

# Washington Update

Prepared by the AAP Department of Government Liaison

## Congress maintains vaccine excise tax

Congress recently delayed consideration of whether to lower the excise taxes on vaccines.

Congress had until March 20 to act on its complete federal tax package, including whether to lower the vaccine

tax and eliminate the set-aside now charged against the vaccine injury compensation trust fund.

Congressional leaders said they didn't have time to consider the vaccine tax before the deadline set by the Bush administration. In an AAP-supported move, Congress agreed to reexamine the tax in two years rather than extending the discussion for another five years. Congress doesn't have to wait the full two years to consider reducing the tax, and may reconsider it next year.

Under the current law, a per dose excise tax supports the vaccine injury compensation trust fund. The fund supports the National Vaccine Injury Compensation Program enacted in 1986. The program reimburses those who were allegedly injured by vaccines. The program is designed to reduce vaccine-related lawsuits against vaccine manufacturers and physicians, while protecting injured persons' rights to compensation.

Current excise taxes are: \$4.56 for each dose of diphtheria, tetanus, pertussis (DTP) vaccine; \$4.44 per dose of measles, mumps, rubella (MMR) vaccine; and 29 cents per dose of oral polio vaccine (OPV). In the public sector, the tax represents 73 percent of the cost of DTP, 29 percent of the cost of MMR and 15 percent of the cost of OPV.

In testimony before the House Ways and Means Committee on Jan. 29, AAP President Daniel Shea, M.D., noted that since the excise tax was set in 1987, revenue to the fund has increased so significantly that taxes may be reduced without jeopardizing payments.

Recommendations for an added measles dose for children and young adults has added significant, unanticipated revenue to the fund, Dr. Shea testified. Additionally, recent research indicates that there is a much lower rate of risk associated with DTP and rubella vaccines.

"We now have had five years of experience with the stability of the trust fund," Dr. Shea testified. "Even taking into account the program's slow start, we believe the fund is clearly solvent, and consideration should be given to



Congress has agreed to reconsider lowering excise taxes on vaccines.

a reduction in excise taxes without placing the fund in jeopardy."

The fund pays for those cases which occurred after Oct. 1, 1988. Retroactive cases, which occurred before October 1988, are in jeopardy because they are paid from a federal "general fund" under the National Vaccine Injury Compensation Act.

AAP leaders also support the elimination of a provision in the vaccine injury compensation law which requires that 25 percent of the collected excise taxes be contributed to the U.S. Treasury general fund. Other federal trust funds must contribute 25 percent of their revenue because affected industries may deduct excise taxes from their income taxes. Vaccine manufacturers report that they don't deduct the tax, but merely collect it and pass it along to the fund.

"This 25 percent reduction clause robs Peter to pay Paul, but the real losers in this exercise are children," Dr. Shea said.

For example, Congress increased immunization program funding in 1991 by \$80 million, far short of the amount needed to fully immunize children dependent on public programs, Dr. Shea testified. The federal government diverted \$72 million from the vaccine trust fund under the 25 percent set-aside clause. Most of the \$72 million was raised through families' vaccine purchases for young children or public health clinics' purchases for their patients.

For more information, contact: Jackie Noyes, director, AAP Department of Government Liaison.

## 'Gag rule' still applies

The Bush administration announced on March 20 that physicians are not bound by what's become known as the federal abortion 'gag rule.' But medical and legal experts say they believe physicians are still restricted by the rule.

The Bush administration guidelines forbid anyone working in a federally funded clinic from mentioning abortion or answering patients' questions about abortion as an option in dealing with unwanted pregnancies.

On March 20, however, Bush administration officials said the rule applies to non-physicians working in federally-funded clinics, but does not prevent physicians from counseling patients about abortion.

At a March 30 hearing, medical professionals and others testified that although administration officials say physicians are not bound by the rule, the guidelines are clear -- no one working in a publicly funded clinic may discuss abortion with any patient.

American Bar Association officials said the new administration guidelines do not supersede the original, explicit written regulations.

Those regulations prohibit anyone working in a federally funded clinic from counseling or referring any patient for an abortion. The regulations prevent physicians from referring patients to caregivers who might be free to counsel about abortion. Physicians and others working in publicly funded clinics may only refer patients to providers whose names appear on a government-approved referral list of prenatal care providers. No abortion service provider's name may appear on the list unless that provider works in a "full-service" facility, such as a hospital. Most full-service facilities approved for the list do not offer abortions.

The Senate has voted overwhelmingly to overturn the gag rule. The House votes on the rule later this spring.

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## Correction

An article in the April 1992 AAP News on the AAP quality improvement initiative gave the wrong titles for two of the physicians quoted. Mark Harris, M.D., who participated in the telephone management quality care exercise, is a chapter affiliate AAP member. He is not an AAP Fellow. Another physician who developed a series of patient record sheets, should have been referred to as Don Russell, D.O.

AAP News regrets the errors.

If you spot an error in AAP News, please contact the editor at (800) 433-9016, ext. 7875.

## MCH seeks new bureau director

by DEBRA FLEISCHMAN  
Assistant Editor

Vince Hutchins, M.D., FAAP, who served as director of the U.S. Maternal and Child Health (MCH) Bureau since its 1990 creation, has retired from federal service.

On March 16, 1992, Dr. Hutchins was directed to leave his MCH post and was transferred to another federal agency, where he was assigned to work with the Health Care Financing Administration (HCFA). A week later, Dr. Hutchins announced his retirement, effective immediately.

"It (the HCFA assignment) didn't really seem in keeping with my training and expertise in maternal

and child health," Dr. Hutchins said.

The U.S. Public Health Service plans to conduct a search and fill the MCH director position within six months. Meanwhile, the agency has temporarily assigned Audrey Hart Nora, M.D., M.P.H., FAAP, to the post. She currently serves as a regional health administrator for the U.S. Department of Health and Human Services (HHS) in Denver.

Dr. Hutchins' retirement marks the end of more than 20 years of federal government service. He started working for MCH in 1971, in the Public Health Service Philadelphia Regional Office, and throughout the years has worked under a variety of titles and organizational arrangements.



Vince Hutchins, M.D., FAAP

His honors and awards include two Presidential Rank awards as a member of the Senior Executive Service. In 1991, the Academy honored him with an Excellence in Public Service Award.