



LEGISLATIVE UPDATE



AMERICAN PUBLIC HEALTH ASSOCIATION



APHA Legislative Update July 2009

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I. President Signs Historic Tobacco Regulation Legislation

On Monday, June 22, President Obama signed into law H.R. 1256/S. 986, the Family Smoking Prevention and Tobacco Control Act. APHA's executive director Georges Benjamin joined the president at the signing ceremony at the White House. This new law gives the Food and Drug Administration (FDA) the authority to regulate tobacco products. According to the Centers for Disease Control and Prevention (CDC), tobacco use is responsible for about 438,000 deaths each year in the United States. In addition to this staggering statistic, tobacco use costs more than \$96 billion each year in health care expenditures and an additional \$97 billion per year in lost productivity. The law creates FDA authority to effectively regulate the manufacturing, marketing, labeling, distribution and sale of tobacco products, including the authority to:

- Stop illegal sales of tobacco products to children and adolescents;
- Require changes in tobacco products, such as the reduction or elimination of harmful chemicals, to make them less harmful and less addictive;
- Restrict advertising and promotions that appeal to children and adolescents;
- Prohibit unsubstantiated health claims about so called "reduced risk" tobacco products that discourage current tobacco users from quitting or encourage new users to start;
- Require the disclosure of tobacco product content and tobacco industry research about the health effects of their products;
- Require larger and more informative health warnings on tobacco products;
- Study and address issues associated with menthol tobacco products; and
- Fully fund the FDA's new tobacco-related responsibilities with a user fee on tobacco companies so no funding is diverted from existing FDA work.

APHA made passage of the tobacco legislation one of its priorities for 2009. APHA members sent nearly 3,500 messages to Capitol Hill in support of the legislation. You can read [APHA's press release](#) regarding the final vote in the House of Representatives that sent the bill to the president for his signature.

II. Congressional Committees Begin Efforts to Move Health Reform Legislation

On June 17, the Senate Health, Education, Labor and Pensions (HELP) Committee began its markup of the Affordable Health Choices Act. The bill contains several strong public health and prevention provisions including the development of a national prevention, health promotion and public health strategy; significant new funding for population-based prevention and public health programs and services; provisions to strengthen the public health workforce; collection of data and conducting research on the health and healthcare of populations that have traditionally experienced health disparities; and a requirement that insurers provide first-dollar coverage for clinical preventive services. You can read [APHA's letter](#) in support of the bill. The HELP Committee, which has already considered more than 200 amendments to the bill, adjourned from considering the bill on June 25 and will resume consideration of the legislation on July 6 with hopes of completing consideration of the bill by July 10.

The Senate Finance Committee is still working on its proposal in an effort to introduce a bipartisan bill. Sen. Max Baucus (D-Mont.), Chair of the Senate Finance Committee, announced that committee members had developed ways to pay for the legislation that would cost less than \$1 trillion over 10 years. This figure is significantly less than the initial \$1.6 trillion estimate from the Congressional Budget Office, however few details are known about the new proposal. One of the major sticking points, other than the measure's cost, continues to be whether it will include a government-run "public plan" option. Many Senate Democrats and interest groups, including APHA, have called for the inclusion of a public plan option. While the timetable for the Senate Finance Committee has slipped, Senate leaders are still hoping to merge the Senate HELP and Finance Committee bills on the Senate floor and to consider the full bill prior to the August recess.

In the House of Representatives, the three committees with jurisdiction over health reform legislation, the Energy and Commerce Committee, Ways and Means Committee and Education and Labor Committee, released a discussion draft of health reform legislation jointly authored by the committees. The discussion draft contains a number of strong public health and prevention provisions, including the development of a national prevention and wellness strategy; funding for state, local and community-based public health and prevention programs; provisions to strengthen and bolster the nation's public health workforce; new data collection efforts to better identify and address racial, ethnic and other health disparities; and a "public plan" option available to consumers as a competitive alternative to private insurance coverage. The committees began hearings on the discussion draft prior to the July 4 recess and will continue with hearings during the week of July 6. Floor action is expected in the House during the week of July 27. You can read APHA's [letter](#) commending the inclusion of strong public health provisions in the discussion draft.

APHA will continue to monitor the progress of the legislation and to push to have its [2009 Agenda for Health Reform](#) included in the discussion. We have developed a [side-by-side analysis](#) that compares the current House and Senate proposals to APHA's 2009 Agenda for Health Reform.

You can send a message to your members of Congress urging them to include strong public health provisions in health reform legislation by visiting the APHA website at: <https://secure3.convio.net/apha/site/Advocacy?cmd=display&page=UserAction&id=135>

III. House Passes Climate Change Bill

On Friday, June 26, the House of Representatives passed H.R. 2454, the American Clean Energy and Security Act of 2009, by a narrow vote of 219-212. More than 500 messages in support of the bill

were sent to members of the House of Representatives by APHA members and advocates prior to the bill's passage.

The bill would establish a "cap and trade" system in which emissions of greenhouse gasses would be capped overall and allowances for such emissions either given away to polluters or sold. The bill sets goals for reducing greenhouse gas emissions in several increments through 2050, and uses U.S. emissions levels in 2005 as a baseline. The measure states that emissions in the U.S. should be reduced to 97 percent of 2005 levels by 2012, 80 percent by 2020, 58 percent by 2030, and 17 percent by 2050.

The bill also includes several important public health provisions which APHA worked to include in the measure. The provisions were taken from previously introduced legislation authored by Representative Lois Capps (D-Calif.) who worked with APHA and other health advocates to craft the provisions. The bill would help improve the public health response to climate change by requiring the Department of Health and Human Services (HHS) to develop a national strategic plan for addressing the impacts of climate change on public health. It would also create a Climate Change Health Protection and Promotion Fund that would provide much needed funding for climate change and health research, including research into the effects of climate change on the health of vulnerable populations. It would also provide funding for state and local preparedness planning, and training of the public health workforce to address the various regional health effects of climate change.

The focus now turns to the Senate which has not yet introduced a climate change bill. APHA has met with a number of Senate offices to request that the Senate bill also address the serious impacts of climate change on health and will continue its advocacy over the summer.

You can read [APHA's letter](#) in support of H.R. 2454 and [APHA's press release](#) in response to the House passing the bill.

IV. Oberstar Introduces Transportation Draft

On June 22, House Transportation Committee Chairman James Oberstar (D-Minn.) released the long-anticipated first draft of the legislation to reauthorize the Surface Transportation authorization bill that would replace the current SAFETEA-LU legislation that is set to expire later this year. While the draft proposal contains some promising initiatives, such as the emphasis it places on livable communities that are safe, walkable, bikeable and breathable, APHA will work with its coalition partners to try to ensure that the bill fully supports these concepts, including providing additional resources to achieve these goals.

Earlier in the week Department of Transportation Secretary Ray LaHood surprised many on Capitol Hill when he proposed an 18-month extension of the current SAFETEA-LU transportation authorization bill. Beyond simply extending the current bill, LaHood indicated that he wants to include some reforms in the 18-month extension — including a focus on metro areas, extensive cost-benefit analysis and a commitment to "livable communities" — but was short on other specifics. The announcement was immediately met with skepticism by Oberstar and other members of the House Transportation Committee, while Senate Environment and Public Works Committee Chair Barbara Boxer (D-Calif.) expressed support for the administrations proposed extension.

APHA will continue to monitor the progress of both proposals and will continue to advocate for strong public health provisions in any legislation that moves forward this year. To learn more about the health impacts of transportation policy, visit APHA's website to read our latest issue brief on health and transportation [At the Intersection of Public Health and Transportation](#).

V. New Funding to Fight H1N1

On June 24, President Obama signed into law H.R. 2346, the Supplemental Appropriations Act of 2009, that includes \$7.7 billion to respond to the recent outbreak of H1N1 (swine flu). CDC suspects

the H1N1 virus has infected as many as 1 million Americans and could develop a greater pathogenicity or virulence during the normal flu season beginning this fall. The \$7.7 billion includes \$1.85 billion in direct funding and \$5.8 billion in a contingency fund that the administration could access in case of emergency. Funding will be used for the following:

- Expanding cell and egg-based vaccine capacity, purchasing antivirals for the federal stockpile, and accelerating research and development of rapid diagnostic tests that can be used to enable doctors and field epidemiologists to quickly evaluate patients for influenza viruses;
- States and localities to support infrastructure needs critical to the response;
- Replenishing and building the SNS with antivirals and respirators;
- States and localities to purchase personal protective equipment and antivirals for prophylaxis of healthcare and critical infrastructure workers; and
- Increasing support for CDC's Global Disease Detection Program.

APHA members and advocates sent almost 2,700 letters to members of Congress in support of the additional funding for pandemic flu preparedness.

VI. House Committee Approves Food Safety Reform

On June 17, the House Energy and Commerce Committee approved the Food Safety Enhancement Act of 2009 (H.R. 2749) by voice vote to reform our nation's food safety system. The legislation would require a number of changes aimed at improving the safety of the nation's food supply including:

- Requiring all facilities that all facilities within the U.S. or those that import food into the U.S. register with the FDA each year;
- Requiring all facilities within the U.S. or importing food into the U.S. to implement food safety plans (meeting at least minimum FDA requirements) which would be subject to FDA audit;
- Increasing FDA inspection of food facilities at both high and low risk facilities as well as at warehouses;
- Improving FDA's ability to trace the origins of contaminated food in the event of an outbreak of foodborne illness;
- Allowing FDA to require stricter food safety requirements on foods imported into the U.S.; and
- Allowing FDA to issue mandatory recalls of contaminated food and strengthens criminal penalties and establishes civil penalties that may be imposed on facilities that fail to meet safety requirements.

APHA recently sent a [letter](#) in support of these key public health provisions and urging that additional provision be included to:

- Build state and local capacity for foodborne illness detection, surveillance, laboratories and response through grants and training, and adequately funding CDC to expand the capacity of its food surveillance, investigation and laboratory capacity;
- Improve coordination across the federal government, state and local governments and private institutions; and
- Expand inspection capacity by fully funding FDA and provide grants to support adequate state and local inspection capacity and training.

You can send a message to you Representative and Senators outlining APHA's priorities for food safety legislation by visiting the APHA website at:

<https://secure3.convio.net/apha/site/Advocacy?cmd=display&page=UserAction&id=141>

VII. Congressional TriCaucus Introduces Health Disparities Bill

Members of the Congressional TriCaucus — comprised of the Congressional Black Caucus, Congressional Hispanic Caucus and Congressional Asian Pacific American Caucus — introduced the Health Equity and Accountability Act of 2009 on June 26. The bill is based on similar legislation the TriCaucus introduced over the past four Congresses, and outlines some of their priorities for health reform legislation to eliminating racial, ethnic and other disparities in access to health services and health status. The legislation would do the following:

- Improve access health services for individuals with limited English proficiency and ensure that federally supported health programs and activities are culturally and linguistically appropriate;
- Increase diversity in the health workforce by supporting the education and training of underrepresented minorities and students from disadvantaged backgrounds;
- Improve data collection, reporting and analysis on racial and ethnic minorities and other populations that have traditionally experienced health disparities;
- Require each federal agency to develop a plan to eliminate health disparities and improve compliance with Title VI of the Civil Rights Act, which prohibits discrimination;
- Strengthen the duties and authority of the Office of Minority Health;
- Elevate the National Institutes of Health's National Center on Minority Health and Health Disparities to the National Institutes for Minority Health and Health Disparities; and
- Provides grants to establish health empowerment zones in every state and support other community-based prevention and wellness activities focused on eliminating health disparities.

VIII. HHS Rescinds Medicaid Regulations

On June 29, HHS rescinded three Medicaid regulations and said it would postpone implementing a fourth. The regulations were among seven that the Bush administration tried to implement in 2007 and 2008 to reduce federal Medicaid spending. A congressional moratoria delayed implementation of most of the regulations until June 30, 2009 and was strongly supported by APHA. The rescinded regulations would have:

- Narrowed Medicaid payments for case management services that some states offer;
- Prohibit the use of Medicaid funds for the transportation of school-age Medicaid patients to and from school and prohibit the use of Medicaid funds for administrative activities performed by a school employee; and
- Narrow the definition of outpatient services under Medicaid.

The regulation to limit taxes that some states assess on health providers to help pay the state portion of Medicaid expenses was postponed until June 30, 2010.

IX. Get Involved in APHA's PHACT Campaign

This summer, APHA is mobilizing its members, affiliates and other advocates to educate policymakers about the need to include strong public health and prevention provisions in health reform legislation. The August Congressional recess is a great opportunity to meet with your Senators and Representative in their state offices or at any town hall meetings they are holding in your community.

Visit our [PHACT Campaign](#) webpage for information and resources on how to engage in advocacy and support [APHA's Agenda for Health Reform](#). Start by calling the offices of your Senators and Representative to schedule an in-person meeting or find out when they are hosting town hall meetings or other forums to discuss health reform legislation. You can call the U.S. Capitol Switchboard at (202) 224-3121 and ask to be connected to the office of your legislators to get more information.

Stay tuned for the launch of the APHA Health Reform Advocacy Toolkit for tips and resources on advocacy strategies to make public health a priority in health reform.

X. Franken Declared Winner of Vacant MN Senate Seat

On June 30, 2009, the Minnesota Supreme Court ruled that Democratic candidate Al Franken was the winner of a contentious Senate race that played out in court over several months. In its unsigned unanimous opinion, the court unanimously declared that Franken — “received the highest number of votes legally cast” and is entitled “to receive the certificate of election as United States senator from the state of Minnesota.” Shortly after the decision was released, former Senator Norm Coleman (R-Minn.) conceded the race to Franken. Franken is expected to be sworn in after the Senate returns from the July 4 recess and serve on the Judiciary and HELP Committees.

XI. Health Leadership Positions Filled

The Senate unanimously confirmed Dr. Howard Koh as Assistant Secretary for Health at HHS on June 19. Koh is an APHA member and most recently was the Harvey V. Fineberg Professor of the Practice of Public Health, Associate Dean for Public Health Practice and Director of the Division of Public Health Practice at the Harvard School of Public Health. Koh previously served as Commissioner of Public Health for the Commonwealth of Massachusetts. You can read [APHA's press release](#) in support of Koh.

On May 15, President Obama appointed Thomas R. Frieden as director of the Centers for Disease Control and Prevention. Previously, Frieden served as director of the New York City Health Department. You can read [APHA's press release](#) in support of Frieden.

XII. POLICY WATCH: News on relevant state and local activities

Maine Governor Signs Obesity Focused Health Care Legislation. Governor John Baldacci (D) signed into law three bills designed to combat the problem of obesity in Maine. L.D. 1259 will mandate that restaurants provide caloric values on their menus. L.D. 1407 will implement physical education in elementary schools will establish an obesity and chronic disease fund in the state Department of Education. Finally, L.D. 319 aims to screen and collect body mass index data to track the success of efforts to fight obesity. Maine currently has the highest rate of obesity in New England.

California Bill Promotes Workplace Lactation Accommodations. On May 11, the California Senate passed S.B. 257, by a vote of 22-12, to promote breast feeding. It requires employers to inform pregnant employees of lactation accommodations that are mandated by law. It also requires the state Department of Public Health to promote breast feeding and list required employer accommodations on its website. Finally, it requires employers to refer pregnant women to the Department of Public Health website and provide them with a list of other pro-lactation websites. Breastfeeding is associated with a number of health benefits for both women and their children. The must now be considered by the House.

Texas Governor Signs Bill to Promote School-Based Healthcare. On June 19, Texas Governor Rick Perry (R) signed H.B. 281 into law. The bill calls for the state Department of Health Services to develop a grant program to create, expand or operate school-based health centers. The bill requires the Department to collect data from grant recipients and deliver biannual reports to the legislature on usage rates, preventative care and immunizations given. However, the law prohibits grants to centers that provide reproductive health and contraceptive services or referrals.

Join APHA's Government Relations staff for a conference call to review the July Legislative Update and give you an opportunity to ask questions and share information about public health legislation in your state. The call will be held on Monday, July 6, 2009 at 1:00 p.m. EST. The call-in number is (800) 442-5794 and the passcode is 141930. Any problems with the call-in number should be directed to customer service at (877) 807-0970.

APHA has a new online platform for our legislative alerts. Please visit <http://action.apha.org/site/PageNavigator/Advocacy> to send a letter to your Congressional representatives urging their support for the APHA Agenda for Health Reform, food safety reform and funding for public health agencies in fiscal year 2010. Help APHA influence lawmakers to make public health a priority this year.

Please [email us](#) any relevant stories from your community or state to be included in future editions of policy watch.

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