



# Celebrating Cessation

Volume 1, Issue 5 December 2008

## Iowa/Nebraska Primary Care Association Tobacco Cessation Program

### News

#### Legislative History and Current Attempt to Regulate Tobacco

Since the 1980s, various groups and individuals have been advocating for the FDA to be the regulating body of the tobacco industry. In 1995, Dr. David A. Kessler, the then FDA commissioner, proposed a set of regulations governing tobacco and tried to impose them on the industry; however, in 2000 the Supreme Court overturned them. Interestingly, both the majority opinion and the dissent agreed on the basic issue that tobacco is an extremely dangerous product that should be regulated. Where they disagreed, however, is the majority concluded that if Congress intended for the FDA to regulate tobacco, it should say so. The dissent believed that tobacco regulation is so important that the FDA should have the right to regulate tobacco unless Congress forbids it that right. Since the 1960s there have been a handful of times when the Congress passed tobacco regulations and in none of those times did the FDA assert they had jurisdiction over tobacco. Nor did any of these laws give power to the FDA to regulate tobacco. Because of the importance of this issue and the failure to give authority to the FDA in previous tobacco regulatory laws, the majority was convinced that Congress could not have intended for such an important task to fall to the FDA through mere inadvertence.

With the task of determining whether or not the FDA should have regulatory control over the tobacco industry in the hands of Congress, some attempts have been made to do so. In 2004, a bill was passed by the Senate to place tobacco under FDA jurisdiction, but the House never approved it. Most recently, in 2007 a bill, the Family Smoking Prevention and Tobacco Control Act, was introduced in both the House and the Senate (HR1108, S625). In July 2008, it passed overwhelmingly in the House.

While the bill specifically states the FDA would not be allowed to order the elimination of nicotine from tobacco products, or to place an outright ban on all tobacco products, it does have the ability to make other dramatic regulation. The bill would allow the agency to reduce nicotine to non-addictive levels, reduce or eliminate other harmful ingredients, and ban flavored cigarettes. One caveat to the ban on flavored cigarettes, menthol cigarettes specifically, would not be included. This drew outrage from the Congressional Black Caucus given what is known about the prevalence of Black Americans smoking menthols. Additionally, some studies have suggested that menthol cigarettes are more addictive and more harmful. Before the bill was passed by the House, last-minute changes were made to the bill to direct a scientific advisory committee to issue recommendations on menthol in cigarettes within one year.

Other changes would be apparent if the legislation is enacted. Warning labels would be large and graphic. Cigarette makers would be required to provide detailed reports about the type and quantities of ingredients in their products and the biological effects of the additives. Advertising could no longer include "light" or "ultralight" and any outdoor advertising or ads in publications that children could see would have to be in black and white.

### Newsletter Spotlight—Kick the Habit

#### New York Campaign

The New York City Department of Health and Mental Hygiene has begun a new campaign called "Eating You Alive" to try to scare smokers into quitting. Available at 132 cigarette retailers in the South Bronx, East and Central Harlem, and North and Central Brooklyn, 400,000 matchbooks with grizzly and graphic pictures are provided for free. These areas of the city have been targeted because they have not had the same declines in smoking rates that have occurred in other parts of NYC.



### Questions or Comments?

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### Share Your News

If you have outreach activities that you are willing to share, please include them along with success stories in your monthly reports or email them to Sarah