

CHAPTER 7
TOBACCO USE PREVENTION AND CESSATION EFFORTS

Section 701. Scope.

This chapter deals with tobacco use prevention and cessation efforts.

Section 702. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Committee.” The Tobacco Use Prevention and Cessation Advisory Committee established in section 705.

“Department.” The Department of Health of the Commonwealth.

“Primary contractor.” A person located in this Commonwealth that develops, implements or monitors tobacco use prevention and cessation programs in a service area. The term includes:

(1) a for-profit or nonprofit organization, including a community foundation, that provides tobacco use prevention and cessation programs;

(2) an entity created under the act of April 14, 1972 (P.L.221, No.63), known as the Pennsylvania Drug and Alcohol Abuse Control Act;

(3) a municipality or a municipal health department created pursuant to the act of August 24, 1951 (P.L.1304, No.315), known as the Local Health Administration Law;

(4) an institution of higher education; and

(5) a hospital established under the act of July 19, 1979 (P.L.130, No.48), known as the Health Care Facilities Act.

“Program.” The comprehensive tobacco use prevention and cessation program established under section 703, the goal of which is to promote

tobacco use prevention and cessation efforts that eliminate or reduce disease, disability and death, related to tobacco use among residents of this Commonwealth, utilizing the "Best Practices for Comprehensive Tobacco Control Programs," or a successor program, of the National Centers for Disease Control and Prevention.

"Secretary." The Secretary of Health of the Commonwealth.

"Service area." A geographic area designated by the Department of Health under section 704.

"Service provider." A person located in this Commonwealth that is selected by the primary contractor to receive a grant to provide tobacco use prevention and cessation programs. The term includes:

- (1) a for-profit or nonprofit organization that provides tobacco use prevention and cessation programs;
- (2) an entity created under the act of April 14, 1972 (P.L.221, No.63), known as the Pennsylvania Drug and Alcohol Abuse Control Act;
- (3) a municipality or a municipal health department created under the act of August 24, 1951 (P.L.1304, No.315), known as the Local Health Administration Law;
- (4) an institution of higher education;
- (5) a hospital established under the act of July 19, 1979 (P.L.130, No.48), known as the Health Care Facilities Act; and
- (6) a school district or intermediate unit.

Section 703. Tobacco use prevention and cessation program.

(a) Establishment.—There is hereby established in the department a tobacco use prevention and cessation program. Appropriations from the fund to the department for the program shall be used to implement the program.

(b) Components.—The program shall include the following:

- (1) Statewide, community and school programs designed to reduce tobacco use.
- (2) Chronic disease programs to reduce the burden of tobacco-related diseases, including prevention and early detection.
- (3) Enforcement of applicable laws related to tobacco access.
- (4) Efforts designed to counter tobacco influences and increase health-related messages.
- (5) Tobacco cessation programs, with a priority for serving the uninsured and low-income populations.
- (6) Monitoring program accountability by requiring the evaluation and documentation of or by conducting research regarding the effectiveness of the program and program results.
- (7) Administration and management to facilitate the coordination of State and local programs.

Section 704. Powers and duties of department.

The department has the following powers and duties:

(1) To administer the program in a manner which provides Statewide and local services to Commonwealth residents.

(2) To annually establish program priorities for the Commonwealth in consultation with the committee.

(3) On a Statewide basis, to award grants and enter into contracts to implement the priorities established under paragraph (2). The department shall set specific goals with measurable objectives to monitor the reduction of tobacco consumption under related programs developed by Statewide grant recipients.

(4) To divide this Commonwealth into no more than 67 service areas in order to provide for the effective and geographically dispersed delivery of the program. The department shall foster collaboration among geographic regions of this Commonwealth.

(5) To enter into contracts under section 708 with at least one and no more than two primary contractors in each service area.

(6) To approve plans submitted by primary contractors, which shall include specific goals with measurable objectives to be met by the primary contractors for each service area.

(7) To coordinate, monitor and evaluate the program funded under this chapter to ensure compliance with priorities and goals and to ensure delivery of program services in all geographic areas of this Commonwealth. The program shall be coordinated with other efforts to prevent and reduce exposure to and consumption of tobacco.

(8) To determine the level of tobacco use in this Commonwealth and each of the service areas and monitor changes in the level of tobacco use in this Commonwealth and each of the service areas based on available information.

(9) To pursue grants for tobacco use prevention and cessation as provided in section VI(g) of the Master Settlement Agreement. All money awarded to the department under this paragraph shall be listed in the report under paragraph (10).

(10) To prepare and submit a report no later than November 30, 2002, and annually thereafter to the chair and minority chair of the Public Health and Welfare Committee of the Senate and the chair and minority chair of the Health and Human Services Committee of the House of Representatives. The annual report shall be made available for public inspection and posted on the department's publicly accessible World Wide Web site. The report shall include the activities of the department in implementing this chapter, including:

(i) Identification of Statewide grant recipients and the grant amount awarded to each recipient.

(ii) Identification of the primary contractor and all service providers in each service area and the grant amounts awarded to each contractor and each provider.

(iii) Identification of program priorities under paragraph (2).

(iv) The goals of each primary contractor and whether its goals have been met.

(v) The information and methodology derived from the implementation of paragraph (8), along with any recommendations for further reductions in the level of tobacco use.

(vi) Applications made and grants received under paragraph (9).

Section 705. Committee.

(a) **Establishment.**—There is established in the department the Tobacco Use Prevention and Cessation Advisory Committee.

(b) **Membership.**—The committee is comprised of the following:

(1) The secretary or a designee, who shall serve as chairperson.

(2) Four members appointed by the secretary.

(3) One member appointed by the President pro tempore of the Senate and one member appointed by the Minority Leader of the Senate.

(4) One member appointed by the Speaker of the House of Representatives and one member appointed by the Minority Leader of the House of Representatives.

(c) **Qualifications.**—Members appointed to the committee must possess expertise in community, clinical or public health practices or in programs related to tobacco use prevention and cessation.

(d) **Terms.**—

(1) The secretary shall serve ex officio.

(2) A member under subsection (b)(2) shall serve a term of four years.

(3) A member under subsection (b)(3) shall serve a term of four years but may be removed at the pleasure of the appointing authority.

(4) A member under subsection (b)(4) shall serve a term of two years but may be removed at the pleasure of the appointing authority.

(5) An appointment to fill a vacancy shall be for the period of the unexpired term or until a successor is named.

(e) **Meetings.**—The committee shall meet as needed, but at least twice a year, to perform the duties provided for in this chapter. A majority of the members of the committee constitutes a quorum. A majority of the members of the committee has authority to act upon any matter properly before it. The committee is authorized to establish rules for its operation and shall hold at least one public hearing annually. Meetings of the committee shall be conducted under 65 Pa.C.S. Ch. 7 (relating to open meetings).

(f) **Expenses.**—Members shall receive no payment for their services. Members who are not employees of State government shall be reimbursed for necessary and reasonable expenses incurred in the course of their official duties.

(g) **Powers and duties.**—The committee has the following powers and duties:

(1) Collect and review information relating to tobacco use prevention and cessation.

(2) Make annual recommendations to the department regarding tobacco use prevention and cessation program priorities. Consideration shall be given to:

(i) prevention and cessation programs operating in minority communities and among other demographic groups and demographic regions which suffer from disproportionately high rates of lung cancer or other tobacco-related diseases;

(ii) efforts which would lower tobacco use among school-age children; and

(iii) the delivery of cessation services by approved "health care practitioners" as defined in section 103 of the act of July 19, 1979 (P.L. 130, No.48), known as the Health Care Facilities Act.

(3) Make annual recommendations to the department on the evaluation procedures to be used in approving primary contractors and service providers.

Section 706. Primary contractors.

(a) Applicants.—In order to be a primary contractor, an applicant must submit a plan to the department which demonstrates the ability of the primary contractor to develop, implement and monitor the program in a service area. Priority may be given to primary contractors that have experience in providing or coordinating tobacco use prevention and cessation services.

(b) Department.—The department shall review plans submitted under subsection (a) and shall enter into a contract with the primary contractor selected to provide the program in each service area.

(c) Grants.—The primary contractor shall award grants to service providers to implement the program for the service area. The grants must be approved by the department.

(d) Duties of primary contractor.—The primary contractor shall do all of the following:

(1) Develop a proposed plan, subject to department approval, which meets the tobacco use prevention and cessation needs in the service area and the goals and priorities established under section 704(2).

(2) Award grants to service providers to implement the program in the service area in accordance with the plan developed and approved under paragraph (1). Priority may be given to service providers who have experience in providing tobacco use prevention and cessation services. In a service area with multiple service providers, no individual service provider shall receive more than 50% of the funds awarded to the primary contractor unless otherwise approved by the department.

(3) Establish tobacco reduction goals for each service provider in the service area consistent with the plan adopted under paragraph (1).

(4) Ensure that service providers are meeting the priorities and goals set forth in the plan.

(5) Coordinate the plan with other health-related programs to prevent or reduce tobacco use by individuals receiving services from these programs.

(6) Increase participation in the program by schools in the service area.

(7) Solicit input from health care providers, community organizations, public officials and other individuals and groups regarding the plan for each service area.

(8) Coordinate efforts with local law enforcement to enforce existing tobacco restrictions.

(9) Prepare and submit reports as required by the department which shall include all of the following:

(i) Identification of service providers and grant amounts for each service provider by service area by fiscal year.

(ii) Identification of specific local goals for the program to be met by service providers for each service area.

(iii) Details of the spending plan by service area.

(iv) Identification of indicators used to evaluate whether specific goals have been met.

Section 707. Service providers.

(a) Applications.—Service providers must apply to the primary contractor in their service area for a grant to deliver program services in accordance with section 706. An application to be a service provider must include a description of the purpose of the service and the manner in which the service will reduce or prevent tobacco use. The application shall include the method by which the service provider proposes to be evaluated.

(b) Service provider annual report.—A service provider awarded a grant under this chapter shall annually report to the primary contractor and to the department all of the following:

(1) Expenditures made with the grant awards.

(2) Whether the goals set by the primary contractor have been met and the methodology utilized to measure program results.

(3) Any other information deemed necessary by the primary contractor or the department.

Section 708. Contracts and purposes.

(a) Contracts.—Contracts with primary contractors and Statewide contractors shall be for a period not to exceed three years. Contracts shall be awarded in accordance with 62 Pa.C.S. (relating to procurement) and may be awarded on a multiple-award basis. Funding for multiyear contracts shall be subject to the availability of funds as appropriated by the General Assembly.

(b) Purpose.—Funds allocated under this chapter shall be used for all of the following:

(1) At least 70% shall be used for grants to primary contractors to develop local programs.

(2) The remaining funds shall be used for compliance with Federal requirements under the act of December 21, 2000 (Public Law 106-554, 114 Stat. 2763), and for Statewide efforts consistent with the priorities established under section 704(2). After June 30, 2002, no more than one-half of the funds set aside under this paragraph shall be used for countermarketing media campaigns. Media campaigns prepared for television or radio may be conducted through public or private media outlets. All funds used for such campaigns shall be spent to the greatest extent possible on efforts that have been proven successful in other states.

(c) **Limitations.**—The aggregate amount of contracts and grants in any fiscal year may not exceed the amount of the appropriation to the department for the tobacco prevention program in that fiscal year. The provision of a grant under this chapter shall not constitute an entitlement derived from the Commonwealth or a claim on any other funds of the Commonwealth.

(d) **Restrictions.**—A tobacco company or an agent or subsidiary of a tobacco company may not be awarded a contract or grant as a Statewide contractor, primary contractor or service provider.

Section 709. Accountability.

(a) **Audits.**—Contracts with Statewide contractors and primary contractors and grants to service providers shall be subject to audit as provided by law. Contracts with Statewide contractors and primary contractors and grants to service providers shall be subject to an annual audit by the department. Audits of these contracts and grants are to be conducted in accordance with generally accepted government auditing standards.

(b) **Review procedures.**—Any Statewide contractor, primary contractor or service provider that receives a contract or a grant under this chapter shall be subject to a performance review by the department. As appropriate, the performance review shall be based upon information submitted to the department that includes the following:

(1) The contractor's or service provider's strategic goals and objectives for the use of grant moneys for tobacco use prevention and cessation.

(2) The contractor's or service provider's annual performance plan setting forth how these strategic goals and objectives are to be achieved and the specific methodology for evaluating results, along with any proposed methods for improvement.

(3) The contractor's or service provider's annual performance report setting forth the specific results in achieving its strategic goals and objectives for tobacco use prevention and cessation, including any changes in the incidence of tobacco use among target populations.

(4) The progress made in achieving expected program priorities and goals.

(5) Any other information deemed necessary by the department.

(c) **Penalty.**—If an audit or performance review indicates that a Statewide contractor, a primary contractor or a service provider failed to comply with contract requirements or meet performance goals, contractors and providers may be subject to a reduction in or ineligibility for future contract or grant funding.

Section 710. Miscellaneous provisions.

Notwithstanding any other provisions of this chapter, the department or a primary contractor, with the approval of the department, may award grants that promote healthy lifestyles through education programs which incorporate tobacco use prevention and cessation services. Education programs may include Internet or computer-based instruction and health and fitness guidance relating to healthy life choices and the dangers of tobacco use in conjunction with developmental and instructional programs for school athletic coaches and school athletes.