

State health commissioner steps up drive to crack down on tobacco

Former hospital internist aims for big cut in smoking

By Tom Precious - NEWS ALBANY BUREAU

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ALBANY — Big Tobacco has a new worry on its hands: a former hospital internist who saw the lethal effects of smoking on his patients and now is the state's most powerful health regulator.

"I'm a father, and I'm a doctor, and I'm a Mormon, so I'm really anti-tobacco," said Dr. Richard F. Daines, the state's health commissioner.

In that role, Daines has embraced an ambitious goal of reducing the number of smokers by 1 million — to 2 million — people by 2010.

New York State once was the leader in anti-tobacco health policies, but over the past decade, health advocates say, the state has slipped, becoming more muted in countering tobacco advertising messages and helping residents quit smoking.

Although Gov. Eliot L. Spitzer has angered some health advocates for not including a cigarette tax increase in the budget he proposed last week, they also say his health commissioner has brought a new energy to the department's anti-smoking programs.

In an interview last week in his 14th-floor suite overlooking the Capitol, Daines and his top public health staff outlined new attacks being planned to reduce tobacco use, which they blame for tens of thousands of deaths a year and \$8.1 billion in health insurance outlays.

Daines described the continued availability of the source of the single most preventable cause of death in the United States as "discouraging."

"It's an addiction backed by an industry with a profit motive, and that's a wicked combination," Daines said.

The state's 14th health commissioner says he is waging a multifront effort against the tobacco industry, with the help of \$85 million in state money for anti-smoking programs.

He plans to pressure Hollywood to restrict scenes with smoking in movies rated below "R." His office is working on new anti-smoking advertising campaigns that will be "pushing the limits" in getting the attention of the public.

“Knocking people over the head in some way is going to be necessary,” he said, to get some smokers to quit.

Daines also wants his fellow doctors more involved in helping patients kick the habit.

“We need more from the physician community,” said Daines, a former New York City internist and hospital executive.

Daines and his staff talked about some other ideas on the table, including adding more outdoor smoke-free areas, restricting tobacco use in multiple-unit housing and persuading retailers to limit advertising where cigarettes are sold.

Last week, Daines filed a formal notice with the U.S. Food and Drug Administration, challenging its rules that make buying cigarettes easier than buying products that help people stop smoking.

“We’re really trying to hit smokers everywhere we can find them,” Ursula Bauer, the state’s tobacco control program director, said of efforts to get smokers to quit and teenagers not to start smoking.

Efforts win praise

Health advocates say Daines has given his public health staff the kind of professional leeway unseen at the agency in a generation.

“We are seeing a lot more energy. We are seeing the constraints taken off the [anti-tobacco] program. I think Dr. Daines appreciates this as a physician and scientist, and he makes the decisions based on evidence and not politics, and that’s great,” said Russell Sciandra, director of the Center for a Tobacco Free New York.

Still, a number of groups are unhappy that Spitzer did not call for increasing the state’s \$1.50-per-pack excise tax — considered one of the most immediate ways to reduce smoking rates — or spell out how he will resolve the long-standing dispute over tax-free sales by Indian retailers.

“Are we disappointed in the Spitzer administration?” Sciandra asked. “Yes.”

While the governor made a pledge to not raise taxes, such as the cigarette tax, his budget includes \$1.9 billion of various tax and fee increases and other revenue steps. Health groups say the Legislature could raise the tax during upcoming state budget talks, especially after New York City Mayor Michael R. Bloomberg proposed raising the city’s own tobacco tax to \$2 from \$1.50 per pack.

“If it’s forced on [the governor] and us from other parties, we’ll always provide that advice, and the governor knows that and agrees with it,” Daines said of a tobacco tax increase.

Daines' most immediate fight is with Washington. Last week, New York became the first state to challenge federal restrictions on the sale of nicotine replacement therapy products — such as a skin patch, gum and lozenge that supply nicotine, the addictive source in cigarettes — to smokers as an initial step to help break their habit.

Challenge to FDA

The over-the-counter products now are available only in drugstores and stores with their own pharmacies. Of the 26,000 retailers in the state that sell cigarettes, only about 10 percent also sell these products.

Gas stations and convenience stores account for nearly 60 percent of legal cigarette sales, yet FDA rules bar these outlets from selling the smoking cessation products.

The FDA also requires the products be sold in larger packages — often costing up to \$30 — which Daines says dissuades smokers from buying them. He has asked the FDA to make the products available in smaller, daily-use sizes to better compete with cigarette prices.

Daines also calls for toning down the warning labels on the products. The labels, he said, make the products appear as dangerous as cigarettes and include “misplaced concerns” about the products' safety. He said the FDA should note that the products are safe for smokers and safer than smoking.

“They're always less harmful than smoking,” Daines said of the nicotine patches and gums.

Support from experts

Last week's petition to the FDA kicked off a mandatory 180-day review by the federal agency. It is being closely watched by other states that might join the effort.

“I think it would be a positive thing for public health not only in New York, but the whole country,” said Jonathan Foulds, director of tobacco cessation programs at the University of Medicine and Dentistry of New Jersey, who has conducted studies of nicotine replacement therapy products.

Lynn Kozlowski, interim dean of the School of Public Health at the University at Buffalo, also said the changes are needed to get the products into the hands of more smokers. Kozlowski, who has widely studied nicotine replacement products, said the health warnings now lead too many smokers to believe that they somehow are more dangerous than cigarettes.

“There's lots of evidence these products help people quit,” Kozlowski said.

Bill Phelps, a spokesman at Philip Morris USA, the world's biggest tobacco company, declined to comment on the state's efforts.

FDA spokesman Christopher Kelly said he could not comment on the Daines petition, saying only that it will be reviewed.