

COUNCIL OF THE CITY OF PHILADELPHIA
COMMITTEE ON PUBLIC HEALTH AND
HUMAN SERVICES

Room 400, City Hall
Philadelphia, Pennsylvania
Tuesday, November 16, 2010
1:45 p.m.

PRESENT:

- COUNCILWOMAN DONNA REED MILLER
- COUNCIL PRESIDENT ANNA C. VERNA
- COUNCILMAN DARRELL CLARKE
- COUNCILMAN W. WILSON GOODE, JR.
- COUNCILMAN JAMES KENNEY

BILL 100489 - An Ordinance authorizing the
City of Philadelphia to organize an authority
to be known as The Philadelphia Health Center
Authority...

BILL 100634 - An Ordinance amending Section
9-622 of The Philadelphia Code, entitled
"Cigarettes and Tobacco Products," by revising
the acceptable forms of identification...

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COUNCILWOMAN MILLER: Hi. Good afternoon. The Committee on Public Health is now in session. We have a quorum. I am Councilwoman Donna Reed Miller. Councilwoman Tasco is out sick, I believe, today. And to my right we have Councilman Wilson Goode. To my left, Councilman Jim Kenney and Council President Anna Verna.

Can the Clerk read the title of the first bill.

(Off-the-record discussion.)

COUNCILWOMAN MILLER: So will the Clerk read the title of both bills. Thank you.

THE CLERK: Bill No. 100489, an ordinance authorizing the City of Philadelphia to organize an authority to be known as The Philadelphia Health Center Authority, pursuant to the provisions of the Municipality Authorities Act, Title 53, Pennsylvania Consolidated Statute Section 5601, under certain terms and conditions.

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 Bill No. 100634, an ordinance
3 authorizing Section 9-622 of The
4 Philadelphia Code, entitled "Cigarettes
5 and Tobacco Products," by revising the
6 acceptable forms of identification; and
7 by increasing the penalties for
8 violations; all under certain terms and
9 conditions.

10 COUNCILWOMAN MILLER: Thank
11 you.

12 We have a couple of panels, and
13 for Bill No. 100489, the first panel is
14 Dr. Donald Schwarz, Cathy Scott, Natalie
15 Levkovich. Will you please come up to
16 the witness table and state your name and
17 any other identifying information. Make
18 sure you pull the mike close to you so we
19 can hear you, and proceed with your
20 testimony.

21 (Witnesses approached witness
22 table.)

23 COUNCILWOMAN MILLER: You can
24 proceed in the order in which I called.
25 Thank you.

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 DR. SCHWARZ: Good afternoon,
3 Councilwoman Reed Miller, members of the
4 Committee on Public Health and Human
5 Services. I am Donald Schwarz, the
6 Health Commissioner. Thank you for the
7 opportunity to present testimony today on
8 Bill 100489 authorizing the City of
9 Philadelphia to organize an authority to
10 be known as The Philadelphia Health
11 Center Authority, pursuant to the
12 provisions of the Municipality
13 Authorities Act, 53 Pennsylvania C.S.
14 5601 and so forth, under certain terms
15 and conditions.

16 You have heard me state on many
17 occasions that our City's eight
18 ambulatory health centers provide more
19 than 350,000 visits to almost 91,000
20 people throughout Philadelphia. About
21 half of our patients do not have health
22 insurance. Approximately 84 percent of
23 the visits made are for family medical
24 care, but we also provide pediatric care,
25 dental care, family planning services,

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 prenatal care, care for those with HIV
3 and AIDS, and traditional public health
4 services like immunizations, treatment
5 for sexually transmitted diseases,
6 treatments for tuberculosis. The eight
7 centers are located in low-income and
8 medically less well served parts of the
9 City.

10 Our busiest health center
11 remains Health Center No. 10 at 2230
12 Cottman Avenue in the Northeast. The
13 center alone averages about 60,000
14 patient visits each year. It also has a
15 disproportionately long wait for new
16 patient visits, as we've talked about
17 here before, in excess of 250 days. As I
18 have told this Committee and the
19 Committee of the Whole during the Health
20 Department's budget hearings, we've tried
21 very hard to find ways either to increase
22 the service that we offer or to reduce
23 the demand at Health Center No. 10 in
24 order to reduce waiting times. We have
25 not succeeded in either effort, first

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 because of budget issues that have
3 resulted in funds intended to increase
4 capacity at Health Center No. 10 being
5 lost, and second because there are no
6 other federally qualified health centers
7 in the Health Center 10 area. We've
8 tried to encourage other agencies to
9 create a site in the Northeast, but have
10 not been able to identify a provider.
11 We've also tried to find the resources to
12 create a new City health center in the
13 area, but have not been able to find
14 funders willing to give money directly to
15 the City.

16 In the meantime, the federal
17 Accountable Care Act, also known as
18 "health reform," provides \$2.2 billion in
19 new funds to create new federally
20 qualified health centers. As you know,
21 the City's own health centers are what
22 are called federally qualified look-alike
23 health centers. This designation has
24 meant that we have not been eligible for
25 Recovery dollars to support our health

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 center and we are not eligible for new
3 dollars to build new centers that are
4 look-alikes. The reason that we have
5 look-alike centers is that our current
6 centers are fiscally responsible to the
7 City's General Fund, and the Department
8 is responsible for staff selection and
9 hiring. Each has a community board, but
10 the boards do not have fiscal or
11 personnel responsibility. In order to be
12 fully federally qualified, the City's
13 centers would have to have local
14 community boards that are fiscally
15 responsible for the centers.

16 The purpose of Bill 100489 is
17 to create a new administrative structure
18 that sits outside of City government that
19 is fiscally responsible and could oversee
20 community boards and fully federally
21 qualified health centers in neighborhoods
22 with high need, like the Northeast. The
23 Authority structure would allow the Mayor
24 and Council input into the priorities set
25 for the centers and provide assurance

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 that a new center meets our need to serve
3 those who require a safety net of care.

4 At the same time, such an entity would be
5 more appealing to private and foundation
6 funders, whose support would be needed
7 for the capital required to create a new
8 health center. Finally, the structure
9 should allow a new health center to draw
10 down federal dollars for federally
11 qualified health centers, thus helping
12 with the center's sustainability.

13 We have also considered whether
14 in the future, should the City's
15 financial situation require it, our
16 existing health centers could be placed
17 into the Authority, making them eligible
18 for a greater amount of federal support.
19 We have no plan to do that, but if it
20 were ever considered, this would, of
21 course, require extensive consultation
22 with Council. Passing this legislation
23 simply provides a legal vehicle and does
24 not change our current operations in any
25 way.

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 I would also point out that
3 given the disproportionate number of
4 uninsurable patients served by the City's
5 health centers, even as fully qualified,
6 they would continue to require financial
7 support from the City to sustain
8 operations, regardless of the role of the
9 Authority.

10 Thank you for allowing me to
11 present testimony on this important
12 issue. I'll be happy to answer any
13 questions that you have.

14 COUNCILWOMAN MILLER: Thank
15 you. We'll hear from everyone before we
16 have questions.

17 MS. HOOVER: My name is Judy
18 Hoover from District Council 47. I'm
19 here for Cathy Scott, who was unable to
20 come today, and we have several questions
21 about the Health Center Authority bill.
22 Several people have given us different
23 ideas of what it was about. One person
24 said -- staff people have said they
25 didn't know. Other people said that it

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 was to get money for the federal health
3 centers. Another person said it was --
4 Mr. Schwarz, I believe, told Cathy Scott
5 that it was for the purpose of building
6 just one center in the Northeast because
7 of the amount of people that are being
8 served by the Northeast Health District
9 10. And what we are looking for is clear
10 information, and if it is for only one
11 center, we would like the ordinance to be
12 amended to show that it's only for one
13 center, but if it's a legal vehicle to
14 eventually put all centers under that
15 Health Center Authority, we'd like some
16 union input on this and we would like to
17 know why we weren't given input in the
18 first place and how it will affect our
19 union members and will our sustainability
20 clause in our contract cover their union
21 membership. There's a lot to be said
22 there. If there's a chance that any of
23 the health centers would be replaced by a
24 center that would go under the Health
25 Center Authority, as Mr. Schwarz said

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 there's no plan to do that now, but that
3 doesn't mean that there won't be any in
4 the future and this is supposed to be the
5 legal vehicle to do that.

6 We'd like to know what section
7 of the new Healthcare Act they're
8 referring to when it says that 2.2
9 billion funds would be available and how
10 Philadelphia would be able to acquire any
11 of that portion of that Act. I know the
12 federal Healthcare Center Act right now
13 for federal health centers for new
14 start-ups, that you're allowed to get
15 money under the laws at presently, states
16 is the cap is \$650,000. So if it isn't
17 much more than \$650,000, how will the
18 City of Philadelphia fund the rest of the
19 new health center and the staff, et
20 cetera? Six hundred and fifty thousand
21 dollars is certainly not enough to fund a
22 new health center.

23 And we just want to know what
24 the plans are. Is it for one center? Is
25 it for all centers? Is it only for --

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 will only federal health centers be under
3 this Authority? Will eventually the
4 look-alikes be under the Authority, too?
5 What exactly is the long-term plan and
6 how is it going to be funded?

7 MS. LEVKOVICH: Good afternoon.

8 Thank you for this opportunity to testify
9 today regarding the creation of The
10 Philadelphia Health Center Authority. I
11 am Natalie Levkovich, Executive Director
12 of the Health Federation of Philadelphia.
13 The Health Federation is a consortium of
14 community health centers in the
15 Philadelphia region, including non-profit
16 federally qualified health centers and
17 the City health centers. The
18 Philadelphia Department of Public Health
19 was a founding member of the Health
20 Federation when it was originally
21 established in 1983 and has been a
22 continuous member and partner.

23 The City health centers play a
24 critical role in assuring access to care
25 for Philadelphia's most vulnerable

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 residents. At its eight health centers,
3 the City serves 91,000 patients, or
4 approximately one-third of the 270,000
5 total patients who currently receive
6 primary care through community health
7 centers in Philadelphia. We can
8 anticipate that need for and use of
9 health center services will increase
10 dramatically by 2014, when federal
11 healthcare reform is fully implemented.
12 As previously uninsured individuals gain
13 coverage, they will seek access to the
14 healthcare system for non-emergency care.
15 In many neighborhoods, community health
16 centers are the most accessible and
17 attractive option for care. The National
18 Association of Community Health Centers
19 projects that the number of health center
20 patients will double nationwide by 2014,
21 making it essential that as a city we
22 aggressively plan for growth.

23 Right now, even before we feel
24 the effects of healthcare reform, there
25 is a critical need for additional access

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 to care in Northeast Philadelphia, which
3 was a need that was not anticipated when
4 our current network of safety net
5 providers was established. Regrettably,
6 City funding is insufficient to simply
7 build and operate a new health center to
8 relieve the growing pressure on
9 Healthcare Center No. 10. We also
10 understand the limitations the Health
11 Department faces regarding its ability to
12 raise private or gain access to federal
13 funds to expand health center services.
14 The proposed Health Center Authority
15 would be one answer to this dilemma.

16 Today, the acute need is for a
17 health center in the Northeast. In the
18 future, however, as populations of
19 low-income, publicly insured and
20 uninsured residents shift and more of
21 these individuals enter the healthcare
22 system, there may be additional need to
23 develop new or relocate existing health
24 center services. A review of demographic
25 data clearly indicates that low-income

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 populations are migrating to previously
3 middle-class communities, and
4 higher-income residents are moving into
5 previously poor neighborhoods. While
6 these shifts occur gradually over time,
7 we do not have a current mechanism to be
8 proactive in redistributing resources
9 accordingly. The creation of a public
10 authority that can raise funds and target
11 those funds to where the unmet needs are
12 greatest will ensure the City's ability
13 to plan and implement service expansion
14 as indicated by population health needs.

15 Therefore, I support passage of
16 Bill No. 100489 and commend you for
17 considering this strategic approach to
18 solving a serious public health
19 challenge.

20 Thank you.

21 COUNCILWOMAN MILLER: Thank
22 you.

23 Dr. Schwarz, you heard some of
24 the questions that District Council 47,
25 correct --

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 DR. SCHWARZ: Yes, ma'am.

3 COUNCILWOMAN MILLER: -- the

4 representative from Cathy Scott asked?

5 And maybe we could just start there, with

6 answering some of those questions.

7 DR. SCHWARZ: Sure, and I would

8 like to say that I've discussed them with

9 Cathy in preparation for this.

10 So I want to make sure that I

11 have the questions. One was a question

12 about is it one center only, and I have

13 to say that my current vision about need

14 in the City is that there is one

15 neighborhood in particular right now

16 where we have a particularly acute need

17 as measured by waiting times. So as you

18 know, waiting times are long at all of

19 our health centers, but they are very

20 disproportionately long at Health Center

21 10. And what we know from population

22 data is that the population of people who

23 are uninsured is growing rather quickly

24 in the Northeast. So that I anticipate

25 now a need for one center in particular.

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 If need in the future would suggest that
3 more centers are needed and we can't find
4 anyone willing to do it, there may be
5 another center in the future. It isn't
6 my intention now to do that, but the idea
7 of the Authority would be to understand
8 where there was need and provide a
9 vehicle if capital could be raised to
10 create a new health center.

11 We haven't had a new health
12 center in Philadelphia under the City's
13 auspice in a long time, and the general
14 reason for that is the leap that is
15 needed for raising capital. I have tried
16 to do so, and I'm acutely aware of the
17 limitations that we have as a city for
18 raising capital for a new health center
19 operated by the City. So this provides a
20 vehicle for that.

21 So is my own intention to open
22 a whole fleet of health centers? The
23 answer is no, but I do think we need a
24 new health center in the Northeast.

25 The second question that I

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 heard was how we would fund such a health
3 center. Private funding of some sort
4 would be required. I don't anticipate
5 given the state's budget and I don't
6 anticipate given the federal budget that
7 there's going to be a lot of easy access
8 to capital, large capital, and I think
9 it's going to have to come from the
10 private sector. Private sector donors, I
11 can tell you from experience, are not
12 particularly interested in donating
13 directly to the City.

14 So in terms of funding, the
15 construction, the construction would need
16 to be funded with private money. The
17 private money would sit in the Authority
18 for this explicit purpose, and the
19 Authority would negotiate, I presume, an
20 agreement with whatever private funder is
21 involved so that the money would be used
22 for that purpose.

23 To the question of the federal
24 Accountable Care Act, I don't know the
25 specific citation by -- which specific

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 piece of the Act has it, but I'm happy to
3 send the citation to you and I'm happy to
4 send the citation to Cathy so you can
5 read it. And there are -- I can tell
6 you, The Health Resources and Services
7 Administration now has out its second, I
8 believe it is, request for proposals
9 using that funding and it specifically
10 references the money that was set aside
11 through the Health Reform Act. So you
12 can check on my facts there, and that's
13 online and available.

14 And the third thing I heard was
15 concern that we would move all of our
16 existing City health centers into the
17 Authority. The biggest check I have to
18 say on that is the amount of subsidy that
19 the City currently provides, and that
20 comes through the budget, which Council
21 reviews and votes on. No health center
22 could feasibly, existing health center,
23 could feasibly be moved under any
24 structure without Council's approval
25 because of the budget process. So that

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 should be some level of assurance, that
3 we would be back in this room again to
4 have a conversation about how those funds
5 would be moved from a General Fund to
6 another area, and there's no way around
7 that. So I think there is some degree of
8 assurance that we would be here, we would
9 have a conversation before anything
10 happened.

11 I don't at the moment
12 anticipate that this would happen. I
13 will say the one incentive, which I've
14 talked with this Council about in my
15 budget hearings, is could we draw down
16 dollars for federally qualified health
17 centers, and the reason we have not been
18 able to is, as outlined in my testimony,
19 we don't have boards for our health
20 centers that have fiscal responsibility
21 and personnel responsibility. To create
22 that and still have some degree of City
23 oversight in terms of mission,
24 particularly for the uninsured, the
25 Authority could create a structure to do

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 it. Council would have to be comfortable
3 in order to move the current
4 supplementary dollars into and under the
5 Authority.

6 So is there a reason to think
7 about it? I think there's a reason to
8 think about it. Is it something that I'm
9 thinking about actively at the moment?

10 There isn't. The only advantage to
11 moving it is to pull down the federal
12 supplementary dollars for a fully
13 federally qualified health center.

14 We could only apply for those
15 dollars so long as the federal government
16 had them to give for new centers. So the
17 2.2 billion provides some opportunity,
18 but according to the lawyers and
19 consultants who we've talked to over the
20 past three years since I've been asked by
21 this Council and asked myself about this,
22 we would only be able to do one center at
23 a time. So if we wanted to move a center
24 into the Authority, we could talk about
25 it. We could come here and talk about

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 it. We could look at the financials
3 together. We can talk to the union about
4 what we do in terms of the labor force
5 and guarantees and other things, and all
6 of those things would be necessary, but
7 the amount of money to do it is
8 relatively small for one of our existing
9 health centers. So we would all have to
10 consider it, but it wouldn't happen by
11 itself and I don't have the ability
12 fiscally certainly to do it.

13 COUNCILWOMAN MILLER: What
14 would be the advantage of -- I mean, I
15 know why you want to do the one center.

16 DR. SCHWARZ: Yes.

17 COUNCILWOMAN MILLER: Because
18 of the need. But what would be the
19 advantage of or would there be an
20 advantage of all making the existing
21 health centers federally qualified?

22 DR. SCHWARZ: So one at a time,
23 probably one per year over eight years,
24 if we ever wanted to do it, could be
25 moved, if we had boards and everybody

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 agreed to it and we had labor and
3 everything else agreeing. And to do
4 that, we would get about -- Natalie
5 Levkovich knows better than I do -- about
6 \$600,000 for operations.

7 MS. LEVKOVICH: Up to.

8 DR. SCHWARZ: Up to \$600,000
9 and \$130,000 in capital, about. So less
10 than a million dollars. Our supplement
11 for a health center now is on average
12 about 3.2 million, going as high for some
13 health centers as over 5 million. So it
14 would help, and particularly when we were
15 in the midst of the worst of our budget
16 difficulties, we certainly thought about
17 it. The timing is very difficult. It
18 can't happen quickly because of the
19 availability of federal dollars and the
20 issue of doing it one at a time.

21 COUNCILWOMAN MILLER: Would
22 this be a freestanding health center?
23 For example, you said that -- or someone
24 said that one-third of uninsured folks go
25 to City health centers.

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 DR. SCHWARZ: It's between a
3 quarter and a third, and I don't know
4 freestanding. I think -- we've not
5 looked for a facility, but presumably it
6 could be freestanding or it could be
7 associated with another City structure.

8 COUNCILWOMAN MILLER: And the
9 other two-thirds are going or, whatever,
10 three-quarters, two-thirds or
11 three-quarters, are going to community
12 health centers such as like Covenant
13 House or we have one on Hunting Park
14 Avenue, I think that's run by Greater
15 Philadelphia Health Action --

16 DR. SCHWARZ: Correct.

17 COUNCILWOMAN MILLER: -- and
18 those types of places?

19 DR. SCHWARZ: Correct.

20 COUNCILWOMAN MILLER: Would
21 those -- if you get the funds for a new
22 health center, would the employees there
23 be freestanding, non-civil service?
24 Would they be unionized? And what role
25 does the union play in any of this in

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 terms of your discussions now and in the
3 future?

4 DR. SCHWARZ: Okay. So I don't
5 know the answer to that, chiefly because
6 a new health center under an Authority
7 would have to have a community board that
8 would have decision-making authority over
9 staffing and over the budget. So
10 presumably there would be a conversation
11 between that entity and either the City
12 union, another union or no union,
13 depending on what happens.

14 There's a plus and a minus of
15 having something outside government. The
16 plus is, it could exist at all. The
17 minus is, it has autonomy in a certain --
18 to a certain extent, and that autonomy
19 means there would have to be conversation
20 at that time.

21 COUNCILWOMAN MILLER: Okay.

22 Any other questions?

23 Councilman Goode.

24 COUNCILMAN GOODE: Just
25 briefly. To be federally qualified, is

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 there just a requirement that there be a
3 community board that's fiscally
4 responsible or is there a requirement
5 that there be a certain level of
6 independence from government?

7 DR. SCHWARZ: That's a great
8 question. So there are a lot of
9 requirements. In order to be a
10 look-alike, we meet many of them. So we
11 do have community boards. The community
12 boards meet the criteria that are set by
13 the federal government in terms of
14 membership, so representing the consumers
15 and so forth, but decision-making
16 authority over financing and personnel is
17 a critical function for a board of a
18 fully federally qualified health center.

19 And your other question -- your
20 question related to that is?

21 COUNCILMAN GOODE: What level
22 of independence does there have to be
23 from government?

24 DR. SCHWARZ: So there is an
25 entity that exists in the body of

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 federally qualified health center types
3 where a public entity can be providing
4 financial support, okay, but the
5 decision-making on -- so the City could
6 say or the Authority could say there's
7 this much money in the budget available,
8 but the board has the ability then to
9 make decisions on its own use of those
10 funds.

11 COUNCILMAN GOODE: So the City
12 can invest in the Authority and the
13 Authority can invest in the community --

14 DR. SCHWARZ: Health center,
15 and the community board then makes
16 decisions about procurement of paper and
17 whatever else it will be.

18 COUNCILMAN GOODE: Okay. Thank
19 you.

20 Thank you, Madam Chair.

21 COUNCILWOMAN MILLER: Thank
22 you.

23 What are the current hours of
24 public health centers?

25 DR. SCHWARZ: They vary. In

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 general, we are 8:00 or 9:00 in the
3 morning until 5:00 at night, with one
4 evening a week, and for, I want to say,
5 two of them, but it may be one of them
6 because we've cut back a little, there's
7 a weekend, a Saturday.

8 COUNCILWOMAN MILLER: I

9 happened to be out early one day -- and I
10 think I told you this before -- on
11 Chelton Avenue and I could not believe
12 the number of people in line to go to
13 Health Center 9 at like 6:00 a.m. It was
14 unbelievable the number of people
15 outside.

16 DR. SCHWARZ: That line exists

17 at every one of our health centers every
18 day. And the good news is, we serve
19 those folks. The bad news is, I don't
20 think the level of dignity that people
21 have having to wait for us in the rain or
22 the heat or anything else is what any one
23 of us would want, but at least we're able
24 to provide service, and the alternative
25 in many cases is no service.

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 COUNCILWOMAN MILLER: That's
3 right. And so that's why I was wondering
4 about the hours, maybe expansion. I know
5 that costs dollars.

6 DR. SCHWARZ: We, as you know,
7 have tried now for our last three budgets
8 to expand the hours in health centers,
9 and every time we think we're there,
10 someone finds that we need to cut our
11 budget. So we've maintained what we
12 have, and we're very pleased with that,
13 and we've actually had some minimal
14 levels of service-type expansion. So
15 dental care, for instance, has been
16 preserved and there was a plan to keep
17 it. It's been able to be preserved. But
18 we haven't been able to do the kind of
19 service time expansion.

20 In addition, for Health Center
21 10, for instance, there would need to be
22 investment in capital in order to expand
23 space somewhat, and we haven't had that
24 either.

25 COUNCILWOMAN MILLER: Okay.

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 All right. Thank you. I want to thank
3 you for your testimony.

4 DR. SCHWARZ: Thank you.

5 COUNCILWOMAN MILLER: Is there
6 anyone else to testify on this bill?

7 MS. HOOVER: I just wanted to
8 let you know that Cathy Scott will be
9 giving her response in writing at a later
10 time.

11 COUNCILWOMAN MILLER: She could
12 just send it to the Chair. Thank you.

13 That's it, I guess.

14 DR. SCHWARZ: I'm testifying --

15 COUNCILWOMAN MILLER: You're on
16 the next one, too? Okay. Let me just
17 get to the next one.

18 We will now hear testimony on
19 Bill No. 100634. Our first panel will
20 include Dr. Donald Schwarz, Raechelle
21 Walker-Ellis. Raechelle. How do you say
22 your name?

23 MS. WALKER-ELLIS: Raechelle.

24 (Witness approached witness
25 table.)

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 COUNCILWOMAN MILLER: Thank
3 you. You can proceed with your
4 testimony.

5 DR. SCHWARZ: Thank you. Good
6 afternoon, Councilwoman Reed Miller and
7 members of the Committee and staff. I'm
8 Donald Schwarz, Health Commissioner.
9 Thank you for this opportunity to testify
10 today on Bill 100634, which increases
11 penalties for merchants that violate the
12 tobacco youth sales law in Philadelphia.

13 Curbing youth smoking is no
14 doubt a nationwide challenge, but here in
15 Philadelphia, the problem is particularly
16 serious. Approximately half of
17 Philadelphia high school students have
18 smoked a cigarette at least once in their
19 lives. Studies show that one-third to
20 one-half of youth who try a cigarette
21 even once will become daily smokers as
22 adults. And, unfortunately, Philadelphia
23 has the distinction of having the highest
24 rate of adult smoking among the ten
25 largest cities in the United States.

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 Nearly three in ten adults in
3 Philadelphia smoke, leading to nearly
4 2,500 deaths each year and hundreds of
5 millions of dollars in lost productivity
6 and healthcare costs.

7 Nearly 11 percent of
8 Philadelphia high school students
9 currently smoke, defined as having smoked
10 one cigarette in the past 30 days. The
11 rate is over 30 percent for white high
12 school students in the City. Overall,
13 youth smoking has declined over the past
14 decade, but rates have plateaued in
15 Philadelphia over the last two years and
16 have trended upward for 9th graders, 11th
17 graders and white students in all grades.

18 Sadly, it's no wonder that we
19 have before us a serious youth smoking
20 problem. You see, at the root of the
21 issue of youth smoking is youth access to
22 cigarettes. There are a large number of
23 tobacco retailers in the City.
24 Currently, over 4,300 tobacco retailers
25 are licensed in Philadelphia. This

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 amounts to 27 retailers for every 1,000
3 youth between the ages of 10 and 17.

4 Only Washington, DC has a higher number
5 of tobacco retailers per capita.

6 Remarkably, Philadelphia's rate is twice
7 as high as that of New York and Los
8 Angeles.

9 Importantly, tobacco retailers
10 are located where children spend most of
11 their time during the day. More than
12 three in four tobacco retailers in
13 Philadelphia are located within 1,000
14 feet, about two blocks, of a K-to-12
15 school. For a child, purchasing a
16 tobacco product is as simple as stopping
17 by a store on the way to class.

18 There is no more effective way
19 of preventing a child from lighting up
20 than to ensure that he can't get any type
21 of tobacco product in the first place. A
22 child can't smoke if he or she doesn't
23 have a cigarette, a cigar or another
24 equally enticing, dangerous product.

25 Over one-third of youth smokers

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 in Philadelphia purchase their own
3 cigarettes, the highest rates among large
4 U.S. cities. Local investigations
5 conducted by trained, undercover youth
6 reveal that one in five attempts to
7 purchase cigarettes or cigars are
8 successful. In recent years, illegal
9 sales rates have been as high as 40
10 percent in certain parts of the City. At
11 its core, this bill is about restricting
12 access to tobacco products and
13 strengthening a law that is flawed in its
14 ability to deter repeat offenders.

15 I would like to point out I
16 have brought for you one month's worth of
17 youth purchase by our undercover youth.
18 This is one month, and it includes a fair
19 amount of tobacco products. This is a
20 small number of kids employed through the
21 Department to purchase in stores in
22 Philadelphia. This is nowhere near the
23 number of youth throughout the City who
24 are purchasing tobacco on a daily basis.

25 I could continue, but you get

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 my point.

3 Section 9-622 of The
4 Philadelphia Code, as is currently
5 written, allows a merchant who sells
6 tobacco products illegally to a minor to
7 pay \$100 to admit the violation and waive
8 appearance before a Municipal Court
9 judge. It is \$100 regardless of how many
10 times a merchant has previously broken
11 the law. A striking example of the
12 current law's deficiency is a merchant
13 who sold cigarettes illegally to youth
14 seven times in a span of two years. This
15 is only an undercover youth. This was,
16 as mentioned, undercover, and we only
17 found this retailer repeatedly through
18 review of the Department's current
19 violators. It goes without saying that
20 for this merchant and countless others,
21 \$100 does not effectively communicate the
22 seriousness of the offense, and it
23 doesn't serve as a deterrent to continued
24 illegal behavior.

25 Recent Department

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 investigations revealed that 60 percent
3 of all violations are repeat violations.
4 Of various types of tobacco retailers,
5 illegal tobacco sales to youth are a
6 particularly acute problem with take-out
7 restaurants, which account for over 40
8 percent of all youth sales violations and
9 over 50 percent of repeat violations.
10 Imposing larger fines and shutting down
11 businesses temporarily that time after
12 time sell tobacco products to children
13 will send a clear message to those
14 breaking the law.

15 The Department of Public
16 Health, in coordination with Licenses and
17 Inspections, has previously shut down
18 businesses that repeatedly sold
19 cigarettes to minors. This was
20 accomplished through the City's powers to
21 abate nuisance. Explicit authority in
22 The Philadelphia Code will serve the very
23 important purpose of putting all
24 merchants on notice: Illegal sales to
25 minors is a serious issue with serious

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 consequences.

3 Other jurisdictions in

4 Pennsylvania enforce the state's youth
5 sales law, the state's youth sales law,
6 which imposes higher fines and penalties.

7 The state's youth sales law provides a
8 powerful deterrent to selling illegally

9 to minors. In Pittsburgh, the youth

10 sales rate is zero percent. In

11 Pittsburgh, people don't sell to kids. A

12 first offense can bring a court-mandated

13 fine of up to \$500. A second offense

14 mandates a fine between \$500 and \$1,000.

15 A third offense mandates a violation

16 ranging from \$1,000 to \$3,000, and a

17 fourth or subsequent offense mandates a

18 fine of at least \$3,000 and a maximum of

19 \$5,000. This would be great for

20 Philadelphia, but for the fact that each

21 violation of the state law would require

22 a hearing in Municipal Court, in which

23 the City would have to abide by rules as

24 if it were a criminal prosecution.

25 Enforcing the state's youth tobacco sales

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 law in Philadelphia would add up to 1,000
3 cases per year in Municipal Court, making
4 it costly and infeasible. Instead, Bill
5 100634 strengthens the City's own tobacco
6 youth sales law by increasing the penalty
7 for a violation from \$100 to \$250. We
8 believe this is the most workable initial
9 solution to deter illegal sales here.

10 This bill will help
11 Philadelphia catch up to other
12 jurisdictions in the state. While
13 significantly less than the penalties
14 prescribed under state law, the bill's
15 proposed penalty increases, along with
16 the explicit authority to temporarily
17 shut down repeat offenders, is a good
18 starting point.

19 The Department recognizes that
20 increased penalties alone will not bring
21 down the high smoking rates among youth
22 in Philadelphia. That is why we're
23 moving on several different fronts to
24 shield our children from these dangerous
25 products. Among the Department's many

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 objectives is the education of merchants,
3 providing information and training about
4 what the law is, its purpose and methods
5 for checking identification and refusing
6 sales to minors. The Department's
7 merchant educators, through a partnership
8 with the Health Promotion Council of
9 Philadelphia, teach merchants about
10 common scenarios and how they can
11 appropriately respond in each situation.
12 These educational interventions are being
13 offered to every merchant that violates
14 the law once. They are occurring in
15 person, on site, at businesses within 30
16 days of the violation. Importantly, they
17 are being conducted in English, Spanish
18 and various Asian languages to address
19 language and cultural barriers that may
20 prevent our ethnically diverse merchants
21 from understanding and complying with the
22 law.

23 Another area that the
24 Department is concentrating on is
25 improving the process for issuing

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 citations to violators. Youth
3 investigators currently assist the
4 Department in identifying merchants that
5 sell to minors. Previously when a
6 merchant sold illegally to a youth
7 investigator, a citation was issued by
8 mail and would sometimes arrive several
9 weeks after the date of inspection. The
10 Department has since made changes and is
11 now beginning to implement a system
12 whereby code violation notices will be
13 issued in person within 48 hours after
14 the date of inspection. This will help
15 drive home the message that this issue is
16 important, the violation is serious and
17 anyone selling tobacco products illegally
18 to our children will be punished
19 accordingly.

20 In sum, the Department is
21 tackling the youth smoking problem on
22 various fronts, but we simply cannot
23 ignore the reality that many merchants
24 see the current \$100 violation amount to
25 be the cost of doing business. I submit

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 to you that the cost is too low.

3 Merchants that sell to minors profit
4 enormously from this illegal activity and
5 endanger the lives of our youth. Other
6 merchants that comply with the law are,
7 in effect, penalized when they see
8 business go to those that ignore the law.

9 And as previously mentioned, most
10 violators break the law repeatedly. Like
11 other jurisdictions in this state,
12 Philadelphia needs to increase the
13 penalties for those targeting our youth
14 in exchange for a quick profit.

15 Thank you for allowing me to
16 testify on this important issue. I will
17 be happy to answer questions.

18 COUNCILWOMAN MILLER: Thank
19 you. Again, we'll wait until both people
20 testify.

21 MS. WALKER-ELLIS: Good
22 afternoon, Councilwoman Reed Miller and
23 members of the Public Health and Human
24 Services Committee of City Council. My
25 name is Raechelle Walker-Ellis and I am

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 the Health and Wellness Committee Chair
3 of the Philadelphia Youth Commission.

4 The Youth Commission serves as a voice
5 between Philadelphia youth and City
6 government. As part of our mission
7 statement, the Youth Commission must act
8 to improve the lives of young people
9 across the City, and it is because of
10 that doctrine that I sit here before you
11 today.

12 As a young girl growing up in
13 North Philadelphia, I was raised in a
14 family of cigarette smokers. Both mother
15 and grandmother, who were my primary
16 caregivers, and two of my uncles were
17 smokers. As cigarette smokers and
18 individuals addicted to tobacco, my
19 family members would smoke inside of our
20 house, during family gatherings, inside
21 of cars and anywhere else that they felt
22 the urge, without concern for who was
23 around or how the harmful smoke would
24 affect them. As a result, I was
25 subjected to the detrimental effects of

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 second-hand smoke at a very young age.

3 Shamefully, I can even recall trips that

4 I have made on behalf of a family member

5 to pick up cigarettes from the corner

6 store. These transactions were ones that

7 were made all too easily, because all I

8 had to do was remind the merchant that

9 the cigarettes were for a family member

10 and the merchant would oblige. So with

11 no real fear of significant consequences,

12 community merchants frequently sold

13 tobacco products to me as an underage

14 minor. With my family history of

15 cigarette smoking and easy accessibility

16 to tobacco products, I am fortunate that

17 I never became a cigarette smoker myself.

18 However, many Philadelphia

19 youth share my same story, but with

20 alternate and more consequential endings.

21 Unfortunately, among 9th and 12th

22 graders, Philadelphia has one of the

23 highest rates of youth smoking among

24 large U.S. cities. Additionally,

25 Philadelphia has the highest percentage

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 of youth who purchase their own
3 cigarettes. Recent studies show that
4 one-third to one-half of youth who try a
5 cigarette even once will become daily
6 smokers as adults. It is no secret that
7 tobacco has negative health effects on
8 the human body. People who engage in
9 smoking have an increased risk of lung
10 cancer and other smoking-related cancers,
11 reduced lung function, heart disease,
12 stroke and lung disease. And more deaths
13 are caused each year by tobacco use than
14 deaths from HIV, illegal drug use,
15 alcohol use, motor vehicle injuries,
16 suicides and murders combined. With the
17 increased likelihood of adverse health
18 effects related to smoking and the length
19 and amount of time exposed to tobacco due
20 to starting at an early age, what type of
21 quality of life can we expect for young
22 smokers in the future?

23 One of the most important ways
24 to address this issue is to approach it
25 by reducing a young person's access to

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 tobacco products. In a city where one in
3 three youth smokers buy their cigarettes
4 themselves and 75 percent of tobacco
5 retailers are located within two blocks
6 of a school, it is evident that youth's
7 accessibility to tobacco products is
8 significantly high. How can we expect
9 for our youth to refrain from smoking if
10 their access to tobacco products, access
11 that is supposed to be illegal, is easily
12 within reach?

13 Currently, merchants who are
14 caught selling tobacco products to
15 underage minors face a meager fine of
16 just \$100. This fine is too small to
17 serve as a penalty for something that is
18 not just unethical, but facilitates the
19 process of young people engaging in risky
20 health behaviors. These merchants are
21 practicing unlawful acts that allow youth
22 to potentially burden themselves for the
23 rest of their lives with a habit that is
24 hard to kick and causes premature death.
25 A \$100 fine is simply a slap on the wrist

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 for these tobacco retailer and thus is
3 not much of a deterrent for illegally
4 selling tobacco to youth. So how can we
5 really expect merchants to not want to
6 make a profit off of selling tobacco
7 products to minors when the legal
8 implications are not harsh enough to
9 discourage anyone? Clearly, there needs
10 to be stronger fines and legal
11 consequences for merchants who sell
12 tobacco products to minors. And with
13 that said, we, the Youth Commission,
14 respectfully ask that you support Council
15 Bill No. 100634, which increases
16 penalties for merchants that sell tobacco
17 products to underage minors.

18 Thank you for your time.

19 COUNCILWOMAN MILLER: Thank
20 you. Thank you both.

21 Young people -- what is that
22 Newports in the green and white box?

23 DR. SCHWARZ: Yes, ma'am.

24 COUNCILWOMAN MILLER: They seem
25 to like those or is that a special pack

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 or something?

3 DR. SCHWARZ: No. It's what
4 was collected in August.

5 COUNCILWOMAN MILLER: Okay. I
6 have a question. Is the legal age 18 or
7 21? Underage means 18 or 21? Is it the
8 same for alcohol as tobacco?

9 DR. SCHWARZ: No; 18.

10 COUNCILWOMAN MILLER: Eighteen,
11 okay. And what part of the City had 40
12 percent of the merchants selling more to
13 minors than any other part?

14 DR. SCHWARZ: Southwest.

15 COUNCILWOMAN MILLER: Okay.
16 Since I'm the only Committee member here,
17 I don't have any other questions. We're
18 just going to move on to the next panel.

19 DR. SCHWARZ: Thank you.

20 MS. WALKER-ELLIS: Thank you.

21 COUNCILWOMAN MILLER: Thank
22 you.

23 The second panel will include
24 Sterlen Barr, Dr. Lawrence Robinson,
25 Denise Salerno, Robert Simmons, Lisa

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 Ulmer and Sara Kinsman. We only have
3 three seats, but we can share. Please
4 come up to the witness table.

5 (Witnesses approached witness
6 table.)

7 COUNCILWOMAN MILLER: I know
8 that Sterlen Barr has to leave early, so
9 we'll have him go first.

10 Pull the microphone up close
11 enough so we can hear you and identify
12 yourself for the record and proceed with
13 your testimony.

14 MR. BARR: Thank you so much,
15 Councilwoman.

16 COUNCILWOMAN MILLER: You're
17 welcome.

18 MR. BARR: My name is Sterlen
19 Barr. I'm a health educator and
20 prevention specialist with Rapping About
21 Prevention, Incorporated.

22 As a health educator, I've
23 worked in tobacco control for the past 19
24 years. Over 18 years have been with the
25 Health Promotion Council of Southeastern

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 Pennsylvania. While there, I was
3 actively involved in the initial passing
4 of the bill that would restrict youth
5 access to tobacco in Pennsylvania with
6 Senator Allyson Schwartz in 1995. A lot
7 of progress has been made since the
8 passing of the bill, but we still have a
9 long way to go before we can have a
10 smoke-free society.

11 I found that merchants are more
12 likely to obey the law if it has a strong
13 enforcement component. Therefore,
14 increasing the fines for stores that
15 break the law and sell tobacco products
16 to minors or to youth would truly make a
17 difference in our neighborhoods. Since
18 most adults started smoking as preteens,
19 it is vitally important for us to make
20 penalties stronger for people that break
21 the law and sell tobacco products to our
22 youth.

23 Tobacco use is the number one
24 preventable cause of death in the United
25 States, and I believe that if we can stop

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 the sale, we can prevent the addiction.

3 I strongly urge City Council to
4 pass legislation that would increase
5 fines to merchants that break the law and
6 sell tobacco products to minors. I also
7 believe that if we had stronger laws and
8 stiffer penalties, I may still have my
9 dad and my grandmother, who both died
10 from lung cancer as a result of smoking.

11 Thank you.

12 COUNCILWOMAN MILLER: Thank
13 you.

14 Hi. How you doing?

15 Dr. Robinson, you want to go next?

16 DR. ROBINSON: Okay. Good
17 afternoon, Councilwoman. I'm here to
18 represent the Philadelphia County Medical
19 Society, and on behalf of the
20 Philadelphia Medical Society and our
21 Public Health Committee, we express
22 strong support for the Council Bill
23 100634 that revises the acceptable forms
24 of identification and increases the
25 penalties for violation in preventing

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 tobacco sales to minors.

3 Statistics demonstrate that one
4 in three youth smokers in Philadelphia
5 buy cigarettes themselves. A recent
6 citywide investigation reveals that
7 approximately 20 percent of tobacco
8 merchants in the City sell cigarettes
9 illegally to youth. These merchants that
10 sell to minors profit enormously from
11 this illegal activity and endanger the
12 lives our youth.

13 You are well aware that without
14 Bill 100634 merchants simply pay \$100 for
15 each violation, whether it's the first,
16 third or seventh time that they have
17 broken the law. Philadelphia currently
18 has the dubious distinction of having the
19 highest rate of minors smoking among the
20 large U.S. cities. Research has
21 demonstrated that local tobacco retail
22 ordinances can dramatically reduce
23 minors' access to tobacco products.

24 As physicians, we believe that
25 illegal sales of tobacco products to

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 minors is an urgent public health issue
3 and that increased compliance checks and
4 aggressive enforcement of tobacco laws
5 are essential components to reducing
6 these illegal sales to minors.

7 The Philadelphia County Medical
8 Society fully supports the efforts to end
9 sales of tobacco and tobacco products to
10 minors, and we are pleased to have you
11 call upon us for any information or help
12 that we can to support you to protect the
13 children of this great city and look
14 forward to working with you to improve
15 the health of our citizens.

16 I'd just like to add a personal
17 note, and, that is, that I'm one of the
18 authors of the Clinical Guideline on
19 Smoking Cessation that was done for the
20 U.S. Department of Public Health, and as
21 a result, it's an area which I have done
22 a lot of research in and know very much
23 about.

24 Tobacco smoking or cigarettes
25 are the number one cause of preventable

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 death and illness in America, and this is
3 the main reason why people die in terms
4 of preventable illness from cigarettes.

5 It's not only lung cancer, but heart
6 disease, emphysema and many other
7 diseases, which people don't think about,
8 which are directly related to smoking
9 tobacco.

10 Some of the statistics that we
11 got here in Philadelphia looking at youth
12 smoking is that among large U.S. cities,
13 Philadelphia has the highest rate of
14 regular smokers among the 9th and 12th
15 graders, and nearly 11 percent of all
16 teens -- and this is really very
17 interesting -- 30 percent of white teens.

18 So it's an even larger group of white
19 teens than black teens that smoke
20 cigarettes over the past 30 days.

21 A child can't smoke cigarettes
22 if they can't get access to it, and so
23 that's why it's very important to prevent
24 access. In fact, I agree that the amount
25 of the fine should actually be larger,

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 but this is a beginning step in terms of
3 that.

4 Approximately 50 percent of
5 Philadelphia high school students have
6 smoked at least one cigarette in their
7 lifetime, and studies show that one-third
8 to one-half of youth who try a cigarette
9 even once will become daily smokers as
10 adults. The penalties for merchants that
11 sell to minors is way too low, and a \$100
12 violation is really just a slap on the
13 wrist and there should be an increase,
14 whether it's the first time, the third
15 time or the seventh time. There should
16 be escalations in terms of the amount of
17 fine to make it more of a deterrent.

18 And, finally, law-abiding
19 merchants are at a competitive
20 disadvantage. So people who really
21 follow the law and don't sell the
22 cigarettes because the fine is so low,
23 it's not even an incentive for them. So
24 merchants that sell to minors profit
25 enormously from these illegal activities,

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 endanger the lives of our youth, and
3 others that comply with the law are, in
4 effect, penalized. We should support
5 laws that level the playing field.

6 Thank you.

7 COUNCILWOMAN MILLER: Thank
8 you. Thank you very much.

9 MS. SALERNO: Salerno.

10 COUNCILWOMAN MILLER: Salerno.

11 MS. SALERNO: Good afternoon,
12 Councilmember Reed Miller. My name is
13 Denise Salerno and I've been a practicing
14 pediatrician here in Philadelphia for the
15 last 17 years. I'm also a Professor of
16 Pediatrics at Temple University School of
17 Medicine, where I'm actively involved in
18 educating our future doctors. Today,
19 though, I am here as a representative of
20 the Pennsylvania Chapter of the American
21 Academy of Pediatrics. As you may know,
22 it is an organization that represents
23 over 2,200 pediatricians in the State of
24 Pennsylvania. As pediatricians, it is
25 our job to promote the health of

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 children, adolescents and young adults.

3 Therefore, it is a great honor for me to
4 be here this afternoon and discuss an
5 issue of vital importance to the health
6 and welfare of children and families in
7 Philadelphia.

8 Since the mid 1960s, that's
9 over 45 years ago, reports from the U.S.
10 Surgeon General have identified numerous
11 harmful effects of tobacco. Lawsuits,
12 high profile deaths from lung cancer,
13 multiple medical studies and the harm
14 caused by environmental tobacco smoke
15 have all worked to shape public attitudes
16 about tobacco and the harm it causes.

17 I'm here today to tell you that no one is
18 more susceptible to that harm than
19 children. Their developing respiratory
20 systems are extremely vulnerable to
21 tobacco smoke. Studies have linked
22 tobacco smoke exposure to premature
23 birth, low birth weight, respiratory
24 infections, ear infections and asthma, to
25 name a few.

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 Nearly 40 percent of the
3 pediatric population is exposed to
4 second-hand smoke. This connection
5 between children's health and tobacco use
6 is so strong that the Commissioner of the
7 United States FDA declared tobacco use a
8 "Pediatric Disease" in 1995, and this
9 month last year the American Academy of
10 Pediatrics released a position paper,
11 entitled "Tobacco Use: A Pediatric
12 Disease."

13 It is a public health priority
14 to keep the air that we all breathe, and
15 especially that of infants and children,
16 smoke free. Yet, as hard as we work to
17 make sure this occurs, others continue to
18 target our youth as the next generation
19 of smokers. Each day in the United
20 States over 3,900 youth between the ages
21 of 12 and 17 smoke their first cigarette.
22 More than one-third of them will go on to
23 become daily smokers. It is reported
24 that three-fourths of high school smokers
25 who try to quit, only one in six succeed

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 due to the addictive nature of tobacco.

3 It's hard to believe, as many
4 have said, that Philadelphia has the
5 highest rate of youth smoking in the
6 United States large cities. How can that
7 be? We really need to examine the role
8 we play in creating a marketplace right
9 here in the City that makes it so easy
10 for our young people to start their
11 addiction to tobacco.

12 One reason is why we are here
13 today considering the merits of Bill No.
14 100634. For those of you that are
15 parents in the room and for all of us
16 that remember our teen years, what was
17 the first rule to keep our children out
18 of trouble? Don't give them easy access
19 to the things that are bad for them.
20 Yet, that is exactly what we are doing
21 here in Philadelphia. One in three of
22 our youth smokers buy their cigarettes
23 themselves and we make it so easy for
24 them. Adolescents report that their
25 tobacco use is influenced by cost,

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 availability and accessibility. Local
3 investigations reveal that one in five
4 merchants sell tobacco products illegally
5 to minors and that 75 percent of tobacco
6 retailers in this city are located within
7 two blocks of a school. How convenient
8 is that, that accessibility to these
9 youth?

10 Councilmember Tasco's bill is a
11 huge opportunity to deter tobacco sales
12 to youth by escalating the penalty. The
13 current fine of \$100 for a merchant's
14 first, third or whatever repeat violation
15 they have for selling to minors is
16 obviously too low, not to mention it is
17 substantially less than the escalating
18 penalties for repeat offenses mandated by
19 the Pennsylvania statute. Many other
20 states and other cities have first
21 offense fines of \$250 or more, a minimum
22 of \$500 for a second violation and a
23 \$1,500 and 90-day suspension of tobacco
24 sales for a third violation. The bill
25 you are considering today will bring

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 Philadelphia in line with some of those
3 standards. We know a young person can't
4 smoke if they can't get access to
5 tobacco.

6 An estimated 80 to 90 percent
7 of adults began smoking during
8 adolescence. Several factors likely
9 contribute to this addiction, including
10 environmental, psychological and
11 biological influences. The American
12 Academy of Pediatrics strongly recommends
13 that provision of tobacco products to
14 youth by adults should be made illegal,
15 with significant consequences for
16 non-compliance. It is important to
17 reiterate that the current \$100 fine per
18 violation here in Philadelphia, even for
19 repeat offenders, is not significant
20 enough to stop the illegal sales.

21 The message is clear. All
22 Philadelphia merchants must stop selling
23 tobacco to minors. We can't afford to
24 raise a new generation of smokers whose
25 health will be in jeopardy and who will

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 be polluting the air that their own new
3 babies will breathe. As Arlene King, a
4 CMO of health in Canada, once said,
5 "Complacency is our enemy. Tobacco only
6 kills because we let it." So let's not
7 be complacent and let's do something now
8 to deter the illegal sale to minors and
9 make Philadelphia a healthier city.

10 Thank you for your attention.

11 COUNCILWOMAN MILLER: Thank
12 you.

13 Robert Simmons, is he here?

14 (No response.)

15 COUNCILWOMAN MILLER: Lisa
16 Ulmer and Sara Kinsman.

17 (Witnesses approached witness
18 table.)

19 COUNCILWOMAN MILLER: Hi. Pull
20 the mike and identify yourself for the
21 record and proceed with your testimony.

22 MS. KINSMAN: I'm Sara Kinsman.
23 Should I go second?

24 Do you want to go first?

25 MS. ULMER: Hi. I'm Lisa

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 Ulmer.

3 COUNCILWOMAN MILLER: Okay.

4 MS. ULMER: Thank you very
5 much, Councilwoman, for the opportunity
6 to testify today in support of the City
7 Council Bill 100634. I wanted to share
8 with you the work that I have done with
9 the Louisiana Department of Health and
10 Hospitals for the past ten years on
11 preventing youth access to tobacco.
12 During that time, Louisiana went from
13 being the state with the highest retailer
14 violation rate in 1997 to one of only
15 three states in the country that have
16 been below ten percent retailer violation
17 rate sales to youth for at least a
18 decade. And so at the time we started in
19 1997, three out of four children could
20 buy cigarettes and other tobacco products
21 in outlets in Louisiana, and we're now
22 down at 4.3 percent.

23 The purpose of my testimony
24 today is to share with you the evidence
25 that a graduated fine structure, which is

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 part of our strategy in Louisiana, is
3 associated with these decreases in
4 retailer violation rate. So some of the
5 key provisions of the youth access law
6 are graduated fine structure for both
7 owners and for the clerks who sell to
8 youth. A license will be revoked when an
9 outlet is selling to youth. There is
10 required seller training and an acquiring
11 of a tobacco retailer card that must be
12 done within 180 days of new employment
13 for any employees that start at an
14 outlet. That card will be revoked and
15 the clerk not able to sell for repeat
16 violations. And there's an age
17 identification verified by ID procedure
18 as part of the state law for any
19 individual attempting to purchase
20 tobacco.

21 The enforcement is done by the
22 Alcohol and Tobacco Control officers, who
23 also do the enforcement for alcohol
24 sales. They conduct annual, random,
25 unannounced inspections at locations

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 where tobacco products are sold.

3 Citations are issued directly after an

4 illegal sale both to the owner of the

5 retail outlet and to the clerk who sold.

6 There are a minimum of 4,800

7 inspections -- excuse me; 4,800

8 inspections each year. Both retail

9 owners and clerks may be cited for youth

10 tobacco access violations. Owners

11 receive an administrative fine that is

12 processed by the Commissioner of the

13 Office of Alcohol and Tobacco Control,

14 and retail clerks receive criminal

15 citations, which are adjudicated through

16 the local county judicial system.

17 Fines are assessed on a

18 graduated scale. They start at \$50 for a

19 first offense, \$100 for a second offense,

20 \$250 for a third offense and \$400 for a

21 fourth and subsequent offenses. And as I

22 stated before, as part of the law, repeat

23 offenses can allow the Commissioner to

24 suspend a tobacco permit if the owner has

25 violated the terms of the youth access

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 law repeated times.

3 We have used these results in
4 order to target our enforcement and our
5 merchant education strategies to areas of
6 high risk. So all of our outlets are
7 investigated during a current year and
8 then the high-risk outlets are visited
9 again with enforcement strategies and
10 merchant education strategies more than
11 one time during a year. What we have
12 found is that this targeted strategy has
13 been very helpful, as no one area of the
14 state is a repeat violator. As we target
15 our merchant education and enforcement
16 strategies to that area, the rate will go
17 down.

18 In summing up, the use of
19 graduated fines, along with enforcement,
20 has resulted in Louisiana moving from the
21 position of the state with the highest
22 retailer violation rate to one of three
23 states that has been below ten percent
24 retailer violation rate for at least a
25 decade, and based on my experience in

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 Louisiana, I believe that City Council
3 Bill 100634 will be a critical step in
4 preventing tobacco sales to minors in
5 Philadelphia. This bill is a very
6 important step in preventing the leading
7 cause of early and unnecessary death in
8 our city.

9 Thank you again for the
10 opportunity to testify.

11 COUNCILWOMAN MILLER: Thank
12 you.

13 MS. KINSMAN: Good afternoon.
14 I'm Sara Kinsman. Good afternoon,
15 Councilwoman Reed Miller. Thank you so
16 much for the opportunity to testify
17 regarding my concerns related to nicotine
18 addiction and smoking among adolescents
19 in Philadelphia. I am Sara Kinsman, a
20 pediatrician specializing in adolescent
21 medicine at the Children's Hospital of
22 Philadelphia and a proud resident of East
23 Mount Airy.

24 My research has explored risk
25 factors related to -- risk factors that

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 adolescents participate in related to
3 their health, and my clinical practice
4 addresses the broad health needs of
5 adolescents in Philadelphia.

6 There are several ways to
7 comprehend the significant risk posed by
8 cigarette smoking. One in five deaths in
9 this country results from cigarette
10 smoking. More deaths are caused each
11 year by tobacco use than by all deaths
12 from HIV, illegal drug use, alcohol use,
13 motor vehicle injuries, suicides and
14 murders combined. Of all the behavioral
15 risk that an individual can engage in,
16 cigarette smoking has the highest risk
17 for mortality.

18 With current patterns of
19 smoking in the United States, 5 million
20 (sic) Americans who are alive today will
21 die prematurely from smoking-related
22 illnesses. Of these, 5 million are
23 younger than 18 years of age, and these
24 are expected to become addicted to
25 nicotine and cigarette smoking.

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 The excess mortality related to
3 cigarettes in the U.S. mainly results
4 from a behavior that starts in the teen
5 years. In other words, these deaths are
6 a pediatric problem.

7 Between 80 to 90 percent of
8 adult smokers started smoking when they
9 were younger than 18 years of age. This
10 should not surprise us. Nicotine is the
11 primary addictive component in
12 cigarettes. Exposure to an addictive
13 substance such as nicotine during the
14 teen years leads to an addiction which is
15 a chronic, lifelong medical condition.

16 Every year in the United States
17 approximately 1.4 million children
18 younger than 18 years start smoking. In
19 Philadelphia, the 2009 Youth Risk
20 Behavior Surveillance Survey estimates
21 that approximately 12.6 percent of
22 students smoke cigarettes. Approximately
23 50 percent of these students say that
24 they would like to quit. Fifty percent
25 say they would like to quit.

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 As a pediatrician who
3 specializes in caring for teenagers, I am
4 worried that I cannot fully protect teens
5 I care for from nicotine addiction. In
6 the office, I try to reduce smoking
7 initiation among my patients. First, I
8 try to limit young adolescents' access to
9 cigarettes. I counsel families about to
10 not smoke at home or smoke at all. I
11 encourage parents to quit. I support
12 young teens' negative attitudes towards
13 smoking and remind teens about all the
14 negative health effects and getting
15 really, really bad breath. I also give
16 tons of praise for avoiding cigarette
17 smoking when their friends and family are
18 smoking.

19 For teens that have started
20 smoking, it is much, much more difficult.
21 The scientific evidence for treating
22 tobacco use and dependence effectively in
23 adolescents is still evolving.
24 Pediatricians have no proven office-based
25 programs that successfully result in

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 smoking cessation for teenagers. Simply
3 put, it is very hard to help teens to
4 quit even if they are motivated to quit.
5 So I follow best practice guidelines that
6 work with adults and I ask about smoking
7 behavior, give advice to quit, offer
8 several ways to quit, and over and over
9 and over again remind teens how much
10 better they would feel if they stopped
11 smoking. The challenge is that once an
12 adolescent is addicted to tobacco, they
13 have a lifelong problem to deal with that
14 is not easily remedied. If
15 pediatricians, family doctors, nurse
16 practitioners, parents, grandparents,
17 teachers and many other caring adults had
18 their way, no teen would have the
19 opportunity to become addicted to
20 cigarette smoking.

21 I hope these thoughts are
22 helpful. And thank you for the
23 opportunity for allowing me to testify.

24 COUNCILWOMAN MILLER: Thank
25 you.

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 Okay. That's it for that
3 panel. I have a couple questions.

4 Dr. Robinson, what book did you
5 say that you put together or pamphlet or
6 brochure? You can stay there.

7 DR. ROBINSON: You can actually
8 find it on the web. The textbook is
9 available. It's the Smoking Cessation
10 Guideline, Clinical Guideline of the U.S.
11 Public Health Service. If you Google it,
12 you'll find it and you can load it down
13 to full text.

14 COUNCILWOMAN MILLER: Is that
15 geared towards young people or just --

16 DR. ROBINSON: Actually, it's
17 done in several parts. There's one part
18 that's done for clinicians, there's
19 another part that's done for consumers,
20 and there is another part that's done for
21 managed care organizations, and there is
22 a section that's done for youth. So it's
23 in several different parts, and you can
24 find the monograms online.

25 COUNCILWOMAN MILLER: Okay.

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 One of the things that we have to discuss
3 too with this bill are acceptable forms
4 of ID, and I would think -- I can't
5 remember what the school ID looks like,
6 but I don't think date of birth is put on
7 there. I know the picture is normally on
8 a school ID.

9 So if anybody, whether you've
10 testified or not, think about it. I
11 think we maybe need to change the school
12 ID to put a date of birth or something on
13 there, I guess. Because teenagers don't
14 normally have an ID that has their date
15 of birth on it. Normally I don't
16 think -- it's just their name and their
17 picture.

18 DR. ROBINSON: Councilwoman,
19 there's one other issue also, and maybe
20 someone else will bring it up, but one of
21 the major issues on why youth can buy
22 cigarettes is because they sell the
23 cigarettes outside of the package. They
24 sell what they call loosies.

25 COUNCILWOMAN MILLER: I know.

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 DR. ROBINSON: Because very few
3 youth can afford to spend \$6 for a pack
4 of cigarettes, but they can spend 50
5 cents for a single cigarette.

6 COUNCILWOMAN MILLER: I know.
7 I used to work near -- before I became a
8 Councilmember, I worked on Germantown
9 Avenue and I worked near a store that
10 sold doughnuts and cigarettes and sodas
11 and things, and at first, he didn't, but
12 then he started selling loosies. And I
13 went over and told him about the ATF and
14 that we were going to report him, so he
15 stopped. But he put up a sign, because
16 he actually said that if he didn't sell
17 them, then the kids would harass him and
18 threaten him and all those other things.
19 So he wanted to take the stigma above him
20 and he put up a sign. And I don't know
21 whether he had any trouble or not, but we
22 couldn't stand there and police him all
23 the time, but we did threaten to turn him
24 in. And he stopped, told me he stopped
25 selling them. I don't think he did. I

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 think he did, because we used to send
3 kids in there to see too and he didn't
4 sell it to them. So I'm not really sure.

5 But I think the education part
6 that you did in Louisiana is probably
7 really good, because we have all kinds of
8 merchants here and I don't know
9 whether -- all races, people from other
10 countries. I don't know what the age
11 requirements or if there are any legal
12 limitations in some of the other
13 countries that now -- of those folks that
14 now reside here. I don't know. So
15 people come here, they don't know whether
16 you're taking it serious or whether
17 you're taking it lightly, and I think the
18 education of retailers is an important
19 key.

20 DR. ROBINSON: I agree.

21 COUNCILWOMAN MILLER: I really
22 do, so they'll know. Because I know I've
23 gone in stores and I've seen -- they used
24 to sell these little glass vials, these
25 little glass things with little teeny

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 flowers in them, and people were saying
3 they were drug paraphernalia. And I've
4 said to a couple of them, like why are
5 you selling that? Do you know what
6 that's used for? And, of course, they
7 know, but they tell you they don't know.
8 Oh, no. I say, Well, you shouldn't sell
9 that. And I know that a couple of them
10 have actually taken them out, or if
11 they're selling them, they're not like
12 right up front anymore, because I think
13 sometimes you just have to -- more
14 citizens have to get involved in saying
15 things when they see behaviors in their
16 community. I really believe in that,
17 when they see behaviors in their
18 community that's not very positive. We
19 have to open up our mouths and say
20 something.

21 Okay. Let me just see if I
22 have any other questions.

23 Other than the acceptable form
24 of ID, because that's really what we need
25 to do, is to get some type of ID. Maybe

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 not for elementary or middle but for high
3 school students, because when we talk
4 about -- the bill also states -- the bill
5 also has a passage in here that we would
6 amend The Philadelphia Code, entitled
7 "Cigarettes and Tobacco Products," by
8 revising the acceptable forms of
9 identification; and by increasing the
10 penalties for violations. So we do need
11 to look at what the current form of ID is
12 if we're going to do a revision and make
13 some suggestions.

14 Yes, ma'am.

15 MS. ULMER: Just a point of
16 clarification or recommendation. A
17 number of jurisdictions will use the
18 state IDs only, either a driver's license
19 or the state ID that is given out by the
20 Department of Motor Vehicles, and people
21 will turn the license in a vertical way
22 when the youth is younger than 18 and
23 then turn it horizontal way when the
24 youth is older than 18, just as an
25 additional aid to retailers about the age

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 of the youth.

3 COUNCILWOMAN MILLER: Right. I
4 don't know whether young people here in
5 Philadelphia or Pennsylvania can get a
6 state ID. I don't really know the answer
7 to that. I actually thought -- you can?

8 MS. ULMER: Yes, you can.

9 COUNCILWOMAN MILLER: Oh, okay.
10 Well, that's good, then. That takes up
11 the -- I think the state ID is a good
12 thing to have whether you're young or
13 older, particularly if you don't have a
14 driver's license. But many 16-year-olds
15 have a driver's license, too.

16 DR. ROBINSON: Yes.

17 COUNCILWOMAN MILLER: Okay.
18 Thank you. Thank you very much for your
19 testimony.

20 Nick Maiale. Is Nick here? I
21 don't see him. Nick Maiale, Deborah
22 Brown, Valerie Pracilio and Lauren
23 Gemberling and RaeNa Johnson.

24 (Witnesses approached witness
25 table.)

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 COUNCILWOMAN MILLER: Hi. Good
3 afternoon. Just state your name for the
4 record. Make sure your mike is up close
5 enough so we can hear you and proceed
6 with your testimony.

7 MR. MAIALE: My name is
8 Nicholas Maiale. I've had a store for 36
9 years. I still have it. And I'm here
10 today because I was asked to testify on
11 raising the fines on selling cigarettes
12 to kids. And I get kids in my store
13 every day coming in for cigarettes, and I
14 face that problem every day. The only
15 way I think we can stop this is to
16 stiffen the laws. The laws are very
17 minor. A hundred dollars is a joke, I
18 think. But, you know, raising it a
19 little bit is a start.

20 I got stores in my neighborhood
21 that sell all kind of stuff. You got
22 rolling papers, blunts, turtles. Some
23 people sell baby turtles on their
24 counter. And I know this ain't the
25 issue, but if we can just raise it where

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 it's a nice stiff penalty, then maybe the
3 second time and the third time take their
4 license from them, you know.

5 That's about it, you know.

6 That's all I could say.

7 COUNCILWOMAN MILLER: Thank
8 you. Thank you.

9 MR. MAIALE: Thank you.

10 COUNCILWOMAN MILLER: Deborah
11 Brown.

12 MS. BROWN: Yes. Good
13 afternoon, Councilwoman. My name is
14 Deborah Brown and I am the CEO for the
15 American Lung Association of the
16 Mid-Atlantic. Our Association supports
17 Councilwoman Marian Tasco's Bill No.
18 100634 recently introduced to increase
19 penalties for merchants that sell tobacco
20 to minors.

21 While many merchants obey the
22 current law and refuse to sell deadly
23 tobacco products to our children, there
24 are others who choose to break the law
25 and should pay the price. Philadelphia

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 has one of the highest rates of youth
3 smoking among large U.S. cities. Almost
4 11 percent of teens and 30 percent of
5 Caucasian teens have smoked once in the
6 past 30 days. Our Association believes
7 easy access to cigarettes, cigars and
8 other tobacco products are a key factor
9 in this rate.

10 As mentioned, the American
11 Academy of Pediatrics have called tobacco
12 use a pediatric disease. The vast
13 majority of smokers start as children,
14 become addicted, and far too many die
15 prematurely from lung cancer, emphysema,
16 heart disease or scores of other
17 tobacco-caused illnesses. All these
18 deaths can be prevented.

19 The majority of the youth in
20 Philadelphia buy cigarettes on their own,
21 meaning merchants choose to ignore the
22 current law and sell to them. Local
23 checks on tobacco retailers reveal that
24 one in five merchants sell tobacco
25 products illegally to minors. Many of

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 the retailers are within a short distance
3 of our schools and community centers, and
4 this is wrong.

5 Tobacco retailers who must
6 sell -- who sell to minors must face
7 strict, graduated financial penalties and
8 a loss of license. Without Bill No.
9 100634, merchants can simply pay the \$100
10 for each violation regardless of how many
11 times they've broken the law. Compared
12 to the profit made off of our youth,
13 what's a few hundred dollars a year?

14 Philadelphia -- a majority of
15 Philadelphia's tobacco retailers cited
16 for selling tobacco products illegally to
17 minors continue to sell again and again.
18 To help decrease illegal sales and
19 prevent youth from smoking, Councilwoman
20 Tasco's bill needs to be passed.

21 Under the bill, the initial
22 fine would increase from \$100 to \$250.
23 If a merchant does not pay \$250,
24 Municipal Court could have the ability to
25 assess a minimum fine of \$300 and a

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 maximum fine of 2,000. If a merchant
3 sells to a minor three times in two
4 years, the business could be shut down
5 for 48 hours.

6 It is time for all of us to get
7 serious about sales to minors in the
8 City. It is time for merchants who sell
9 to minors to stop profiting from this
10 illegal activity, and it is time to save
11 lives. Each day we permit tobacco
12 retailers to sell to our youth, it is an
13 opportunity lost to save another
14 Philadelphian, another family member,
15 another loved one from the potentially
16 deadly effects of tobacco. Please do the
17 right thing and support Bill No. 100634.

18 Thank you for the opportunity
19 to comment.

20 COUNCILWOMAN MILLER: Thank
21 you. Thank you.

22 Valerie?

23 MS. PRACILIO: Yes.

24 COUNCILWOMAN MILLER: Proceed
25 with your testimony, Ms. Pracilio.

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 MS. PRACILIO: Good afternoon,
3 Councilwoman. My name is Valerie
4 Pracilio and today I am here to speak on
5 behalf of the American Cancer Society. I
6 am Chair of one of the Society's
7 volunteer advocacy teams, as well as a
8 healthcare professional interested in
9 health policy at the local, state and
10 national levels. I live, work and
11 volunteer here in the City. With me are
12 a number of members of the American
13 Cancer Society staff as well as
14 volunteers.

15 The American Cancer Society
16 supports City Council Bill 100634 because
17 of the important need to prevent tobacco
18 use among our young people, especially
19 those under the age of 18.

20 As we've heard throughout the
21 afternoon, 90 percent of adults who smoke
22 today began at or before age 19. All
23 tobacco products, including cigarettes,
24 cigars and smokeless tobacco, contain
25 nicotine, which is highly addictive. As

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 a result of this simple fact, the tobacco
3 industry markets their products to kids
4 in hope that they will get lifelong
5 customers. That is, of course, until the
6 deadly effects of their products cause
7 heart disease, cancer and lung disease.

8 To continue to lure young
9 customers, the tobacco industry is
10 changing the look and smell of its
11 products. In addition to the traditional
12 forms of cigarettes, cigars and chew
13 tobacco, new products are now available
14 with brightly colored packaging, flavors
15 and scented aromas, all designed to
16 appeal to kids. As shown on the colorful
17 poster of actual products that my
18 colleague holds up, examples include
19 grape-flavored cigars and cigarillos;
20 mint, grape and citrus-flavored smokeless
21 tobacco; watermelon-flavored rolling
22 papers. All of this product packaging
23 contains bright colors and pictures of
24 fruit, all designed for appeal.

25 With smoke-free laws in place

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 in states and cities like Philadelphia,
3 smokeless products are in fact the next
4 big market for the tobacco industry.

5 These products are no longer restricted
6 to chew that is visible when placed
7 inside the cheek. Snus come in mini tea
8 bags, and Ariva is a tobacco tablet that
9 has the look and size of a breath mint.

10 These new smokeless products are not
11 visible to a teacher or parent when
12 placed inside the mouth. Worse yet, this
13 is not spit tobacco; the juice is
14 swallowed and ingested.

15 Some would have us believe that
16 because these products are smokeless,
17 they may be less harmful. However, they
18 are all addictive and can cause cancers
19 of the mouth, throat, pancreas and
20 stomach, as well as receding gums and gum
21 disease.

22 As noted in documents published
23 by the City Department of Health,
24 Philadelphia unfortunately has the
25 highest rate of smoking among large U.S.

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 cities. One very alarming statistic
3 provided by the Department is that one in
4 five merchants in the City sell tobacco
5 products illegally to minors. Even
6 worse, the City has revealed that four in
7 ten of those who make illegal sales to
8 kids are located within 500 feet of a
9 school.

10 Clearly, Philadelphia's youth
11 are endangered by illegal tobacco sales,
12 and we support stricter penalties
13 proposed in this bill. It is illegal to
14 sell tobacco products to minors.
15 Ignoring the law endangers our young
16 people and provides them with access to a
17 lifelong tobacco addiction.

18 The younger you are when you
19 begin to use tobacco products, the more
20 likely you are to be an adult tobacco
21 user. And people who start tobacco use
22 at younger ages are more likely to
23 develop long-term nicotine addiction than
24 those who start later in life.

25 Each day in the U.S. more than

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 3,500 people under the age of 18 try
3 their first cigarette and another 1,100
4 become regular, daily smokers. About
5 one-third of these youth will die
6 prematurely from smoking-related
7 illnesses. With easy access to tobacco
8 products, Philadelphia's kids are part of
9 these grim numbers.

10 Cigarette smoking causes
11 serious health problems among children
12 and teens, including shortness of breath,
13 frequent headaches, respiratory
14 illnesses, reduced physical fitness, poor
15 lung growth and function, addiction to
16 nicotine and worse overall health.

17 As they get older, teens who
18 continue to smoke can expect problems
19 like early heart disease, stroke, gum
20 disease, tooth loss, chronic lung
21 diseases, hearing loss and vision
22 problems.

23 For additional information, I
24 am including a resource document from the
25 American Cancer Society, entitled "Child

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 and Teen Tobacco Use," which is also
3 available on the Society's website,
4 cancer.org.

5 From this information, I am
6 sure you can see that the health and
7 well-being of our city's young people are
8 at stake. The tobacco industry is hard
9 at work trying to make its product more
10 alluring. We need the help of
11 responsible merchants to combat this
12 problem. Those who sell these addictive
13 products to our young people must face
14 consequences.

15 The Philadelphia Department of
16 Public Health has rightly called our
17 attention to this problem, and now we are
18 asking for your action. Currently, the
19 penalties for City merchants that sell to
20 minors are too low. According to the
21 City's own research, other cities in
22 Pennsylvania and across the country have
23 higher fines and, thus, have lower youth
24 sales.

25 We ask all retailers to act

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 responsibly by not selling tobacco
3 products to minors, and we ask City
4 Council to enforce stronger penalties
5 against those who do.

6 This week on Thursday, November
7 18th, the American Cancer Society will
8 observe the 35th Anniversary of the Great
9 American Smoke-Out. In the spirit of
10 that event and toward a healthier
11 Philadelphia, we ask your Committee to
12 protect our kids and vote yes on Council
13 Bill No. 100634.

14 Thank you for the opportunity
15 to testify today.

16 COUNCILWOMAN MILLER: Thank
17 you. Thank you for testifying.

18 Lauren Gemberling, and I know
19 you're here, Robert Simmons.

20 Hi. Good afternoon.

21 MS. GEMBERLING: Good
22 afternoon. My name is Lauren Gemberling
23 and I'm the Program Manager for Health
24 Promotion Council. Commissioner Schwarz
25 had mentioned us earlier. We work

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 closely with the Philadelphia Department
3 of Public Health and the Commissioner's
4 Office to enforce the youth access laws.
5 So we are the team on the streets.

6 The youth that's going to
7 speak, she's a youth investigator or a
8 surveyor. We're the team that's out on
9 the streets enforcing these laws. So we
10 go out, do the undercover work.

11 Basically what that means is, we have a
12 team of youth and a team of adults. One
13 youth will go into the store. The youth
14 are not of age. So they are all either
15 15, 16 or 17. They go into every store
16 in the City that sells tobacco products
17 and they ask for a tobacco product,
18 whatever they feel comfortable with. So
19 what you saw, that box, many times they
20 ask for blunts or loosies. If they see
21 loosies, they're encouraged to ask for
22 loosies. Any type of cigarettes they
23 feel comfortable for asking, they'll ask
24 for them. And then a sales rate is
25 determined at the end of the year, the

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 sales to minors rate.

3 2008 our sales rate in
4 Philadelphia hit an all-time low. So
5 it's 20 percent. So you've heard a lot
6 today about people saying one in five
7 youth is sold to. Keep in mind that
8 these are youth that they don't know. So
9 think about what the actual sales rate
10 is. It's probably significantly higher,
11 because many of these merchants are
12 selling to kids that they know.

13 2009 our rate increased just
14 slightly to 22 percent. 2010 we went up
15 to 25.6 percent. And here's a pretty
16 astounding statistic: This far in 2011,
17 we're talking fiscal year, so from July
18 1st, our sales rate is 33 percent. This
19 is higher than it's been in the past, I
20 guess, seven years.

21 So the box that Commissioner
22 Schwarz just showed you was one month's
23 worth of tobacco products that our youth
24 have gathered. We actually were going to
25 bring a box today that was overflowing,

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 and that was from only three weeks. So
3 the sales rate is significantly
4 increasing.

5 I have two little stats to
6 discuss, little snapshots. We pulled
7 some data from our youth surveys from
8 November 2nd through November 10th. So
9 we're talking eight days. Our sales rate
10 was 49 percent. Traditionally in the
11 City there were in fact specific areas or
12 zones of the City where the sales rate
13 was traditionally higher. That's all out
14 the door. That no longer applies. We
15 found that all aspects or all areas of
16 the City are now selling at a higher than
17 usual rate. So we can no longer say that
18 only certain parts of the City are
19 selling.

20 Also, we're finding that many
21 chain stores are selling. Traditionally
22 this does not happen. Traditionally it
23 was -- you hear a lot about take-out
24 stores, some of the mom and pops, but
25 many times some of the Asian take-out

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 stores or restaurants were selling. Now
3 it's everybody, Rite Aid, CVS. They're
4 all selling to our youth.

5 We discussed merchant
6 education. I also oversee a bit of the
7 City's merchant education program. So
8 previously what we would do as part of
9 our enforcement program, we'd sit down
10 with merchants, invite them to some of
11 our trainings. They'd receive a signed
12 letter from Commissioner Schwarz saying
13 you're highly encouraged to come to this
14 meeting, we're going to talk about how to
15 educate you best, how you learn about the
16 laws and whatnot. So we'd have these
17 group trainings kind of around the City.
18 The sales rate did not decrease. So now
19 what we have is a merchant education
20 program. We have two full-time merchant
21 educators that are here with us today.
22 They go out. Any time there's a sale to
23 one of our youth, these merchant
24 educators go out and provide the
25 education one-on-one at the merchant's

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 store, whatever time works for them, in a
3 culturally and linguistically appropriate
4 manner. So we're speaking their
5 language, providing them with resources.
6 We're trying to address the reasons that
7 they've told us previously that they
8 sell. Many times they'll say, We don't
9 know the law. And you discussed earlier
10 we have a turnover, a lot of stores,
11 people are coming in from other
12 countries. Absolutely, we will give them
13 the benefit of the doubt. Perhaps they
14 don't know the law. We will educate them
15 about the law.

16 Many times we hear, We feel
17 threatened. We'll discuss with them what
18 to do when you feel threatened. Here's
19 some resources.

20 Many times we also hear, Hey,
21 we're just too busy to check IDs.
22 There's a long line, I don't want to lose
23 profit, I'm not going to check IDs.

24 And also we hear a lot --
25 because they assume because someone is

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 handing them an ID, so they may say, Let
3 me see your ID. They'll take a look at
4 it. They'll still continue to sell to
5 our youth.

6 So we address all of these
7 issues when we go out and do these
8 merchant education sessions. They're
9 typically about 30 minutes in length.

10 Like I said, we provide them with
11 resources, information, we educate them
12 about the law.

13 Up through last week -- so we
14 started this merchant education program
15 in June. Through last week, we had
16 conducted 405 of these merchant education
17 sessions. And keep in mind that these
18 are to violators. So part of our program
19 is that once somebody violates the law,
20 our merchant educators go out and educate
21 them within 30 days.

22 What we then do, following the
23 education, is go back and do a recheck.
24 So we take our youth back out undercover
25 to see if they sell to these merchants

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 again. Here's an astounding statistic:
3 Of the 405 merchant education sessions
4 that we conducted, 184 of them sold to
5 our youth again. That's 45 percent. So
6 obviously it seems as though perhaps this
7 merchant education is not working or not
8 doing exactly what we want it to do.
9 Forty-five percent. Obviously it's not
10 100 percent, so hopefully we're having an
11 effect, but we think that increasing
12 these fines will obviously have another
13 effect.

14 We also have a hotline in the
15 City, 188-99-SMOKE is the hotline where
16 people, community members, anybody out
17 there can report a store that sells. So
18 we receive many, many, many calls to our
19 hotline of people saying, Listen, these
20 people are selling to my kids in the
21 neighborhood.

22 So RaeNa Johnson is one of our
23 youth surveyors and she's 16 years old.
24 She's going to tell you about some of her
25 experiences.

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 MS. JOHNSON: Good afternoon,
3 Councilwoman. My name is RaeNa Johnson.
4 I'm an 11th grade student at Strawberry
5 Mansion High School in North
6 Philadelphia. I've been a tobacco youth
7 surveyor with Health Promotion Council of
8 Southeastern Pennsylvania for two years.
9 I named my testimony "Smoking Babies."

10 Tobacco contains the most
11 addictive drug, nicotine. Nicotine's
12 textbook definition reads a colorless,
13 oily water soluble, highly toxic, liquid
14 alkaloid which is used as an insecticide.
15 Five out of 4,000 chemicals that are
16 found in tobacco are acetic acid,
17 ammonia, arsenic, methane and methanol.
18 Many of these chemicals are used in
19 household cleaning products, jet fuel and
20 poisons. This is what is going into the
21 hands of our youth today.

22 Because so many addictive
23 smokers are introduced at a young age, it
24 is important to censor the access to
25 tobacco products. According to the

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 United States Department of Health and
3 Human Services, our beloved City of
4 Philadelphia has the highest rate of
5 regular smoking 9th to 12th graders.
6 Nearly 11 percent of all teens and 30
7 percent of white teens have smoked in the
8 past 30 days.

9 In 2002, the United States
10 Center for Disease Control recorded that
11 80 percent of smokers began smoking
12 before the age of 18, whereas 60 percent
13 began smoking before the age of 14.
14 These percentages have greatly increased
15 for the past eight years.

16 Many of these vendors benefit
17 excessively from these sales, but despite
18 the booming tobacco industry, our youth's
19 health is in danger.

20 In my experience as a tobacco
21 youth surveyor, I received a numerous
22 amount of sales. For the past two years
23 that I worked as a tobacco youth
24 surveyor, my rate of sales has increased
25 approximately 40 percent. This past week

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 I was conducting a survey. I was sold
3 ten times out of 19 stores. That's over
4 50 percent.

5 Bill No. 100634, Section 9-622
6 clearly states that tobacco is not to be
7 sold to anyone under the age of 18.
8 Penalties for merchants that sell to
9 minors are too low. It's still breaking
10 the law and \$100 is not enough.

11 I would like to also add that
12 in my getting -- when I received my ID,
13 they told me that you can receive an ID
14 at the age of 11. So it is legal, the
15 state ID. And my school ID has my date
16 of birth on it. The merchants obviously
17 do not care. They want the money.

18 Me purchasing a \$7 pack of
19 cigarettes, they can count, so they can
20 give me my change back. So they can
21 subtract 1994 from 2010.

22 (Applause.)

23 MR. SIMMONS: Thank you. That
24 was a great statement. Good job with
25 that.

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 My name is Rob Simmons and I'm
3 at Thomas Jefferson University in our
4 School of Population Health and I direct
5 our Public Health Program. Thank you for
6 the opportunity to provide some short and
7 brief comments.

8 Tobacco use, of course, has and
9 continues to be a leading cause of death
10 and disability in the U.S., attributing
11 to an estimated 443,000 premature deaths
12 per year. More deaths are caused each
13 year by tobacco use than all deaths from
14 HIV, illegal drug use, alcohol use, motor
15 vehicle injuries, suicides and murders
16 combined.

17 Smoking by youth has declined
18 sharply during 1997 to 2003, but rates
19 over the past seven years have remained
20 stable throughout the country. Today,
21 approximately 20 percent of all youth
22 under age of 18 self report that they
23 smoke in the United States, which we
24 expect to be an underestimate.

25 Through reducing smoking,

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 particularly among our youth, we can
3 improve the public's health by lowering
4 unnecessary disease and death rates due
5 to smoking. National efforts to reduce
6 youth tobacco use have been taking place
7 across the country. One of the most
8 successful strategies has been to reduce
9 the access to tobacco products by youth.
10 States around the country have been
11 redoubling their efforts to reduce youth
12 access through merchant education and
13 particularly through increased fines for
14 merchants who sell tobacco to minors.

15 We have a major public health
16 problem here in Philadelphia, as our
17 tobacco use rates are one of the highest
18 in the nation. This is particularly
19 troubling for Philadelphia youth who,
20 based on surveys, have one of the highest
21 smoking rates in the nation.
22 Approximately 35 percent of Philadelphia
23 youth are reported to buy cigarettes
24 illegally themselves. Local
25 investigations reveal that approximately

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 20 percent of tobacco merchants sell
3 cigarettes illegally to youth, one of the
4 highest rates, illegal rates, in the
5 nation, and we've heard testimony that
6 that 20 percent rate is really a
7 significant underestimate of actually
8 what goes on as far as illegal sales are
9 concerned.

10 One of the most successful
11 strategies to reduce access to youth is
12 through merchant education and
13 significant fines for merchants who sell
14 tobacco to minors that increase over time
15 with repeated violations.

16 Philadelphia has one of the
17 lowest fines for merchants for selling
18 tobacco products to youth nationally, and
19 compared to other cities both in
20 Philadelphia and nationally with a fine,
21 of course, of only \$100 for each
22 violation, Bill 100634 would help rectify
23 that by raising the minimum fine to \$250.
24 It's a small but important step as part
25 of a comprehensive strategy to reduce

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 smoking in Philadelphia, especially our
3 youth.

4 On a personal note, during the
5 1980s and 1990s, I was involved in the
6 development and implementation of
7 California's tobacco control and
8 prevention program, the most
9 comprehensive tobacco prevention and
10 control program in the country. One of
11 the many components of this
12 internationally recognized public health
13 program is the prevention of youth access
14 to tobacco initiative, called Stop
15 Tobacco Access to Kids Enforcement Act,
16 or STAKE, that took effect in September
17 of 1994. The penalties for merchants who
18 illegally sell tobacco products to
19 minors -- this is again in 1994, 16 years
20 ago in California -- are \$200 to \$300 for
21 the first offense, \$600 to \$900 for the
22 second, \$1,200 to \$1,800 for the third
23 and continues to double with subsequent
24 offenses. Needless to say, tobacco sales
25 to minors are rare events in California,

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 and their youth tobacco rates are one of
3 the lowest in the nation.

4 At Thomas Jefferson University
5 Hospital and our healthcare system, we
6 see thousands of patients each week, and
7 at Thomas Jefferson University, we train
8 our nation's future healthcare leaders.
9 Our goal is to improve the health of our
10 community. One of the ways to reduce is
11 to reduce tobacco use. Passing Bill
12 100634 will reduce tobacco use by
13 Philadelphia's youth, lower health risk
14 and eventually lower healthcare costs.

15 Thank you.

16 COUNCILWOMAN MILLER: Thank
17 you.

18 Did any of the store owners
19 ever ask you for ID, RaeNa? It's RaeNa,
20 right?

21 MS. JOHNSON: RaeNa. Yes.

22 COUNCILWOMAN MILLER: They did?

23 MS. JOHNSON: Yes.

24 COUNCILWOMAN MILLER: And once
25 you gave them ID, did they sell to you?

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 MS. JOHNSON: Sometimes they
3 do.

4 COUNCILWOMAN MILLER: Okay. So
5 I don't know the purpose of them asking
6 then. I mean, they're going to sell
7 anyway.

8 I just want to state that I
9 know that all Councilmembers are in
10 support of this bill, and we want to
11 thank everyone for coming in today to
12 testify.

13 Is there anyone else that wants
14 to testify for or against this bill?

15 (No response.)

16 COUNCILWOMAN MILLER: Let me
17 ask my Council colleague here.
18 Questions?

19 COUNCILMAN GOODE: No.

20 COUNCILWOMAN MILLER: Okay. So
21 thank you. This concludes the hearing on
22 Public Health. Thank you.

23 (Pause.)

24 COUNCILWOMAN MILLER: Excuse
25 me. Can we have a little quiet. We're

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 still in session here.

3 We are now going into our
4 public -- the Committee on Public Health
5 is now going into its public meeting.

6 The Chair recognizes Councilman
7 Goode.

8 COUNCILMAN GOODE: Thank you,
9 Madam Chair. I move that Bill No. 100489
10 be reported out of the Committee with a
11 favorable recommendation and the rules of
12 Council be suspended so as to permit
13 first reading at our next Council
14 session.

15 (Duly seconded.)

16 COUNCILWOMAN MILLER: It has
17 been properly moved and seconded that
18 Bill No --

19 COUNCILMAN GOODE: 100489.

20 COUNCILWOMAN MILLER: -- 100489
21 be reported out of this Committee with a
22 favorable recommendation and the rules of
23 Council be suspended.

24 All in favor signify by saying
25 aye.

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 (Aye.)

3 COUNCILWOMAN MILLER: Opposed?

4 (No response.)

5 COUNCILWOMAN MILLER: Okay.

6 This bill has been properly moved -- all
7 right.

8 We have actually -- Council
9 President Verna has appointed Councilman
10 Clarke to this Committee to help us with
11 our quorum and voting.

12 COUNCILMAN CLARKE:

13 Temporarily.

14 COUNCILWOMAN MILLER:

15 Temporarily to this Committee. Thank
16 you. Thank you.

17 COUNCILMAN GOODE: Madam Chair,

18 I move that Bill No. 100489 be reported
19 out of the Committee with a favorable
20 recommendation and the rules of Council
21 be suspended so as to permit first
22 reading at our next Council session.

23 (Duly seconded.)

24 COUNCILWOMAN MILLER: Great.

25 All in favor?

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 (Aye.)

3 COUNCILWOMAN MILLER: It has
4 been properly moved and seconded that
5 Bill No. 100489 be reported out of this
6 Committee with a favorable recommendation
7 and the rules of Council be suspended.

8 Councilman Goode.

9 COUNCILMAN GOODE: I move that
10 Bill 100634 be reported out of the
11 Committee with a favorable recommendation
12 and the rules of Council be suspended so
13 as to permit first reading at our next
14 Council session.

15 (Duly seconded.)

16 COUNCILWOMAN MILLER: It has
17 been properly moved and seconded that
18 Bill No --

19 COUNCILMAN GOODE: 100634.

20 COUNCILWOMAN MILLER: -- be
21 reported out of this Committee with a
22 favorable recommendation, that the rules
23 of Council be suspended.

24 All those in favor signify by
25 saying aye.

1 11/16/10 - PUBLIC HEALTH - BILL 100489, ETC.

2 (Aye.)

3 COUNCILWOMAN MILLER: All those
4 opposed?

5 (No response.)

6 COUNCILWOMAN MILLER: This bill
7 has been properly moved and seconded and,
8 furthermore, the rules of Council have
9 been suspended so as to permit first
10 reading at our next session.

11 This concludes -- both bills,
12 actually.

13 This concludes this hearing.

14 Thank you.

15 (Committee on Public Health and
16 Human Services concluded at 3:30 p.m.)

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CERTIFICATE

I HEREBY CERTIFY that the proceedings, evidence and objections are contained fully and accurately in the stenographic notes taken by me upon the foregoing matter on November 16, 2010, and that this is a true and correct transcript of same.

MICHELE L. MURPHY
RPR-Notary Public

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