



Advocacy

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HOT TOPICS FOR ADVOCACY IN THIS ISSUE

THIS ISSUE of the Advocacy Advisory will focus on topics of current interest to health care, including ongoing federal and state issues related to patient access, covering the uninsured, and reimbursements. The CHRISTUS position is consistent that health care dollars must be preserved in programs such as Medicare and Medicaid, as both of these programs serve a vital function as part of the health care safety net for the uninsured and underserved population.

Putting Care Within Reach:

As one of the largest Catholic health care systems in the United States and because of our solid reputation among policymakers at all levels of government, CHRISTUS Health is uniquely positioned to lead in the effort to achieve meaningful and significant health care reform for this nation. Our efforts will be targeted at achieving objectives in support of the goal of universal coverage, and will include continuing to build effective relationships with legislators and members of the new Obama administration, equipping CHRISTUS leadership and associates with the tools needed to engage and participate in this important national debate, and working to build consensus and collaboration among other health care providers.

The national political scene promises change in 2009 and early indicators are that it will be a favorable time in which to work to achieve our goals. However, there remain significant challenges that CHRISTUS will work to help overcome as a primary feature of our campaign of **“Putting Care Within Reach.”** Success will require a profound commitment at every level of CHRISTUS Health, as we all work together in our individual communities and on a system-wide basis to promote a message of hope, change, and quality health care for every American.

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PRESIDENT OBAMA LIFTS BAN ON STEM CELL RESEARCH

President Obama signaled a major shift in the federal government's science policy this week, lifting Bush-era restrictions on funding embryonic stem cell research and vowing to "restore scientific integrity to government decision-making." Obama signed an executive order freeing up the federal government to finance research into these cells, which scientists believe have the potential to be used in therapies for ailments including spinal cord damage, Alzheimer's disease and cancer. The president also vowed to enforce strict ethical guidelines on the research. "Today, with the executive order I am about to sign, we will bring a change that so many scientists and researchers, doctors and innovators, patients and loved ones have hoped for, and fought for, these past eight years: We will lift the ban on federal funding for promising embryonic stem cell research," Obama said at the White House.

The president's move also underscores his stance on the related issue of abortion rights. Opponents of abortion rights reject this kind of stem cell research because human embryos are destroyed in the process of harvesting the cells. Obama also issued a separate presidential memorandum responding to charges from scientists and Democrats that President George W. Bush put his political ideology ahead of scientific evidence in areas such as stem cell research and climate change. Together, the presidential directives are "about ensuring that scientific data is never distorted or concealed to serve a political agenda," Obama said.

The executive order, which Obama said should be followed by legislation expanding on federal policy on stem cell research, fulfills a campaign promise and is the capstone of a political crusade by Democrats and several key Republicans to dedicate government resources to advance research into a potentially transformative area. Bush twice vetoed legislation that would have lifted the restrictions he imposed. Some of that legislation's champions attended the signing ceremony, including Reps. Diana DeGette (D-CO) and Mike Castle (R-DE), and Sens. Tom Harkin (D-IA) and Orrin Hatch (R-UT). Bush enacted a policy that permitted the federal government to fund research on 21 stem cell lines that had already been created as of Aug. 9, 2001, but prohibited funding for any lines derived from embryos after that date. Although research in this area continued with the use of private dollars, through state-based financing and in other countries, researchers complained that Bush's policy severely limited their ability to move ahead. As he did in the Senate and on the campaign trail, Obama indicated he holds the same view. "In recent years, our government has forced what I believe is a false choice between sound science and moral values," Obama said. "When government fails to make these investments, opportunities are missed."

Obama also affirmed his opposition to human cloning for reproductive purposes, saying it is "dangerous" and "profoundly wrong" and that it "has no place in our society or any society." The administration also will draft ethical guidelines for embryonic research, "which we will rigorously enforce," Obama said. Obama's allies responded to his actions with praise. "I applaud President Obama for lifting these restrictions that will immediately allow this research to move forward," DeGette said. "I could not be more thrilled with President Obama's decision today to lift the restrictions on federal funding for embryonic stem cell research," said Castle. Opponents of federal funding for embryonic stem cell research roundly rejected the new policy. "The administration's policy change does not answer the central question: Do human embryos, which are clearly alive, constitute a life or mere property?" said Sen. Sam Brownback (R-KS).

Source: The Hill, 3/10/09.

NOTE: The position of CHRISTUS Health on stem cell research has been articulated in a January 2007 Issue Brief, which acknowledges the great ethical and public policy debate this issue has generated throughout the nation. CHRISTUS Health recognizes the significant scientific potential of stem cells and has taken the position to support *ethical stem cell research*. Specifically, CHRISTUS Health supports responsible and ethical research using stem cells from adults, placentas or umbilical cords. CHRISTUS does not support the use of embryonic stem cells for research, as this is morally wrong and inconsistent with our mission and core values. We believe that all advances in stem cell research should proceed responsibly and with a strong eye towards ethical concerns.

U.S. HEALTH CARE SYSTEM HAS WORSENING NURSE SHORTAGE

The U.S. healthcare system is pinched by a persistent nursing shortage that threatens the quality of patient care even as tens of thousands of people are turned away from nursing schools, according to experts. The shortage has drawn the attention of President Barack Obama. During a White House meeting last week to promote his promised healthcare system overhaul, Obama expressed alarm over the notion that the United States might have to import trained foreign nurses because so many U.S. nursing jobs are unfilled. Democratic U.S. Representative Lois Capps, a former school nurse, said meaningful healthcare overhaul cannot occur without fixing the nursing shortage. "Nurses deliver healthcare," Capps said in a telephone interview. An estimated 116,000 registered nurse positions are unfilled at U.S. hospitals and nearly 100,000 jobs go vacant in nursing homes, experts said. The shortage is expected to worsen in coming years as the 78 million people in the post-World War Two baby boom generation begin to hit retirement age. An aging population requires more care for chronic illnesses and at nursing homes. "The nursing shortage is not driven by a lack of interest in nursing careers. The bottleneck is at the schools of nursing because there's not a large enough pool of faculty," Robert Rosseter of the American Association of Colleges of Nursing said. Nursing colleges have been unable to expand enrollment levels to meet the rising demand, and some U.S. lawmakers blame years of weak federal financial help for the schools. Almost 50,000 qualified applicants to professional nursing programs were turned away in 2008, including nearly 6,000 people seeking to earn masters and doctoral degrees, the American Association of Colleges of Nursing said. One reason for the faculty squeeze is that a nurse with a graduate degree needed to teach can earn more as a practicing nurse, about \$82,000, than teaching, about \$68,000.

Obama called nurses "the front lines of the healthcare system," adding: "They don't get paid very well. Their working conditions aren't as good as they should be." The economic stimulus bill Obama signed last month included \$500 million to address shortages of health workers. About \$100 million of this could go to tackling the nursing shortage. There are about 2.5 million working U.S. registered nurses. Separately, Senator Dick Durbin and Representative Nita Lowey, both Democrats, have introduced a measure to increase federal grants to help nursing colleges.

Source: Reuters News Service, 3/9/09.

PARTISAN DISAGREEMENT MAY THREATEN HEALTH CARE OVERHAUL

The search for agreement on health care may be short lived. The flashpoint is a proposal that would give Americans the option of buying medical coverage through a government plan. President Barack Obama and many Democrats have endorsed it, as one part of a broader health overhaul. On Saturday, Republicans laid down a challenge. "I'm concerned that if the government steps in, it will eventually push out the private health care plans millions of Americans enjoy today," Rep. Roy Blunt (R-MO) said in the Republican weekly radio address. Blunt, who will play a leading role in the debate, warned: "This could cause your employer to simply stop offering coverage, hoping the government will pick up the slack." The proposal he referred to would, for the first time, offer government-sponsored coverage to middle-class families, as an alternative to private health plans. By some estimates, it could reduce premiums by 20 percent or more — making it much more affordable to cover the estimated 48 million people who don't have health coverage. It could also be a deal breaker for broad, bipartisan agreement on health care.

Insurers fear competition from a government plan could drive them out of business, and Republicans worry it would lead to a government takeover of health care. Liberals, meanwhile, are equally adamant that Americans deserve the choice of government-sponsored health care. "The purpose of health care reform is to make sure all Americans have health care, not to promote the insurance industry," said Rep. Jan Schakowsky, D-Ill., who serves on a House panel that will help write the legislation. The new government coverage could be

similar to what seniors have in Medicare, which is run directly from Washington. Or it might be designed like the federal employee health plan, available to members of Congress, and delivered through private insurers. Asked at the White House health care summit this week about the brewing controversy, the president promised to address the qualms felt by some. But he did not abandon the notion of a government plan. "I'm not going to respond definitively," Obama said, answering a question from Sen. Charles Grassley (R-IA). "The thinking on the public option has been that it gives consumers more choices and it helps ... keep the private sector honest, because there's some competition out there. "I recognize, though, the fear that if a public option is run through Washington, and there are incentives to try to tamp down costs ... that private insurance plans might end up feeling overwhelmed."

Obama says he is committed to preserving a health care system in which government, employers and individuals share responsibility. Many Americans may not realize the government already picks up nearly half the nation's \$2.4 trillion health care bill, through programs including Medicare and Medicaid. A public plan for the middle class could give a final nudge that puts the system firmly in government hands. Obama's campaign proposal — a foundation for Democrats in Congress — called for setting up a national insurance marketplace through which individuals and small businesses could buy coverage. People could pick private insurance or opt for a government plan that would resemble coverage for federal employees.

A recent analysis by the Commonwealth Fund, a nonprofit group that sponsors health care research, is giving supporters of a public plan some ammunition. The study estimated costs and coverage under a hypothetical health reform plan similar to what Obama proposed in the campaign. It found that a public plan like Medicare could reduce projected health care costs by about \$2 trillion over an 11-year period. Premiums in the public plan would be at least 20 percent lower, partly because of reduced administrative costs. Within a decade or so, some 105 million people would be in the public plan, compared with about 107 million with private insurance. Democrats say they will fight to ensure a public plan stays in the final bill.

Source: The Associated Press, 3/8/09.

BILL WOULD RESTORE RIGHT TO SUE OVER MEDICAL DEVICES

A day after the United States Supreme Court decided that federal rules did not protect drug makers from state lawsuits, Democrats in Congress moved to overturn a decision that has shielded medical device companies from similar legal action. Last Wednesday the court turned away Wyeth's contention that it was not subject to lawsuits in state courts for its anti-nausea drug Phenergan, because the drug had already been approved by the federal Food and Drug Administration. The ruling upheld a \$6.7 million award to a Vermont woman who lost her arm after she was improperly injected with the drug.

Seizing on the decision, Democrats reintroduced on Thursday the Medical Device Safety Act, a bill that would allow similar lawsuits against companies that make heart devices, catheters, replacement hips and other apparatus. "Yesterday the Supreme Court rightfully upheld a patient's right to legal recourse after sustaining an injury from a pharmaceutical product," said Rep. Frank Pallone, Jr., a New Jersey Democrat. "Today, we introduce legislation that gives patients that same right when injured by a medical device." The device industry's chief lobbying group quickly criticized the effort, saying it would "produce a chilling effect on medical innovation, create more lawsuits and ultimately result in higher health care costs for all Americans." Despite opposition from the industry, the bill enjoys support from a broad range of interest groups, including consumer advocates, trial lawyers and AARP. Companion legislation was introduced by Senator Edward M. Kennedy, Democrat of Massachusetts. Many analysts have already predicted the measure will become law.

Source: The New York Times, The Associated Press, 3/5/09.

NEARLY 87 MILLION AMERICAN UNINSURED OVER LAST TWO YEARS

One out of three Americans under 65 were without health insurance at some point during 2007 and 2008, according to a report released last week. The study, commissioned by the consumer health advocacy group Families USA, found 86.7 million Americans were uninsured at one point during the past two years.

Among the report's key findings:

- Nearly three out of four uninsured Americans were without health insurance for at least six months.
- Almost two-thirds were uninsured for nine months or more.
- Four out of five of the uninsured were in working families.
- People without health insurance are less likely to have a usual doctor and often go without screenings or preventative care.

The huge number of people without health coverage is worse than an epidemic," Ron Pollack, executive director of Families USA, said in a press release. "Inaction on health care reform in 2009 cannot be an option for the tens of millions of people who lack or lose health coverage each year ... the cost of doing nothing is too high."

The study came out the day before President Obama held a health care summit at the White House. The number of Americans without health insurance reported by Families USA is much higher than those reported by the United States Census Bureau. According to the census numbers, in 2007 there were 45.7 million uninsured Americans. Families USA says those numbers tell only part of the story. The Census bureau counts only people who were uninsured for the full calendar year. For its own study, Families USA commissioned The Lewin Group to analyze data from the Census Bureau and the Agency for Healthcare Research and Quality. Its study includes people who did not have health insurance for all or for part of the past two years.

Source: The Associated Press, 3/6/09.

Of Physician Interest

SCOPE OF PRACTICE EXPANSION FUELS LEGAL BATTLES

Physicians are going to court to fight what they call an onslaught of scope of practice expansions by a growing number of allied health professionals. Increasingly, the medical profession is mounting legal challenges against state boards and others on issues such as nurse anesthetists performing interventional pain management and podiatrists being allowed to treat ankles as well as feet. "There is this overall push by allied health professionals to try to increase their scope of practice, and what's landing people in the courts is when they actually meander outside of their scope into areas considered the practice of medicine," said Timothy Miller, the Federation of State Medical Boards' senior director of government relations and policy. Miller said he has noticed a slight uptick in such legal battles as more allied health professionals seek change, often by turning to their state legislatures or regulatory boards. The disputes come as non-physicians nationwide are pushing for more than 100 bills related to scope of practice, according to American Medical Association research. However, in many cases physicians warn that allied professionals are overstepping their bounds without appropriate medical expertise. That puts patients at risk, said AMA Board of Trustees Chair Joseph M. Heyman, MD. The Litigation Center of the American Medical Association and State Medical Societies has supported physicians in many recent scope legal battles.

Source: The American Medical Association, 3/9/09.

Of Regional Interest

ARKANSAS

House Votes to Expand ARKids First. The Arkansas House has voted to add about 8,000 children to a low-income health insurance program, while the Senate voted to provide defibrillators to schools around the state, measures that will be funded by a recent hike in tobacco taxes. Meanwhile, the Senate approved a fee on some hospitals to make up for uncompensated care costs and the House voted to require the Athletic Commission to regulate fighting events like Toughman. By an 82-14 vote, the House voted to increase eligibility for the ARKids First program by changing the income levels at which families qualify. Currently, families making 200 percent of the federal poverty level qualify for the insurance. The bill by Rep. Robert Moore, D-Arkansas City, would increase that to 250 percent of the federal poverty level. The poverty level is \$22,500 for a family of four. The measure would be paid for by an \$86 million increase in the state's tobacco taxes, which took effect this month, along with federal matching funds. Moore said the bill would expand coverage to about 8,000 children who are currently uninsured. He said an additional 10,000 or more children could be added to ARKids First who are currently covered by private insurance plans. "This is not only a program that will help to ensure that our children are insured, but also a program to help to provide stability to our working families that find it increasingly difficult to make ends meet," Moore said. But Rep. Mark Martin, R-Prairie Grove, questioned whether the expansion went too far. He noted that, under Moore's bill, a family of five making \$64,475 would qualify for the program. He said state money would be better spent elsewhere. Fourteen House members — all Republicans — voted against the bill.

Source: The Associated Press, 3/10/09.

LOUISIANA

New Program Targets Elderly Re-Admissions. The Baton Rouge area is home for a new federally funded program aimed at reducing Medicare costs by stopping the revolving door of hospital admissions by some chronically ill elderly. If successful, the program could be a model for the U.S. as the Centers for Medicare and Medicaid Services tries to curb escalating health-care costs and keep patients healthier. Baton Rouge is one of 14 communities receiving funding to launch a program aimed at providing patients and caregivers — before they leave the hospital — the information they need to avert problems that could lead to readmission. In Louisiana, two out of every 10 chronically ill elderly patients are back in the hospital within 30 days of their release, said Gary Curtis, head of Louisiana Health Care Review — the entity leading the project. It's not just a Louisiana problem, Curtis said. Nationally, the readmissions and subsequent treatment contribute to a \$12 billion annual increase in Medicare costs, according to CMS statistics. The goal is to get hospital readmission rates in the Baton Rouge area down to 10 percent or less within three years, project director Scott Flowers said. Louisiana Health Care Review has a \$2.1 million grant to implement the program. The Care Transitions Project is focusing on hospital discharge procedures involving pneumonia, heart attack and congestive heart failure patients. Cooperating in the project are Baton Rouge General Medical Center, Lane Regional Medical Center, Ochsner Medical Center-Baton Rouge, Our Lady of the Lake Regional Medical Center and St. Elizabeth Hospital in Gonzales. Also involved are some nursing home and home health agencies.

Source: The Advocate, 3/10/09.

NEW MEXICO

New Mexico Senate Passes Measure Allowing Patients to Opt Out of Electronic Records. Patient consent may be required before links to their electronic health records can be placed on a record locator service if a bill that passed the New Mexico state Senate advances in the House, according to the New Mexico Health Department. The bill, The Electronic Medical Records Act, is an initiative of Gov. Bill Richardson sponsored by Democratic state Sen. Peter Wirth. The legislation would enable patients to opt out of any locator service. One commonly used design for regional health information organizations and statewide health information exchange organizations features a centralized record-locator service that does not contain a full patient record, but an index of basic patient demographic information used to identify a patient, such as name, sex and date of birth; and links to the providers or other record keepers on the network where that patient's records are stored. The bill also would require a record locator service to keep a log of anyone who has accessed an individual's medical information. The latter was made a requirement under the healthcare information technology privacy provisions of the American Recovery and Reinvestment Act signed into law last month by President Barack Obama. The act, which amends the privacy and security provisions of the Health Insurance Portability and Accountability Act of 1996, also allows patients to require providers not to share their electronically stored health records with payers if the patient pays the provider out of pocket. The proposed New Mexico law would greatly expand patients' consent authority in that state to include data exchanges. HIPAA allows states to pass more stringent privacy laws than the federal law. "I have supported moving from paper to electronic records as a way to reduce errors and control costs," Richardson said in a news release. "We also must protect the privacy of these records, and this bill accomplishes that."

Source: Modern Healthcare, 3/9/09.

OKLAHOMA

Oklahoma House Unanimously Passes Health Care Bill. Oklahoma lawmakers unanimously supported House Speaker Chris Benge's plan to provide residents with quality health care through affordable private health insurance policies and reduce the number of uninsured in the state. Without discussion or debate, House members voted 99-0 last week for the measure that would primarily strengthen and promote the state's Insure Oklahoma program, a public-private partnership first proposed by Gov. Brad Henry in 2004 that has become a national model copied by other states. The program, funded by tobacco tax revenue, provides premium assistance to small business workers and employers. A total of 17,000 Oklahomans are currently enrolled. "This legislation will help more people afford private insurance coverage while encouraging Oklahomans to take more ownership over their health care," Benge, R-Tulsa, said after House passage of the measure. "If this bill becomes law, it will empower and equip patients with the tools to invest in their own health care needs and outcomes," said the measure's author, House Speaker Pro Tem Kris Steele, R-Shawnee. The measure was developed last year by the Health Care Reform Task Force, which explored ways to reduce the estimated 600,000 uninsured Oklahomans. In addition, almost 800,000 low-income and elderly Oklahomans are enrolled in the state's government-backed Medicaid program. The state was ranked 43rd nationally in the 2008 "America's Health Rankings" report compiled from data from the Centers for Disease Control and Prevention, the National Center for Health Statistics and other agencies.

Source: News OK, 3/6/09.

TEXAS

Texans Believe Health Insurance Should Be A Legislative Priority. Lawmakers and advocates say that Texans want health insurance to be a priority for the Legislature this year, according to a statewide poll. A lobby called "Cover Texas Now" presented the poll Monday, March 9 and joined legislators in pushing for reform to expand health insurance coverage. According to results of the Baseline poll, 25 percent of Texans call health insurance the most important issue this session. Another 20 percent say it's the second-most important. Texas has the highest percentage of uninsured in the nation, and 1.5 million are children, said Rep. Elliott Naishtat, an Austin Democrat and one of seven lawmakers who spoke about bills they are pushing to expand coverage. Several of the proposals look to enroll more children in the Children's Health Insurance Program, or CHIP. "The bills that have been filed for the protection of health for children in the state are needed even more today than they were a year ago, or two years ago. We are seeing so many parents who are losing their jobs as a result of this economy, and one of the things that goes first when one loses a job is access to health care," said Democratic Rep. Dawnna Dukes of Austin. One focus in the bills is raising the income threshold that makes families and children eligible for CHIP.

Source: Associated Press, 3/9/09.

UTAH

Utah Senate Approves Health Insurance Bill. The Utah Senate last Thursday voted 27-0 to pass an amended version of legislation (HB 188) that would establish health plans called NetCare to serve as an alternative to COBRA programs for unemployed state residents. Under the legislation, beginning in January 2010, NetCare would have to be offered to small employers, individuals and employees who have lost their jobs. The plans would not have to comply with state benefit mandates and could have higher deductibles than the average large group plan. The plans also would be required to provide incentives for healthy behaviors and cover well-child exams and immunizations up to age five. NetCare plans would cover preventive care, primary care and prescriptions, state Sen. Greg Bell (R) said. The bill also would establish by 2010 an Internet portal where small-employer groups could offer "streamlined insurance options" to their workers.

Source: Salt Lake City Tribune, 3/6/09.

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