

Tobacco and Health Board of Trustees

April 24, 2024

Via Microsoft Teams

The meeting was recorded and can be viewed in its entirety at this link

https://youtu.be/f1_4_k-X8aM

Tobacco and Health Trust Fund Board of Trustees - Members in Attendance: Claudio Gualtieri (Chair), Robert Boris, Ayesha Clarke, Anne Foley, Pareesa Charmchi Goodwin, Toni Harp, Rep. Cindy Harrison, Mathew Jasinski, Christopher Moran, Tricia Orozco, Michael Rell, Suchitra Krishnan-Sarin, Andrew Salner, and Jody Terranova

Tobacco and Health Trust Fund Board of Trustees - Members Excused: None

Board of Trustees Staff: Melissa Morton, Office of Policy and Management (OPM)

Guest Presenters: Office of the Attorney General Staff Cara Passaro, Heather Wilson and Diaghilev Lubin-Farnell

Meeting called to order by Chair Claudio Gualtieri at 10:32 A.M.

Agenda Item	Minutes
Welcome and introductions	Chair Claudio Gualtieri, (OPM) called the meeting to order at 10:32 A.M. Melissa Morton, (OPM) called the role.
Adopt Minutes from November 13, 2023 Meeting	Claudio Gualtieri called for a motion to adopt the minutes from the January 24, 2024 meeting. Dr. Andrew Salner made a motion to adopt. Christopher Moran seconded. No discussion. All in favor. Motion approved.
State Goal of Today's Meeting	Chair Claudio Gualtieri reviewed the following goals of today's meeting: <ul style="list-style-type: none">• Since there are several new Board members, the majority of today's meeting will consist of a presentation by staff from the Office of the Attorney General (OAG) to educate members on the Master Settlement Agreement. Chair Gualtieri acknowledged OAG, Chief of Staff Cara Passaro, and her colleagues.• The presentation will be followed by an update from DPH on the RFP process for the FY 2023 funding.• The meeting will conclude with a brief outline of next steps related to setting the allocation plan for FY 2024 funding.
Office of the Attorney General Presentation: Master Tobacco Settlement 101	Chair Claudio Gualtieri introduced OAG Chief of Staff Cara Passaro to introduce her team and kick-off the Master Settlement Agreement 101 presentation. Attorney Passaro introduced Assistant Attorney General, Diaghilev Lubin-Farnell and main presenter, Deputy Section Chief for Tobacco Enforcement, Attorney Heather Wilson. The full presentation can be found on the Tobacco and Health Trust Fund (THTF) web page. Attorney Passaro provided a brief introduction to the Master Settlement Agreement (MSA) noting it will cover the following: <ul style="list-style-type: none">• The MSA is turning 25 this year.• What the tobacco companies' and state's obligations under settlement and how we got here are today.

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<p>Office of the Attorney General Presentation: Master Tobacco Settlement 101</p>	<ul style="list-style-type: none"> • What it means that the agreement is “open to scrutiny” if parties to the settlement question anything. • Attorney Passaro then introduce her colleague, Attorney Heather Wilson who has been working on the MSA since 2000, to give the formal presentation. <p>The following are highlights from Attorney Wilson’s presentation:</p> <ul style="list-style-type: none"> • The MSA is between 52 states and territories and the four of the largest domestic companies in the United States (due to mergers current the number of original companies who are parties to the settlement has been reduced to two). • Practically, the settlement is a contract in perpetuity with ongoing obligations by all parties. There are strings attached for all involved. • The MSA has two goals: (1) reduce smoking especially amongst youth, and (2) compensate states for costs associated with smoking related illnesses incurred by public assistance programs. • Four states MN, TX, MI and FL have their own settlements and are not part of the MSA. • 50 other subsequent manufacturers joined the MSA because there are domestic and international incentives to do so. • Attorney Wilson reviewed the major health and monetary contractual obligations of the participating manufacturers and noted that the main health obligation is a prohibition against targeting youth. This prohibition comes with specific rules such as no use of cartoons and no sponsorship of sporting events. • Richard Blumenthal was very involved in development of the MSA; therefore, CT receives more in funding than it would typically based on size and population, \$3.2 billion in funds received to date which equates to 2% of total settlement funds paid. • States that have not joined the MSA still have statutory requirements. • The MSA includes a model “qualifying Statute” (CGS 4-28i in CT). It requires nonparticipating manufacturers to set-up escrow accounts for states and to deposit a certain amount for each cigarette sold in the state for the benefit of that state. This money is a source of recovery for the state should the state ever win a judgement against a non-participating manufacturer. If after 25 years allocated funds are not used, they must go back to the manufacturer on a “first in-first out” schedule. The benefit of this escrow account is that it stops manufactures from lowering rates to compete against companies in the MSA and creates economic parity between companies who participate in the MSA and those who do not by avoiding price undercutting. • State obligations include: (1) release participating manufacturers from legal claims retroactively and prospectively, (2) must diligently enforce their escrow statutes or face a financial penalty. Attorney Wilson reviewed how states are held

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Office of the Attorney General Presentation: Master Tobacco Settlement 101	<p>accountable for enforcing escrow accounts. She reviewed arbitration cases and rulings in other states such as New Mexico and Illinois.</p> <ul style="list-style-type: none"> • “Cost per cigarette” is calculated using the cigarette excise tax. • Future MSA payments are not guaranteed and there is concern because 25 years has passed and very few people who were part of negotiating the settlement and know the exact details and intentions are no longer involved. There is also concern that once money starts going back to the companies it could start to undo parity and allow for price cuts. <p>Upon conclusion of the presentation the following discussion ensued:</p> <ul style="list-style-type: none"> • Claudio Gualtieri emphasized the point that if the state is returning money to nonparticipating manufacturers, it may undercut the parity and allow them to reduce prices. He said that Connecticut needs to determine how to solve for this potentiality. Attorney Cara Passaro said the Attorney General’s office is working on this matter. • Dr. Andrew Salner noted that (nonparticipating manufacturers) NPMs represent 23% of the supply and asked: (1) can states take legal action against NPMs? (2) have any states taken a buy-out or sold their settlement rights? Attorney Wilson responded as follows: Issues are that (1) many companies are headquartered overseas so states can be awarded a settlement but there is difficulty enforcing them outside of the United States, and (2) states have to meet burden of proof that their particular company is the cause of the health problems, and (3) States have securitized their payments, basically selling their rights to the MSA payments for a short-term gain. CT has not taken that path and is of the opinion that option is a poor fiscal position for the state. • Suchitra Krishnan-Sarin asked who is covered and what products are covered by the MSA? Specifically, are e-cigarettes covered? Attorney Wilson responded that only the combustible market is covered not e-cigarettes. Ms. Krishnan-Sarin followed up stating that it seems the settlement favors cigarette companies but holds states accountable for any small infraction. Attorney Wilson agreed that it may seem that way but clarified that companies are held to real consequences such as giving up their first amendment rights by restricting advertising and paying into the fund. This is a settlement so both sides had to make a concession.
Approval of FY 2023 Allocation Plan and Next Steps	<ul style="list-style-type: none"> • Claudio Gualtieri reminded members that on March 14th the FY 2023 allocation plan received unanimous approval by the Appropriation and Public Health Committees. He noted that the board was fortunate to have Representative Harrisson and advocates such as Bryte Johnson and Ruth Canovi, speak in support of the Plan. He also noted that member Michael Rell

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	<p>was in the audience in support and thanked Deputy Commissioner Terranova for her assistance with the presentation of the allocation plan.</p> <ul style="list-style-type: none"> Deputy Commissioner Jodi Terranova provided an update on the competitive bid process for the newly allocated 2023 funds. She noted that DPH staff have already been hard at work and a substantial draft of a Request for Proposals (RFP) has been done and staff have reached out to other state agencies such as, the Department of Mental Health and Addiction Services, to make sure we are not duplicating services but filling gaps. The draft will be shared with Board members who volunteered to review the RFP before release. Once completed, the final RFP will go through DPH legal review, OPM then does its review, and the RFP will hopefully be published in the summer. Board members who want to be on the scoring committee will be called into action in the fall to evaluate proposals and then money is expected to be out the door in late winter/early spring 2025 since contracting process can take some time.
SFY 2024 Allocation Plan Timeline	<ul style="list-style-type: none"> Claudio Gualtieri informed members that out of the allocation approval with the legislature we were asked to submit FY 2024 plan by October 2024 to get back on a more regular legislative approval cadence. Claudio outlined the next steps to get the FY 2024 allocation plan prepped and ready for an October submission. He also noted that we should consider shoring up evidence-based programs such as the Quitline, suggesting the Board may want to consider adding funds to those programs to ensure continuity of funding. Representative Harrison added that catching up on the distribution of existing allocations is important to our ability to maintain future funding. Claudio Gualtieri noted at the July meeting we will provide a budget report reflecting the FY 2024 allocation and any interest earned. Suchitra Krishnan-Sarin reported to members that she has recently learned from clinical providers who make referrals to Quitline that the supply of nicotine patches provided to callers has been reduced from two weeks to eight weeks. This is problematic. Deputy Commissioner Terranova said that the reduction was due to lack of funding, but now that the Quitline is receiving new Trust Fund money they can increase back to eight weeks. She emphasized this is why ensuring ongoing funding is so important.
Public Comment	None
Adjourn	Chair Gualtieri called for a motion to adjourn. Dr Andrew Salner made a motion to adjourn. Seconded by Representative Cindy Harrison. All in favor. Meeting adjourned at 11:43 A.M.