



NEWFOUNDLAND  
AND LABRADOR

**HEALTH  
BOARDS  
ASSOCIATION**

**PROPOSED TOBACCO  
HEALTH COST RECOVERY  
LEGISLATION**

*NLHBA Mailing Address*

P.O. Box 8234  
St. John's, NF  
A1B 3N4

*NLHBA Delivery Address*

Beclin Building  
1118 Topsail Road  
Mount Pearl, NF  
A1N 2M3

Telephone (709)364-7701  
Facsimile (709)364-6460  
Email [nlhba@nlhba.nf.ca](mailto:nlhba@nlhba.nf.ca)  
Web Site [www.nlhba.nf.ca](http://www.nlhba.nf.ca)

**May 7, 2001**

## **MISSION**

As a federation of health boards, the NLHBA is dedicated to working collaboratively with the province's publicly-funded health system through dynamic leadership in advocacy, the creation and exchange of ideas, and development of consistent policies, standards, and guidelines.

## **DEFINITION OF "HEALTH"**

Health is a state of complete physical, mental, and social well-being and not merely the absence of disease or infirmity.

**World Health Organization**

## 1. INTRODUCTION

The Newfoundland and Labrador Health Boards Association (the Association) is the federation of regional health boards that serve Newfoundlanders and Labradorians across the province. Through our membership, the Association represents the regional Institutional Health Boards, the regional Integrated Health Boards, the regional Health and Community Services Boards, the St. John's Nursing Home Board and the Newfoundland Cancer Treatment & Research Foundation. These Boards are governed by voluntary trustees, who are appointed by the Minister of Health and Community Services and serve in the public interest. We are here today to present on the important issue of legislation to enable the Government of Newfoundland and Labrador to sue the tobacco industry for smoking-related health costs.

## 2. POPULATION HEALTH APPROACH: DETERMINANTS OF HEALTH

In Newfoundland and Labrador in 2001, all health services are delivered by the regional Health Boards. Starting in the early 1990s, the health system evolved from a mostly hospital-based system to a broad range of services that are intended to address the recognition that access to the health system is not the only factor that determines and affects the health of the population. In 1998, four regional health and community services boards were created (St. John's, Eastern, Central and Western) and Health Labrador and Grenfell Regional Health Services Board received an expanded mandate in order to deliver programs and services in continuing care, mental health, addictions, health promotion, disease control and epidemiology, child welfare, family and adult rehabilitative services and community corrections. To achieve this end, services from the former Community Health Boards were integrated with the Child Welfare, Community Corrections, and Family and Adult Rehabilitative Services from the Department of Human Resources and Employment. These

broad changes were planned to provide a continuum of care in the community based on principles of prevention and early intervention and inter-disciplinary teamwork.

The health promotion/population health approach supports the goals of the provincial Strategic Social Plan: vibrant communities where people are actively involved; sustainable regions based on strategic investment in people; self-reliant, healthy, educated citizens living in safe communities; and integrated and evidence-based policies and programs. These are long-term strategic goals for the population.

But what is the most effective way to achieve a healthy society? The 1999 report by the Federal, Provincial and Territorial Advisory Committee on Population Health, *Toward a Healthy Future*, identified socioeconomic status (measured by income and education level) as the most powerful influence on health, closely followed by personal health practices (smoking, multiple risk-taking behaviours such as unsafe sex and multiple drug use) and environmental factors - social (including social support, family violence and youth violence), physical (including housing affordability, climate change and environmental pollution), and workplace. Over the past decade all provinces and territories have moved towards a population health approach that places a strong emphasis on addressing the broader determinants of health. As the World Health Organization definition at the beginning of this presentation states, “Health is a state of complete physical, mental, and social well-being and not merely the absence of disease or infirmity.”

The Liberal Government has supported the population health approach through health promotion programs aimed at preventing the effects of unhealthy lifestyles and early intervention programs outside the traditional institutional health system that help people start early on a healthy life. From the health services delivery perspective, Health Boards fully support this proactive approach towards improving the health of the population in our province. Health Boards anticipate a positive effect at all levels of the health system from a long term emphasis on actions directed towards the determinants of health.

### 3. TOBACCO CONTROL STRATEGY

As Minister of Health and Community Services, Premier Grimes financially supported and encouraged the current thriving Tobacco Control Strategy as a key component of population health. The Department of Health and Community Services funded the Alliance for the Control of Tobacco (ACT) and the Teen Tobacco Team, and brought forward legislative amendments restricting the public use of tobacco products and enforcing the ban on sale of tobacco products to minors. These progressive initiatives arose from the Department's mandate for health promotion, early intervention and prevention, based on widely-accepted evidence on the damaging health effects from tobacco usage and the need to reduce such harmful behaviour as an investment in the future of the province. The Health Boards Association was a founding member of ACT, and fully supports ACT's mandate and activities in health promotion, prevention and early intervention to improve the health and well-being of our province.

As the 1999 *Report on the Health of Canadians* stated in detail, smoking is widely acknowledged as the most important preventable cause of death in industrialized countries and its prevalence is closely linked with other health indicators, such as low education levels and poverty. Direct and indirect costs are estimated at \$7.8 – 11.1 billion annually in Canada. Smoking has a disproportionately high impact on the fetus, the newborn and the infant. The protection of non-smokers and the prevention and reduction of smoking are therefore appropriate concerns of government.

In Newfoundland and Labrador, we have one of the highest rates of smoking in Canada, and a high proportion of smokers (42%) are not even thinking of quitting. There is much work to be done in education and prevention to avoid the inevitable costs to the provincial health system.

Statistics Canada has shown in *How Healthy are Canadians? 1999* that current smokers are admitted to hospital more than non-smokers, and that the likelihood of hospitalization increases with the number of cigarettes smoked per day. In *Towards a Healthy Future* it is

pointed out that smoking as a cause of death in Canada far outweighs suicide, motor vehicle accidents, AIDS and murder combined. Tobacco use accounts for at least one-quarter of all deaths of adults between the ages of 35 and 94, and smoking rates have increased substantially among young people, both male and female, in the past decade.

The negative health effects of smoking have become an international and national problem, and are particularly serious in Newfoundland and Labrador. It is no wonder that the cash-strapped health system in this Province unanimously supports the Government initiative in seeking to recover some of the health costs from the tobacco industry.

#### **4. WHY LEGISLATION?**

**Private Profit/Public Cost:** The true costs of tobacco usage can be seen in our disease profiles, in the children clustered around school grounds with their cigarettes, the hospital patients with intravenous lines, and sometimes oxygen, outside hospital entrances having to deal with their addiction to tobacco. The financial cost of this destructive personal health practice to the health system in this Province is enormous: an estimated \$71 million per year, public dollars that should be going towards maintaining and improving the health of all of our population. Together with other social costs of smoking estimated as amounting to \$370 million in total per year, this is a serious erosion on the Provincial spending power. We have to ask ourselves whether the Province can afford not to take steps to recover some of this money. Unfortunately, while the tobacco companies that market tobacco products are private and reap private profits, the health problem is a public responsibility and public dollars are currently being used to deal with the effects of tobacco usage. This unique private profit/public cost factor distinguishes the tobacco industry from other private, for-profit industries. Public money is being spent on remuneration for medical and health professionals, hospitals, medication, medical and technological equipment required for tobacco-related illnesses. In addition, Government has committed funds to health promotion, public awareness and tobacco control strategies. Tobacco companies must be held accountable for the cost to the Province of this significant health problem.

**Advantages of Court Action:** There are clear advantages to working through the private profit/public cost issues in court, rather than through other means.

- Firstly, the proposed legislation is simply to lay out the framework to allow the Government of Newfoundland and Labrador to bring their arguments against the tobacco industry into Court. There is no guarantee of a particular stated outcome in favour of one of the parties, nor is there any attempt to prevent the tobacco industry and companies from stating their case as fully as they wish. The proposed legislation is an enabling piece of legislation.
- Secondly, the Court will provide an impartial third-party assessment and judgment based on the evidence presented by the parties in the case, whether it be of the health effects of tobacco usage and subsequent costs to the public purse, or of the right to market tobacco products in a regulated setting. In reviewing the issues, evidence would therefore receive strict scrutiny in court, governed by the legal framework of court action, the rules of evidence, the right to cross-examine witnesses and so on. Parties will be required to prepare and present arguments that can withstand such scrutiny in order to be accepted as meeting the burden of proof. This would not be the case in any other circumstances. The current Select Committee hearings, for example, afford the parties, including tobacco companies, the chance to present arguments in the absence of these legal checks and balances. However, it took Court hearings in the United States to unearth evidence of the marketing and manufacturing strategies of the tobacco industry and their awareness of the damaging effects of tobacco usage, evidence which would certainly not have been made available by any other means. The short time for preparation for and the cost of these Select Committee hearings are significant disadvantages to health system stakeholders whose resources are intended for health services and programs. There is a good case to be made for the tobacco industry to bear the cost to the public of these and other hearings, using the precedent of the Public Utility Board hearings. Court hearings would ensure a full hearing for evidence from all parties and would deal with all matters of cost in a fair manner.

- Thirdly, although Government in this province collects taxes from individuals who buy and use tobacco products, it collects no compensation from the tobacco industry itself, or tobacco profits, for the health costs to the Province resulting from usage of their products. Court is the appropriate neutral forum to ensure that such compensation is fairly and equitably assessed in an open, accountable and transparent public proceedings, and that compensation, when assessed, will be forthcoming from the defendants.

## **5. CONCLUSION**

In conclusion, the Newfoundland and Labrador Health Boards Association strongly supports the Government in seeking to recover health costs due to tobacco usage from the tobacco industry and urges Government to do so in court as the most appropriate and effective forum. The Association have argued that the health system in this Province is based on the recognition of the many determinants of health, and that action has been taken to address tobacco usage as one of those determinants. The next step to be taken is to enable the Province to start the process of recovering at least some of the costs of such preventive action by the health system, and of recovering the costs to the health system of addressing illness and disease due to tobacco usage. The Association therefore recommends that the proposed legislation to enable such court action be allowed to proceed without further delay through the House of Assembly, together with a fiscally responsible plan of action for implementation. ♦