CHAPTER 1

Introduction

New Year's Day 1998 was crisp and clear along the coast just north of San Francisco, a fine day for a hike. Stanton Glantz, a professor at the University of California, San Francisco, and longtime tobacco control advocate, joined a group of friends to hike from high on Mt. Tamalpais down to the ocean. At the end of the trail, the hikers would meet other friends at a bar in Stinson Beach for a drink and lunch. As they approached the bar, Glantz wondered what would happen there. On January 1, 1998, after all, every bar in California was to become smoke free. Glantz had actually opposed the state law making bars smoke free because he doubted that the state legislature would stand up to the tobacco industry and pass a strong law. He also believed that such matters were best left to local communities. The tobacco industry had already mounted a major campaign to encourage people to ignore the law. By then, however, most people thought Glantz was responsible for the law. He expected to walk into another smoky bar and hear comments from his friends that he had gone too far.

But he was pleasantly surprised. A couple of people stood outside the bar smoking cigarettes, but the air inside was smoke free. Bars, the last bastion of smoking, were smoke free. California had indeed come a long way since 1978, when attorneys Peter Hanauer and Paul Loveday had recruited Glantz for an ill-fated effort to pass a state law requiring nonsmoking sections in restaurants. They did not even dare think about bars.

THE CHANGING ENVIRONMENT OF TOBACCO

The landscape surrounding tobacco was not changing merely in California. By New Year's Day 1998, tobacco was a highly visible issue in American politics. President Bill Clinton allowed his Food and Drug Administration to assert jurisdiction over tobacco products as drug delivery devices. Forty-one states had sued the tobacco industry for defrauding the public out of billions of dollars that taxpayers had spent to treat sick smokers; the states would soon force the tobacco industry to pay $200 billion to reimburse them for part of those costs.[1] Thousands of individuals sued the industry and some won. The industry was being forced to accept controls—albeit limited—on its advertising practices. Millions of pages of previously secret tobacco industry documents were made public, first in print,[2–7] then on the Internet and in a depository created from the documents that Attorney General Hubert Humphrey III of Minnesota forced the tobacco industry to make public. These documents showed that the tobacco industry had known for decades that nicotine is addictive and that smoking causes a wide variety of diseases. They also demonstrated how the tobacco industry used its considerable public relations, legal, and political muscle to hide this information from the public and the courts. Later in 1998 Congress had a rancorous debate over whether to enact national tobacco control legislation that put some restrictions on the tobacco industry in exchange for giving it legal immunity. In the end, Congress strengthened public health provisions of the proposed legislation to the point that the tobacco industry and its political allies killed it.

This burst of activity reflected the groundwork that had been laid over the previous two decades by tobacco control activists who had been working all over the United States to change how people viewed the tobacco industry and its behavior. Beginning in the 1980s, California activists, led by Hanauer and Loveday, created hundreds of city and county ordinances to protect nonsmokers from secondhand smoke and otherwise restrict the tobacco industry by working through their city and county officials. These local activists created strong public support for tobacco control policies. Even so, the tobacco industry continued to dominate the California Legislature, where tobacco control policies had scant support.

But in 1988 activists from the environmental movement and the American Lung Association and American Cancer Society reacted to this legislative impasse by creating the largest and most innovative program

in the world through the initiative process, by which voters enact a law by popular vote. California voters enacted an initiative known as Proposition 99, which increased the tobacco tax by twenty-five cents a pack and devoted 20 percent of the money raised to fund a tobacco control program. Virtually overnight, California's investment in tobacco control went from almost nothing to over $100 million a year in schools, communities, and counties and at the state level. In addition, nearly $20 million a year was available to California researchers to conduct tobacco-related research. These programs dwarfed anything that any other state or the federal government had ever done on tobacco.

Far from running a traditional "smoking will kill you" campaign, the California effort viewed tobacco as a social and political problem and went after the tobacco industry directly and aggressively. The network of local tobacco control advocates that Proposition 99 created lit the afterburners on the nonsmokers' rights movement. Communities started passing clean indoor air and other tobacco control ordinances so fast that it was hard to keep track of them all. The culture around tobacco was changing. The initial results of the California campaign were nothing short of amazing: it tripled the rate of decline in tobacco use.[8] Unfortunately for the public health, the tobacco industry appreciated that this campaign was costing it billions of dollars in lost sales and mobilized to divert the money from tobacco control and to constrain the program to ineffective strategies. Nevertheless, the California experience shows that it is possible to rapidly reduce tobacco consumption if the political will is there to do it.

The tobacco industry was not alone in its efforts to divert money from tobacco control programs. Organized medicine and other constituencies that wanted more money spent on medical services for the poor spearheaded the lobbying effort to redirect money into medical services. Politicians in both parties were happy to do the industry's bidding in exchange for campaign contributions or because of a common ideological position.[9–11] In 1994, after several years of rapid reductions in tobacco use, the industry brought this progress to a halt.[12]

For public health advocates, success in political arenas required that they set aside the conciliatory tactics they had relied on in the past and learn to be more confrontational in dealing directly with the tobacco industry. However, they were less willing to confront the industry's surrogates, especially organized medicine or powerful politicians.

While the story of tobacco control in California reflects the individuals and organizations who were involved, the story is relevant every-

where. The tobacco industry's efforts to influence state and local programs are controlled nationally, and the patterns in California have reappeared wherever public health advocates try to clean the air or control the tobacco industry. As a new century begins, more and more states are implementing large-scale tobacco control programs, often through dedicated tobacco taxes or as parts of settlements of lawsuits with the tobacco industry. Massachusetts was the first state to follow California, when voters there passed Question 1 in 1992; Arizona was next in 1994, followed by Oregon in 1996.[13–17] Other states, including Wisconsin, Michigan, and Maine, created tobacco control programs through the legislative process, and Florida, Minnesota, Texas, and Mississippi, among others, did so through legal settlements with the tobacco industry.

RECURRING THEMES

The story of the battle over tobacco control in California has several recurring universal themes.

First, although health promotion and medical care have a logical connection, there has always been a tension between them in the allocation of tax dollars. In the battles over the Proposition 99 revenues, the existence of an a priori agreement between those involved in health promotion and those involved in medical care did little to curtail these battles. Moreover, the financial and political interests of organized medicine often had more in common with the tobacco industry than the public health groups,[18,19] who had been marginal players in California politics before Proposition 99 passed. Despite the fact that these groups successfully defeated the tobacco industry in a major electoral contest to pass Proposition 99, it was hard for them to understand their power and wield it after the election.

Second, it is easiest to make policy in areas where there is a clear consensus on how to achieve the program's goals. Before Proposition 99, no one had ever run a large-scale tobacco control program and no one knew exactly how to do it. In contrast, everyone knew how to spend money on direct medical services. This difference, combined with the lack of precedent for mounting a prevention program of the magnitude of the one created by Proposition 99, complicated the health advocates' task. The absence of a proven approach to reduce tobacco use could have been mitigated with a long time frame to develop and implement the program and a careful evaluation process. Politicians, however, who tend to rely

on short schedules and temporary settlements, did not allow enough time for such a process, even though Proposition 99's tobacco control program was breaking new ground. This situation led anti-tobacco advocates to make early compromises that would come back to haunt them.

Third, programs tend to remain in place once established. Temporary agreements or one-time diversions of funds, as happened when tobacco control proponents agreed to allow some anti-tobacco education money to be used for medical services, become precedents in subsequent budget years because operating programs build their own constituencies.

Fourth, and finally, informed and activated public opinion is a powerful weapon in health policy generally and on tobacco policy specifically. When tobacco policy is left to the inside game played in back rooms, the outcome will favor the existing power structure. The tobacco industry is a tough, experienced inside player who has benefited from the existing power structure. In contrast, the public health groups' power is amplified in public arenas, where tobacco industry's power is sharply curtailed.

CONCLUSION

The California experience shows that it is possible to dramatically change how people think about tobacco and the tobacco industry and rapidly reduce tobacco consumption. Based on the initial results of the program, the state was on its way to reducing tobacco consumption by 75 percent in just ten years.[20–22] The California story shows that it is possible to run such programs successfully as long as the public health community exerts power effectively. It also shows that it is possible for the tobacco industry and its political allies to weaken or destroy these programs when the public health community is timid. The tobacco industry, faced with losing billions of dollars in sales, is highly motivated and aggressive. The controlling factor in the outcome is whether the public health community is willing to directly confront this reality and devote the organizational resources—both financial and political—to beating the tobacco industry. Victory is possible but not easy, and it requires constant, determined vigilance.

While Proposition 99 passed in 1988, it had its origins over a decade earlier, in the emergence of the nonsmokers' rights movement. In contrast to the large voluntary health organizations, the grassroots advocates of nonsmokers' rights saw political and policy interventions as the key to doing something about tobacco. Rather than convincing one person at

a time to stop smoking, they fought to enact laws requiring smoke-free workplaces, public places, and restaurants.[23,24] Their efforts brought about systemic, environmental changes that had an impact on how citizens viewed the tobacco industry and their rights as nonsmokers. They made smoke-free bars not only possible but reasonable.

The California story begins with them.