

## POLICY &amp; PRACTICE

**Pay-for-Performance Principles**

Any "pay-for-performance" program should offer voluntary physician participation and foster the relationship between physician and patient, the American Medical Association asserted in a new set of principles for such programs. Such programs also should use accurate data and fair reporting, provide program incentives, and ensure quality of care, the AMA stated. If done improperly, "some so-called pay-for-performance programs are a lose-lose proposition for patients and their physicians with the only benefit accruing to health insurers," AMA Secretary John H. Armstrong, M.D., said in a statement. Both private and public sector organizations have started offering incentive payments to physicians based on an appraisal of their performance. Before taking on such reforms, however, Congress should try to fix Medicare's flawed payment formula, according to recent AMA testimony.

**Cost of New Drug Benefit**

National health care spending costs will remain stable over the next 10 years, although public programs will account for half of total spending, in part because of the new Medicare Part D prescription drug benefit, according to a report by the Centers for Medicare and Medicaid Services. The agency claims that the drug benefit—which kicks in next January—is expected to "significantly" increase prescription drug use and reduce out-of-pocket spending for older patients without causing any major increase in the health care spending trend. However, the new benefit will result in a significant shift in funding from private payers and Medicaid to Medicare. Medicare spending is projected to have grown almost 8% in 2004 and to grow 8.5% in 2005, due to several changes in the program under the Medicare Modernization Act, such as positive physician updates and higher Medicare Advantage payment rates.

**Legislating Sex Education**

Democrats in Congress are offering an alternative to the Bush Administration's proposal to spend \$206 million on abstinence-only education. Rep. Barbara Lee (D-Calif.) and Sen. Frank Lautenberg (D-N.J.) have introduced the Responsible Education About Life Act (H.R. 768) that would provide funding to states for programs that include information about both abstinence and contraception. The bill would create a grant program administered by the Health and Human Services Department that would award \$206 million each year to states for comprehensive sex education. There are three federal programs that fund abstinence-only-until-marriage programs, but no federal funding currently exists specifically for comprehensive programs, according to Rep. Lee.

**Clinical Trial Registry Legislation**

Sen. Chuck Grassley (R-Iowa) and Sen. Christopher Dodd (D-Conn.) have in-

roduced legislation to require drug makers to register clinical trials about prescription medicines. The bill is similar to legislation Sen. Dodd introduced in the last Congress, but it stipulates that [www.clinicaltrials.gov](http://www.clinicaltrials.gov) be maintained as a registry for patients and physicians seeking information about ongoing clinical trials for serious or life-threatening diseases, and requires the Food and Drug Administration to make internal drug approval and safety reviews publicly available. Doing so would make the system for ensuring drug safety "more transparent and more accountable," said Sen. Grassley, chair of the Senate Finance Committee. Trade groups representing pharmaceutical companies have already pledged to use a voluntary clinical trials registry and results database by mid-2005.

**Views on Physician-Assisted Suicide**

More than half of physicians in a national survey say they believe it's ethical to assist a patient in committing suicide. Of the 1,000 physicians surveyed in the national poll, about 57% said it was ethical and 39% said it was unethical. In addition, 41% of the physicians surveyed would endorse the legalization of physician-assisted suicide under a wide variety of circumstances, while 30% support its legalization in a few cases, and 29% oppose legalizing it in all cases. Although many physicians support physician-assisted suicide as a public policy, the results were mixed when it came to whether they would personally participate in an assisted suicide. About 46% said they would not assist a patient for any reason, 34% said they would assist a patient in a few cases, and 20% said they would assist under a wide variety of circumstances. The survey was conducted by HCD Research, a marketing and communications research company, and the Louis Finkelstein Institute for Social and Religious Research.

**Perceptions of the Drug Industry**

Prescription drugs may be improving patients' lives, but 70% of 1,201 adults polled in a Kaiser Family Foundation survey thought the drug industry cared more about profits than people. Only 24% thought the companies were most concerned with developing new drugs that save lives and improve quality of life. People also blame drug companies for rising health care costs: Nearly 60% said prescription drugs increased overall medical costs because they were so expensive, compared with the 23% who said drugs lowered medical costs by reducing the need for expensive medical procedures and hospitalizations. In an earlier poll, Kaiser found that people were more likely to cite drug company profits than other causes as the major cost of rising health care. While not as popular as physicians or hospitals, drug companies were in fact viewed more favorably than oil or tobacco companies, according to the survey.

—Jennifer Silverman

# New Federal Law Limits Class-Action Lawsuits

BY JOYCE FRIEDEN

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WASHINGTON — People who have suffered adverse outcomes due to drugs or medical devices may face more delays in suing manufacturers for damages now that federal class-action lawsuit legislation has been signed into law.

The law, known as the Class Action Fairness Act of 2005, would move from state court to federal court any class-action lawsuit in which the amount of damages claimed was greater than \$5 million and involved citizens in different states. The law also outlines circumstances in which federal courts can decline to hear class-action cases.

Proponents of the law, which passed in both the House and Senate in record time, say that it will help decrease the number of "junk lawsuits" that are clogging up the state courts.

"America's employers and consumers are the big winners," Tom Donohue, president and CEO of the U.S. Chamber of Commerce, said in a statement. "Reform of the class action lawsuit system will reduce frivolous lawsuits, spur business investment, and help restore sanity to our nation's legal system."

Critics of the bill, however, say that it will deprive citizens of their right to sue when they are injured by a defective product. "There are only 678 federal trial judges in the system, but there are 9,200 state judges in courts of general jurisdiction," said Jillian Aldebron, counsel and communications coordinator for Public Citizen's Congress Watch, a citizen watchdog group. "So you're talking about cases ordinarily divided up among 9,200 judges and squeezing them into the courtrooms of 678 judges. Even if they are willing to hear the cases, it's going to take years, and these cases take years in state court [already]."

Many physician organizations, including the American Medical Association and the American College of Physicians, have declined to take a stand on the bill; their efforts are more focused on tort reform legislation affecting medical malpractice cases. But a few consumer groups, such as the Campaign for Tobacco-Free Kids, lamented the effect the bill would have on health care-related cases.

"Class-action lawsuits have been an important tool in efforts to hold the tobacco industry accountable," the group's president, Matthew L.

Myers, said in a statement. "This bill will deprive citizens of a state of the right to have their cases heard in their own courts, further overburden the federal courts, and make it more difficult for tobacco companies to

be held accountable for years of misleading Americans about the dangers of tobacco."

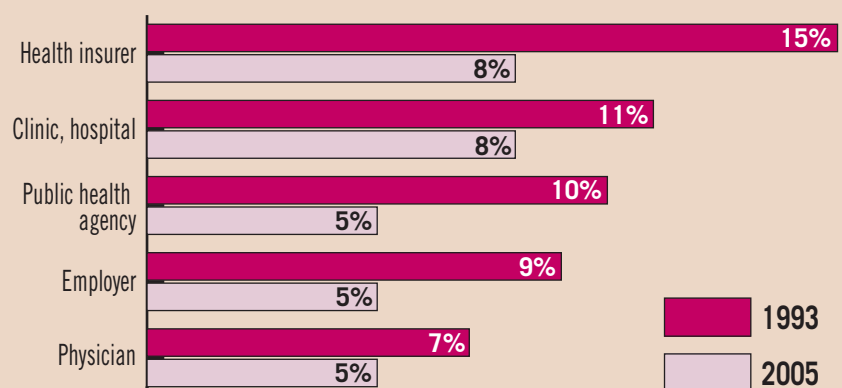
Senior citizens' lobby AARP also opposed the bill. "We felt that there wasn't an adequate basis for consumers no longer having the option of bringing a multistate case in state court," said Larry White, senior legislative representative. "We acknowledge there are abuses on both sides in the system, but when you in essence say that the federal courts will have jurisdiction of these cases... knowing the federal courts oftentimes don't certify those cases, you're in essence saying people who have been genuinely harmed don't have options."

According to the Bush administration, the law will help consumers. "The bill will remove significant burdens on class-action litigants and provide greater protections for the victims whom the class-action device originally was designed to benefit," the administration said in a statement.

The law would affect only cases filed after the bill was signed, noted Ms. Aldebron. ■

## DATA WATCH

## Complaints of Improper Disclosure Have Declined



Note: Based on a 1993 survey of 1,000 adults and a 2005 nationwide survey of 1,012 adults. Sources: Louis Harris and Associates (1993), Harris Interactive (2005)