

MSIPC Board Advocacy Report – December 2009 Update

Federal Issues

Update: Health and Human Services Healthcare-Associated Infection Action Plan

CDC Announces Distribution of ARRA Funding

On September 1 CDC announced plans to distribute \$40 million to state health departments to help prevent healthcare –associated infections (HAIs) funded by the American Recovery and Reinvestment Act (ARRA). The money was distributed through cooperative agreements to 49 states, Washington, D.C., and Puerto Rico to maximize prevention efforts such as:

- Creating or expanding state and local efforts to implement recommendations in the U.S. Department of Health and Human Services HAI Action Plan.
- Increasing health care facilities' and health departments' use of CDC's National Healthcare Safety Network, a surveillance system that allows HAI data to be tracked, analyzed and compared for prevention efforts
- Hiring and training public health staff to promote and lead HAI prevention initiatives
- Complementing HAI investments from other HHS agencies

Michigan received its award at the end of August, and was directed to MDCH's SHARP unit (See past reports/newsletters); SHARP is moving ahead with the submitted plan. Many MSIPC and APIC-GD members of the coalition, including president Betty Ann Eash are contributing and fine-tuning the plan. Many facilities have expressed interest in participating through NHSN, a key element of the plan. Contact [Judith Weber](mailto:WeberJ4@michigan.gov) (WeberJ4@michigan.gov) for more information

NEW - UPDATE

Health Reform – Key HAI Issues after House and Senate bills voted for full debate

The House passed HB 3962 "[Affordable Health Care for America Act](#)" with a narrow margin to take up full floor debate. In a late night session Nov 18, the Senate passed the [Patient Protection and Affordable Care Act](#) that melds together the Senate Finance Committee and Senate Health, Education, Labor and Pensions Committee bills into a single measure so it too can undergo full debate. Both bills will undergo many changes with more amendments –and the expectation is that the Conference committee to iron out the differences will not occur until January 2010;

U.S. House of Representatives [Affordable Health Care for America Act](#)

- **Value-based purchasing (VBP):** The House bill does not contain a provision for Medicare hospital value-based purchasing, while the Senate bill would create a budget-neutral VBP program.
- **Hospital-associated infections (HAIs):** The House bill requires hospitals to report on HAIs, while the Senate bill would reduce Medicare payments for all diagnosis-related groups by 1 percent for hospitals in the top quartile of national HAI rates. Requires hospitals and ambulatory surgical centers to report through the National Healthcare Safety Network (NHSN) information on HAIs that develop in the hospital or center based on protocol established by the Secretary and the Centers for Disease Control and Prevention (CDC). This information will then be posted on the HHS public Web site.

U.S. Senate - [Patient Protection and Affordable Care Act](#)

- A very punitive measure requires the HHS Secretary to calculate national and hospital-specific data on rates of hospital-acquired conditions (HACs) for select conditions for inpatient prospective payment system hospitals. Data are shared with hospitals and are publicly reported on the Hospital

Compare website. Beginning FY 2015 and continuing in future years, hospitals in the top quartile of national HAC rates to have their Medicare payments reduced by 1% based on a calculation of percentiles based on a prior's year performance. A HAC is defined as a condition that an individual acquires during a hospital stay, as determined by the HHS Secretary. It incorporates HACs contained in HHS Action Plan into value-based purchasing program. What that means is that with no amendments **HAI's can cost hospitals 3 overlapping ways:**

- All HACs including SSI, CA-UTIs, CA-BSI are subject to the **reduced reimbursed rate rule in place currently**. (Reimbursement at a lower rate if no other co-morbidity (not a HAC) make one of these HAI's eligible for a higher DRG rate)
- All HACs **including these same 3 HAI's** and any other HAC determined appropriate by the Secretary are included in Section 3008 and are eligible for reduced payment of 1% if the hospital is in the top quartile of national rates
- The six infections in the value-based purchasing (VBP) section of the bill from the HHS-HAI plan also **include these same 3 infections** SSI, CA-UTIs, CA-BSI-plus VAP, MRSA and *C. difficile*. The reimbursement in VBP is affected by hospital performance.

How the percentiles and rates would be determined—size of hospital etc. are all major questions raised—but most groups oppose this measure and do, as we, support moving HACs into the quality measures within a value-based purchasing system; work is underway now and will continue during conference committee work in the House and Senate to remove the overlaps and modify the 1% reduction.

NEW UPDATED! OSHA CPL

Healthcare personnel and new CDC H1N1 Interim guidance released 10.14.09

The Institute of Medicine (IOM) released a report September 3 2009 on respiratory protection for healthcare personnel, representing one set of recommendations submitted to the CDC to inform their guidelines for handling H1N1.

CDC released final guidelines on October 14 after considering all of the recommendations CDC received from **IOM**, the **labor unions** and **CDC/HICPAC**. The guidance document, Q&A on the guidance document and Q&A on a Respiratory Protection document may be downloaded from the **CDC link**:

<http://www.cdc.gov/h1n1flu/guidance/> or downloaded at the links provided below.

CDC Guidance

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

MSIPC supports CDC's multipronged approach, emphasizing that vaccination is the most effective measure for protecting healthcare workers from H1N1. CDC continues to recommend that health care personnel, who are in close contact with patients having suspected or confirmed H1N1 flu use N95s, but set the guidelines in the context of supply shortages. **Where a shortage of respirators exists despite reasonable efforts to obtain them, hospitals are expected to prioritize use of the N95 respirators, especially for aerosol-generating procedures/TB** and for healthcare personnel who are at higher risk for H1N1. Hospitals with insufficient supplies of N95 respirators that demonstrate "good faith" efforts to acquire N95s and follow the agency's hierarchy of control recommendations may use surgical masks.

OSHA (MIOSHA) Enforcement Procedures

OSHA has now issued it [Enforcement Procedure \(CPL\)](#) that follows the 10-14-09 CDC guidance very closely. We expect MIOSHA to follow CDC and OSHA enforcement procedures. Another helpful document is offered

by Premier's Safety Institute **H1N1 Guide on device use** - [Prioritization, usage and conservation of respiratory protection devices](#)

Michigan Legislative-Regulatory Issues

Seasonal Influenza Vaccination Planning – SB 722

In late September, MSIPC-APIC-GD 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. We had not supported earlier proposals since the language reflected that which is already required by CMS or recommended by CDC and TJC and added stipulations. This year after some debate, we, 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. We expect this to come to vote and pass.

The following elements reflect what the bill does:

- Requires hospitals to establish a seasonal flu influenza immunization policy consistent with CDC regulations by Oct. 1, 2010
- Passed Senate unanimously and was referred to House Health Policy
- Introduced at the request of drug manufacturer, Sanofi-Aventis
- Concept supported by MDCH
- Requires a strategic process for managing its supply of the flu vaccine
- Must include procedures for identifying and offering patients at risk
- Defines *Seasonal* Influenza season as Oct. 1 – March 1
- Allows hospitals flexibility of creating their own vaccination planning
- Manufacturer states bill assists in creating a predictable amt of flu vaccine/reduce shortages
- Prevents future mandates dealing with the influenza vaccine

The bill does NOT:

- Mandate hospitals to administer the vaccine to any patient
- Require hospital to file/submit report to any governmental agency
- Set up rules and regulations for H1N1 vaccination
- Require hospitals to mandate employee vaccination
- Conflict with current efforts to adhere to CDC guidelines

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 in Senate Bill 722 as currently written. We expect this bill to pass easily.

Michigan HAI legislation – No movement

On January 22, 2009, as reported earlier, Representative Lesia Liss (D-28) reintroduced **HB 4010**, a bill similar to last session, and was referred to the Committee on Health Policy, of which Rep. Liss is a member. 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.

MHA, MSIPC, APIC-GD 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 – Recommendations sent to the Governor

MSIPC and APIC-GD continued to provide input into the MIOSHA Latex Task force that has been underway since 2004, charged by MIOSHA's Occupational Health and Safety Commission to examine the issue to see if

rules needed revision or special programs devised to address the hazard in healthcare and the hospitality industry (hotels etc). MSIPC, APIC-GD and MHA sought a "latex-safe" versus "latex-free" environment. At the February 20, 2009 meeting consensus could not be reached and recommendations both positions "Latex-Free" and "Latex-Safe" gloves was made to the Occupational Health Standards Commission on May 13th, 2009.

Update! We have recently learned from MIOSHA that the following language has been *proposed to be* added to the Bloodborne Infectious Diseases Rule (BIDR) OH Part 554 concerning Latex Free gloves.

- (d) An employer shall ensure that all disposable non-sterile gloves shall be latex-free, unless alternatives are technically infeasible. In the event non-sterile latex gloves are deemed the only technically feasible option, then all of the following apply:
 - (i) The employer shall document the need for the selection.
 - (ii) The non-sterile latex gloves shall be powder-free and low-allergen/low-protein content as identified by the manufacturer.
 - (iii) There shall be signage posted stating that latex gloves are being used.
- (e) An employer shall ensure that all disposable sterile gloves shall be latex-free or latex powder-free and low-allergen/low-protein content as identified by the manufacturer.
- (f) An employer shall ensure that the immediate work area of an employee sensitive to latex be free of latex gloves with signage posted stating that latex gloves shall not be used.

["Technically infeasible" means that the use of non-latex gloves would significantly interfere with the intended task.]

Following some preparation and other PPE changes in the BIDR, there will be public hearings scheduled in spring if Governor signs off on the recommendations to move forward. If so, we will have an opportunity to provide our view along with MSIPC and MHA. This is of concern and we will update the Board and members as more information develops.

Michigan Medical Waste Regulatory Act – MSIPC supports only HB 4459

Action on the Medical Waste Regulatory Act (MWRA) occurred in late February 2009 in the House, with two bills being referred to the Regulatory Reform Committee for a hearing held March 4, 2009 Letters were sent from MSIPC and APIC-GD restating our support for HB 4459 and lack of support for HB 4458 which adds another unnecessary definition for 'trauma waste. (Note: Earlier Advocacy reports had the bill numbers switched inadvertently)

Update! In late April the two bills were no longer linked, but both bills were moved to the Senate. We recently learned that Senator George, Chair of the Senate Health Policy may have room on the agenda to address this. MSIPC's president Betty Ann Eash and APIC-GD sent letters in November to Senator George urging that the committee take up this issue and expressing strong support for HB4459. All members are urged to contact his office 517-373-0793, requesting similar action.

Submitted by Judene Bartley, Chair, MSIPC Advocacy Committee, December 2009