



## APIC-Greater Detroit Advocacy Report – March 26, 2010

### Federal Issues

#### Historic healthcare reform legislation passed March 21, 2010; finalized March 25

In a dramatic late Sunday session March 21<sup>st</sup> the House acted to first approve the Senate-passed reform bill, the Patient Protection and Affordable Care Act (**H.R. 3590**), by a very close [vote of 219 to 212](#). All Republicans and 34 Democratic members voted against the Senate bill, which President Obama signed into law on Tuesday, March 23<sup>rd</sup>. Following a failed vote on a Republican motion to recommit the bill (which could have killed the bill) the House then voted on and passed the reconciliation "sidecar" bill (**H.R. 4872**) by a [vote of 220 to 211](#). This sidecar bill would modify H.R. 3590 to reflect changes sought by the House and President Obama. Together, the bills would extend health coverage to 32 million people, 95 percent of legal residents and 92 percent of all U.S. residents. The Congressional Budget Office (CBO) estimates that the legislation will cost \$940 billion over 10 years.

On a Michigan note, Speaker Pelosi and the White House negotiated with Bart Stupak (D-MI) and other pro-life Democratic colleagues an Executive Order that Obama pledged to sign that would effectively make the Hyde Amendment (barring use of federal funds for abortion) permanent. Currently, the Hyde Amendment must be reauthorized every year. The pledge calls for HHS and Office of Management and Budget (OMB) to develop language to ensure that there will be no mixing of federal funds for abortions. Ironically, when the Republicans attempted to kill the overall bill, it was Stupak who argued that to kill the overall package would deny health coverage for the children who *were* born and needed healthcare.

The Senate considered the budget reconciliation bill, but as anticipated there were numerous attempts by Republicans to block passage by raising points of order against the bill for potential violations of the Byrd rule. The Senate found two items requiring changes to the bill and the House had to vote again on the reconciliation package called the "sidecar bill." Final House vote and enactment occurred late March 25.

APIC-GD will be watching closely in light of the law's timeline, to report how HHS and OMB interpret and implement provisions currently in this bill, such as healthcare-associated infections (included among the quality measures), hospital-acquired conditions and penalties, value based purchasing (VBP) and other concerns described in earlier newsletters. Public policy will be updated as we learn more.

#### Administration's FY 2011 Budget Request for HHS

On Monday, February 1, President Obama issued the Administration's Fiscal Year (FY) 2011 budget request. Several highlights of interest to members include the following:

**Expansion of NHSN within CDC:** The budget request includes \$27 million for the prevention of healthcare-associated infections (HAIs) through an expansion of the National Healthcare Safety Network (NHSN) from 2,500 to 5,000 hospitals. This total represents an increase of \$12 million above the FY 2010 omnibus level. These funds will allow CDC to build on progress it has made with FY 2009 Recovery Act funds to leverage the NHSN and support the dissemination of HHS evidence-based practices within hospitals to reduce these infections and save lives.

CDC will also use increased funds in FY 2011 to build the workforce capacity, laboratory facilities, and skills sets within state and local health departments to enhance the ability to detect and control emerging infectious diseases. CDC supports these activities through the Preparedness, Detection, and Control of Infectious



Diseases (including Emerging Infections) budget line which include \$192 million, or \$23 million above the FY 2010 level.

[Note: See more in this newsletter on Michigan's SHARP unit plan now engaged in implementing the plan and currently enrolling more hospitals into use of NHSN, a key element of the plan. Contact [Judith Weber \(WeberJ4@michigan.gov\)](mailto:WeberJ4@michigan.gov) for more information.]

**CDC's Antimicrobial Resistance (AR) Program:** The budget request proposes a decrease in funding of more than 50 percent for CDC's Antimicrobial Resistance (AR) program. The AR program supports state-based and local surveillance systems for identifying emerging resistance and tracking infections in the community and healthcare settings and in animals, various educational activities, and CDC's involvement with national planning efforts to combat AR. Antimicrobial resistance activities, such as surveillance, technical assistance, and epidemiological and laboratory support, will continue in FY 2011. Additional activities will continue on a prioritized basis as funding exists through the Emerging Infections program's discretionary funding.

**AHRQ Investment in HAI Reduction:** Included in the budget request is an increase of \$34 million for Agency for Healthcare Research and Quality (AHRQ) to invest in the reduction and prevention of healthcare-associated infections (HAIs). Of this total, \$9 million will specifically be used to focus on the Methicillin-Resistant *Staphylococcus aureus* Collaborative Research Initiative. AHRQ funding has targeted the reduction of HAIs with projects such as a patient safety program to reduce bloodstream infections in hospital intensive care units by implementing a safety compliance checklist and providing staff with evidence-based practices. [Note: this is an expansion of Michigan's Keystone program to other states.] This project was expanded to all States, Puerto Rico and the District of Columbia, and has increased the number of intensive care units in hospitals implementing the program throughout the country. In FY 2011, AHRQ will continue to work closely with partners, including CDC and the Centers for Medicare and Medicaid Services (CMS), to identify and design appropriate projects to reduce the incidence of HAIs.

Over the coming months, APIC and SHEA will urge the Congress to craft a budget that supports funding for strategies to prevent HAIs, antimicrobial resistance, and infectious diseases through the nation's federal health agencies. Click [here](#) to view the Administration's FY 2011 Budget Request for the U.S. Department of Health and Human Services.

## **NIOSH & IOM: New focus on developing "better respirators"; New IOM committee to update PPE for influenza**

**NIOSH meeting:** The National Institute for Occupational Safety and Health (NIOSH), Personal Protective Technology (PPT) Program held a stakeholder meeting on March 2 and 3, 2010, at the Hyatt Regency Pittsburgh Airport. We learned the latest status on NIOSH efforts to improve respiratory protection for healthcare personnel (HCP), as we monitor the issue of respiratory protection for all hazards, not just influenza.

**NIOSH key themes** were expressed for all types of PPE – not just respirators. One was *interfaces*- the "connectedness of one piece of equipment with another during actual use, and in dynamic situations." Individual components are now certified in a vacuum—not as apart of an ensemble which may prevent the equipment from functioning. Although this was most obvious for full gear in fire-fighters—it was also evidenced with problems of fitting eye protection with N95s, the need to perform certain patient care practices dependent on talking, hearing and testing, etc. The other was *comfort and fit*. There is clear recognition that HCP will not use PPE if it is not comfortable, whether or not certified. There was clearly a focus from NIOSH



on their determination to develop “the better respirator” one that fits well and does not require fit-testing. AHA, APIC and SHEA have asked for this repeatedly over many years and it appears the funding and focus are in place to pursue this.

**IOM – new committee:** The latest IOM committee sponsored by NIOSH convened on Feb 25, 2010 to address a related but more narrowly focused issue –that is, influenza. The “Personal Protective Equipment for Healthcare Workers During an Influenza Pandemic: Current Research Issues” is chaired by Elaine Larson. Many of the IOM staff and committee members were present or presenting at the NIOSH meeting and fully aware of NIOSH’s current focus on a better respirator. It is worth noting well known infectious disease experts are on this new panel, including Drs. Allison Aiello, Alison McGeer, and Dr. Richard Wenzel. For more on the IOM meeting and a related IOM Workshop on PPE for HCP to be held in Washington DC June 3, see [www.iom.edu/influenzappe](http://www.iom.edu/influenzappe) More information on the June Workshop will become available in April.

## **OSHA - “Request for Information” on Airborne Infectious Disease Rule**

**RFI:** The Occupational Safety and Health Administration (OSHA) on March 9 sent a request for information (RFI) for an airborne infectious diseases rule to the OMB. OSHA is considering requiring employers to establish infection control programs to reduce the spread of airborne diseases such as pandemic influenza, tuberculosis, Severe Acute Respiratory Syndrome (SARS), and others, according to the abstract published last fall when the agency announced in its last semiannual regulatory agenda that it would publish such a RFI in March 2010.

Last December, Secretary of Labor Hilda Solis said OSHA would refer to the current California Division of Occupational Safety and Health's aerosol transmissible disease rule while developing any federal regulation but stated she did not know how long the process might take. Modeled after the state's bloodborne pathogens standard, the Cal/OSHA aerosol transmissible disease rule includes requirements for respiratory protection, respirator fit-testing, disease exposure control plans, medical surveillance, and communication procedures.

The abstract said it was interested in: “Health care workers and workers in related occupations or who are exposed in other high-risk environments are at increased risk of contracting tuberculosis, SARS, and other airborne infectious diseases which are spread through respiratory secretions which are exhaled or expelled through coughing, sneezing, etc. and can be transmitted through a variety of routes.” Associations such as AHA, APIC and SHEA are waiting to see the questions or proposal before commenting further:

Go to <http://www.reginfo.gov/public/do/eoReviewSearch> and search on “Dept of Labor” or go to <http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=200910&RIN=1218-AC46>

## **Michigan Legislative-Regulatory Issues**

### **H1N1 OSHA (MIOSHA) Enforcement Procedures**

Just a reminder that for H1N1, OSHA (and MIOSHA) will enforce their [Enforcement Procedure \(CPL\)](#) that follows the 10-14-09 CDC guidance very closely. MIOSHA has announced it will follow CDC guidelines and OSHA enforcement procedures for H1N1.



### *CDC Guidance*

- [Interim Guidance on Infection Control Measures for 2009 H1N1 Influenza in Healthcare Settings, Including Protection of Healthcare Personnel](#) **10 14 09**
- [Q&A: CDC's Interim Guidance on Infection Control Measures for 2009 H1N1 Influenza in Healthcare Settings, Including Protection of Healthcare Personnel](#) **10 14 09**
- [Q&A: Respiratory Protection For Preventing 2009 H1N1 Influenza Among Healthcare Personnel](#) **10 14**

### **Brief status reports as of March 19, 2010**

- **Seasonal influenza immunization for seniors – SB 722/HB 4172/SB 722: Support**

In late September APIC-GD and MSIPC members (Bartley and Lundstrom) worked with MHA's Advocacy Dept. to address a bill that has come up over the past few years with the onset of the flu season and focuses on the Medicare population. APIC-GD, MSIPC, with MHA agreed to support it since we would garner legislative support on other critical health issues, and worked for language that merely reflected current processes. In essence the bill reflects what is currently required or already in place and does not require any new procedures or internal/external reports. All hospitals currently following CDC guidelines are already going above and beyond what is proposed. This is now on the House floor and we expect passage.

- **Michigan HAI legislation – HB 4010: No movement; no support**

More than a year ago as reported earlier, Representative Lesia Liss (D-28) reintroduced **HB 4010**, a bill similar to last session, and was referred to the House Committee on Health Policy, of which Rep. Liss is a member, where it remains. This bill requires hospitals to report annually to the state health department summarizing the number of HAIs. There are no requirements for posting or promoting public awareness. APIC-GD, MSIPC, MHA and MDCH continue to monitor this closely for any further action in the House or Senate. An encouraging development is that Rep. Liss has revealed her interest and openness to another approach in discussions with MHA, including forming a panel to study options. No activity is occurring on most legislation due to the overriding budget issues for Michigan.

- **MIOSHA Latex Glove Task Force – No action on recommendations**

APIC-GD, MSIPC, and MHA sought a "latex-safe" versus "latex-free" environment. At the February 20, 2009 meeting consensus could not be reached and recommendations on both positions "Latex-Free" and "Latex-Safe" gloves was made to the Occupational Health Standards Commission on May 13<sup>th</sup>, 2009. The language *proposed* to be added to the Bloodborne Infectious Diseases Rule (BIDR) OH Part 554 concerning Latex Free gloves (see last APIC-GD newsletter for details) was forwarded to the Governor for sign off –this is required before public hearings can be scheduled. If/when that occurs our members will have an opportunity to provide their views and support for a latex-safe environment.

- **Michigan Medical Waste Regulatory Act – Support *only* HB 4459**

Last fall, despite sending letters of strong support for HB 4459 to Senator George, Chair of the Senate Health Policy (where the two bills reside) and urging Senator George to have the committee take up this issue, no activity has yet occurred.

Given the state's budget crisis it is not surprising that little change has occurred on any of these issues; members will be kept informed as we learn more.

**Submitted by Judene Bartley, Chair, APIC-GD Advocacy Committee, March 2010**