence started restricting tobacco use on airlines to various rows in the airline so that in the air cabin there would be a smoking section and a non-smoking section. Over time the smoking section decreased as far as the number of rows allowed. In the United States the first law requiring non-smoking in U.S. domestic flights of two hours or less occurred in 1988.

But in the early '90s and really starting in the 1980s, flight attendants, and this was then getting into the issue of workforce and workplace, flight attendants, who had to be there as part of their job filed a class action suit regarding the occupational exposure, filing that suit against the airlines. As a result of that, in the later 1990s, airlines began a complete 100% ban on their own and in the year 2000 passed into law, President Clinton signed that, is that all flights to and from the United States of any length, from any location, were declared smoke-free. Currently in 2013, the vast majority, but not all, international flights are smoke-free and that would depend on the individual country where one is flying.

So, in the development of that I want to talk about ordinances and laws and restrictions. Initially in the 1970s, this was again before the 1986 Surgeon General's report on environmental tobacco use, local ordinance began to restrict smoking in indoor areas. I want to highlight the fact that in 1976, a significant film called Death in the West, a documentary that talked about the Marlboro Man, the most popular cigarette at that time from Phillip Morris and that image of macho-ism and macho, being a cowboy, etc., that film was shown throughout the United States and the world and really had an influence here in the United States on people's attitudes about smoking.

Federal restrictions began in government buildings in the early '70s and 1980s so federally, in federal buildings that occurred before necessarily significant state laws in private indoor environments occurred. Then in the 1970s to the 1990s state and local laws began to restrict smoking in public venues.

The first comprehensive occurred -- we'll use this example -- took effect January 1995 in California. It was focused on workplaces. The state of Delaware passed, in 2002, a comprehensive law. We'll talk about the differences of what that means between the California law, but comprehensive ban on indoor smoking meaning no exceptions. No smoking areas, no restrictions, all indoor environments.

Currently there are close to 30 states that have comprehensive laws banning smoking indoors and I want to mention the CDC state tracking activities in tobacco and evaluation are called STATE, a great resource to provide to track the various laws in states and localities. Theres also a number of private sources that I'll mention as well. Currently worldwide most countries have indoor smoking restrictions. Some are much more comprehensive than others on that.

So what about the laws here in the United States? Currently there are 28 states, along with the District of Columbia and also Puerto Rico and over 500 municipalities that have what is called comprehensive laws restricting indoor smoking, particularly in workplaces and restaurants. Most of these have significant restrictions, maybe not complete bans, but also in bars and/or in gaming facilities.

The estimates from these laws, federally, state, and local is that it is estimated, the latest estimate is 81% or about four-fifths of the U.S. population are protected by some smoke-free air laws in workplaces and restaurants and/or bars. And yet we do have much more work to be done to create a comprehensive, clean, smoke-free protection for everyone in every indoor environment in the country.

This is a map of laws as of February of this year and you can see the restrictions in the various colors. The green states in the green areas, the light green areas, have most indoor air places and workplaces that are covered. Those, a few that are in the orange are smoke-free areas just in restaurants and bars and not all workplaces and the dark green do not include bars and there are a number of states in white that have no significant statewide smoke-free laws.

I want to talk a little bit about the impact of laws and social customs and social norms. The norms and the studies, whether its the youth risk behavioral survey or the adult, 18 or over behavioral risk surveillance surveys and other surveys around the country have noted clearly a major change in attitudes about tobacco use indoors and outdoors.

To give you some examples of that from a study from the Robert Wood Johnson Foundation called Social Norms and Attitudes about Smoking over a two-decade period, in 1992 a support for a ban in restaurants nationally was reported at 45%. In 2007, the last time reported from this particular study, 64%, so a significant change in the support for bans in restaurants. The same for bars, even though the percentages are much lower. That's almost a doubling in a 15-year period as far as change of attitudes, and certainly in the sports arenas where we call permanent seating, where you would literally have to leave if somebody was smoking next to you, those are 79%. We're sure that those figures are higher today than they were back in 2007, but I wanted to show the example of a definitive study from the Robert Wood Johnson Foundation showing those social norms and attitudes.

Now, what's not clear is which has caused as far as these laws cause and effect. Is it the changing norms that caused the development of smoke-free policies or vice-versa, the policies are certainly a reflection of the changing norms and behaviors? We're not sure of which is the causal relationship between them, the changing norms or the policies but theyre both impactful on causing those norms, which is another reason why the policies are so important.

What about outdoor bans? We're hearing a lot more about that and creating that social norm. It's much more visible, particularly so, but in the common locations. Certainly in schools and the outdoor environment around the school, facilities, with any facility with stable seating -- sports arenas, concerts, anything outdoors, plays etc., usually those are banned to be smoking. If they do allow smoking its in the concourse or even farther away from the seated venues. Public parks and recreations around the country, especially with young people, but families there are banning smoking outdoors.

Beaches, an increasing number of beaches on both coasts and the Gulf Coast, particularly in the East Coast and the West Coast in the United States are banning smoking on beaches. Its also, besides the air, it also has to do with the cigarette butts on the beaches. Restaurants and outdoor seating and that gets to individual laws, state and local laws, whether they include outdoor seating or not in restaurants. Hospital campuses, clearly healthcare environments, not just inside the hospital but around the campuses and now colleges and universities too, so there is a national initiative called Smoke-free Campuses, both in the healthcare settings and the colleges and universities to create an entire environment for banning smoking.

I want to highlight New York City, in 2011 its ban on smoking in 1,700 parks and its 14 miles of beaches and the aspect of creating a social norm and to have a healthy outdoor environment. So as you can see, the outdoor bans are much more visible and they do create a social norm of that and they are generally self-enforcing. One of the criticisms of that, no, we dont have police to go around to all the parks and outdoors to enforce it, but putting up signage, creating that norm and the expectation that just for the enjoyment of all to ban smoking in these particular environments outdoors has shown to be really effective in people abiding by that law.

There's also an area that you may or may not have heard about before called third-hand smoke and what THS is is the residual nicotine and other chemicals that are left on surfaces by tobacco smoke. So it's not the smoke itself in the air, but it's that the residues of those get into furniture, get onto our clothes, get obviously in our hair and a wide range of things. This is very impactful, and certainly impacts on policies. It clings to our hair and clothes and furniture, drapes, just to picture an indoor environment, long after a person is no longer smoking in that environment. It builds over time and does resist normal cleaning.

So that's impactful, certainly in the area of hotels, for example. Many, many hotels are now smoke-free, because of the cleaning extra cost. Even in trying to clean a room that a person has been smoking in, the residual effect is important and still remains.

Why is this important from a policy? The national initiative to create healthy homes and home environments in a broad sense, including with tobacco and to try to get as many families to have a policy that's part of those norms to not allow smoking inside their home. Childcare facilities, obviously very important. Young people, young children crawling around on the floor and the drapes, etc. Senior living facilities, environments that seniors are particularly sensitive towards and hospital and healthcare facilities. The aspect of lab coats and do healthcare providers change their lab coat if they are smokers and go outside to smoke and then they're coming back and seeing patients, what are the implications of that, as far as provisions of healthcare?

So all of those impact on third-hand smoke and we're going to certainly be involved in that area and hear much more about that going forward.

These are just two signs. One is from Delaware that created that first comprehensive, with no exceptions, law back in 2000 and took effect in 2002. The one on the right is from Pennsylvania, as they have been trying to enhance an existing tobacco-free law that has many exemptions, quite weak considerably and you can see their focus on alternative products, but also their focus on the fact that people will have to work in those smoke-filled environments and the impact on their health as well as the patrons.

So, what are some recommended, evidence-based actions to take to try to change those laws at the state and local level particularly, but also at the federal level? One is to assess your current tobacco use rates and exposure to secondhand smoke and to do that first, to determine the current laws that you have in your local community and your states.

There are many resources. I've mentioned the CDC STAKE free database and also private databases. There is an existing coalition or a group of people who, from various stakeholders across all sectors of our society in education, health and the environment, etc. in the community who are strongly supportive of this and work collaboratively to either create a new law or to enhance an existing law in your local community or state.

Some other evidence-based strategies is to have a goal and an action plan, and this is based on the experience from around the country. Financially in the communication plan and how mass media will be used and the cost of putting all that together. That's why a coalition is so important. And the role of education in preparing, educating the community about the importance of these secondhand smoke laws and educating policy makers why it's important that exemptions, in a sense, people who are working, would be exempted in the various environments due to that, let's say in a bar or restaurant or a casino, the importance of protection for every single person in the workplace and as a consumer. And doing polling: what's the assessment in that process, the importance of polling in all campaigns is an important, evidence-based strategy.

Continue to build the support and to draft it as policy. When it comes to smoke-free environments we really get into the specifics of what those environments are. So looking at your current law, if there is one, where are your priorities and maybe some of those are weaker than others. Is it in the workplace? What about schools? Housing, an increasing role in apartment dwelling and housing and the impact of that. In vehicles, the use of those of those vehicles for public purposes in smoke-free homes, casinos and etc.

So you really want to look at the environment and whats being covered and what isn't and what the protections are. Obviously obtain various political sponsors and supporters, educate and advocate. The education process never ends. And then finally, obviously evaluate and assess both the process as you go forward and the eventual result.

So one of those is clear definitions, as far as smoking location, I mentioned that. But specifically, how is housing defined? Finding a clear definition is absolutely essential in creating and enhancing local and state and federal laws and policies. The example of between entrances, how much space, what about apartment issues related to that and the details of that in developing a policy?

The economic argument, I want to highlight that because in certain environments, particularly tobacco groups and supported often by the tobacco industry has said it won't work in bars, it won't work in restaurants, it won't work; they will lose money. The evidence is very clear, certainly with restaurants and even with bars that those that have gone smoke-free in some cases have actually increased their revenue as now families and others who, with the reduction of the percentage of smokers, it is an economic argument that it could actually be certainly no loss of revenue but certainly could even raise revenue.

I want to mention preemption. I won't spend a lot of time with that but a strategy that has been used consistently by the tobacco industry, particularly with local laws, is to create a state law that would preempt the local laws, and often those state laws are not as strong, have many more exemptions than protections. So you want to clearly look at the preemption laws in your state. If that is a problem, you may need to address that as part of your laws and policies. Again, mentioning exemptions, to reduce or eliminate those exemptions and part of that, going back years ago, is that even with good ventilation we know that just pure separation of smoking and non-smoking does not protect everyone. It really needs to be restricted indoors.

Some of the other considerations: the aspect of enforcement and penalties for doing so and that clearly needs to be part of it. Sunset provisions meaning, all right, we're willing to do that for two years, but if no action is taken that law goes back to what it previously was. It's not as strong. You want to avoid those and strategies to do so. Obviously laws can change at any time but very rare. There's only a couple of examples of that around the United States, where a stronger law was then, after being implemented, was then revised and then gone back to one that allowed more smoking. Doing so, our general public, once they see the opportunity to be in a smoke-free environment and breathe clean air will not likely go back.

Trigger language, to avoid specific language against trigger, well, based on sales, based X, Y, and Z, there should be no ideally trigger language in any of that. Recognizing the role of labor. So if you're dealing with workplace environments with organized labor you certainly want to look at that and work with labor with that. Signage, how is that signage communicated? Ideally we will not need signs indoors to say "No Smoking Here". If anything, the things that we would see, if there are allowed indoor smoking, would be Smoking Permitted signs but that certainly needs to be addressed, as well as any type of opt-out provisions.

So I want to highlight an example in California. You'll notice the title of this is the Smoke-free Workplace Law, Assembly Bill 13. I want to mention briefly a foundation of this because five years before, there was a tobacco tax initiative, one of the most famous ones, Proposition 99 that earmarked money, $0.25 tax, and earmarking money to health and environmental purposes. That tax raised $650 million annually, initially, and a lot of that went to health, very significant.

It was passed and there was a long process about that. You could certainly read more about that, Proposition 99 and that particular act. It was litigation with the governor and the state legislature about the earmarking. It was finally won, in court, and created Californias very noteworthy Tobacco Control Program in 1990.

Why that's important is because the connection there is part of that development of California's program, there were a lot of resources that went down within the state to local levels. Almost every community throughout the state of California in those first few years received some type of funding, sometimes through government, sometimes through non-profit organizations. That's important because a wide range of local coalitions on tobacco were formed and they played an absolutely essential role when, a few years later, their proposal to create a statewide law, Assembly Bill 13.

So the focus on health and employees was good for business and that was part of the strategy is that it is good for business. It is not bad for business and working with the California Restaurant Association, which they basically took a neutral stand on that, that was incredibly important in creating this law.

The support of the California League of Cities, this is the government at that time, there are more now, but 467 cities that were strongly supportive of this statewide law. Many of them had received resources, tremendous influence in the state capital in Sacramento for that support and the counties in Californiathere are 58 of those coalitions, networks and partners were developed in development of this statewide law.

What was included in Assembly Bill 13, the Smoke-free Workplace Law, it included restaurants and bars and there was a lot of discussion of including bars, but it was included at that time. But the reason that it is not considered comprehensive is that in order to get the law passed, there were certain exemptions in certain environments allowed for separate ventilation systems that could be created, private clubs were exempted in order to pass the legislation, and that was one of those decisions determining the decision-making process. In order to get it passed in working with political leaders, those exemptions were required in order to get it passed back at that time in 1994.

Polling was done. There was strong media support for the law, the bill. Polling was done indicating that support and originally bars were to be included. It then got extended. Eventually bars were included in 1998, a few years later.

Well, so what? What's the big difference in California? Just some examples of that. It's not solely the law but the law had a lot to do with the changing norms and the reduction in tobacco rates. So as an example, in 1988, with the tobacco tax in California, the adult smoking rate was 22.7%. In 2008, 20 years later, that had reduced significantly to 13.3%. It's now lower than that, of course, and the youth smoking is rated as the second lowest in the United States.

Clearly this law had a lot to do with, and supported that reduction in tobacco use, both with youth and adults. Lung and bronchus cancer rates declined four-fold during that time, from 1988 to 2004, the rate of the rest of the United States. The estimated savings, as a result of this reduction in tobacco was $86 billion and it created of course a strong norm in tobacco-free attitudes to support that.

So what's our lesson learned from the California experience? Change does occur slowly, but one can build on momentum. Broad coalitions and inclusion and making health the issue for that it is a health issue for everyone really helps in the sustainability of these initiatives. Grass-roots education at local, state, and federal levels are important. Building awareness, the use of media, and involving young people in the development of that media in this California tobacco campaign that really hit hard on the industry and involving the grass roots in the communities.

The final one is that be willing to accept some tradeoffs. Although you have to make those decisions of the value of that in today's environment groups are saying, "No, we're not going to allow any exceptions," many of them on that. But in that case, the case of California, the state had to make some tradeoffs to tobacco control advocates in order to get that passed back in 1994.

So a discussion question for you is to consider, in light of the California experience, how comprehensive is your current law? Does it protect the health of the vast majority of people in your community or your state? What changes are needed in your current law to reduce exemptions and make it stronger? And what environments within that question, what environments, whether its housing or schools, would you want to target to be included in amending or improving your current cleaning your air law?

Who would be key supporters and stakeholders in that, in forming your coalition or using an existing one? How would you assess the views of your community or state on the current law and what you're proposing to enhance the current law and how could you obtain the financial support in creating policy and legislation to amend your existing law?

In summary, what we talked about in this segment is public awareness of the effects of secondhand smoke and occurring over a generation and the awareness of certainly, after the awareness that occurred about the direct effects of direct smoking. There is strong scientific evidence about secondhand smoke causing death and illness for non-smokers. Creating a comprehensive, whether its federal, state, or local laws to reduce tobacco smoke exposure, is considered tobacco control best practice.

Federal, state, and local laws have restricted smoking indoors and have greatly reduced exposure. Local and national laws can improve to protect everyone. Actions to improve those laws require, though, a concerted, collaborative and often longterm effort to make that happen. There's many considerations in the development of that law and there are tremendous federal, state, and community resources available to help you in the development of your state and local and federal laws.