



# Maine Pharmacy Association Capsule

March 2009

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## Upcoming Events:

MPA Spring  
Convention &  
Trade Show

May 14-16, 2010  
The Hilton Garden  
Hotel

Freeport, ME

MPA Golf  
Tournament (held  
with Fall  
Conference)

September 10,  
2010

Penobscot Valley  
Country Club

Orono, ME

MPA Fall  
Conference

September 11-12,  
2010

Hollywood Slots  
Bangor, ME



## From the Coordinator's Desk

Christopher R. Gauthier, RPh

What an amazing year 2010 is turning out to be! We have two schools of pharmacy active in our state, and the students are amazing. I have been lucky enough to meet many of the students at Husson University, and I have to tell you, they are going to make incredible pharmacists. Our Vice President, Bob Morrissette, has been teaching at University of New England and says the same about their students. My friends, this is a very good thing for pharmacy in this state. For the first time ever, we are molding the profession of pharmacy and how it is practiced. We are training the next generation of pharmacists, and this time they are staying here! Furthermore, these students are already getting involved with the association. Hopefully you will all get a chance to work with them and see their enthusiasm. It is infectious!

We have begun our active monitoring of legislation in the current session, and as usual we are keeping a watchful eye on the Governor's Office and the Department of Health and Human Services. Since the State's economy is in such good shape (please note sarcasm), we must make sure that we fight any type of cuts to pharmacy. We simply cannot exist if the state insists on cutting our reimbursement. Right now, most of our efforts are being spent trying to procure monies from the First Databank settlement to make pharmacies whole. As you may already know, the state is being reimbursed for the extra 4% that they had to pay the federal government in overages. Some of these monies are due to the pharmacies as they took the brunt of the financial hit.

Good news legislatively, We were able to restore two key line items in the Governor's budget. We were able to get Health and Human Services to restore funding to the Pharmacy Incentive Program (PIP) and the Low Cost Drugs for the Elderly (DEL) program. Let's keep our fingers crossed that this funding is upheld by the Appropriations Committee. Stay tuned to your email for updates as we get them.

Final touches are being placed on our speaker schedule for the upcoming Spring Convention & Trade Show. We should be sending out information in the mail soon, as well as posting the schedule and sign up information on our web page. Go to [www.mparx.com](http://www.mparx.com) for more details.

We are also sending two members of the pharmacy community to the APhA National Convention House of Delegates. Eric Jarvi from Husson University and Matt LaCroix will fill those seats for us. I will also be there and will take part in the National Alliance of State Pharmacy Associations annual meeting in

conjunction with the conference. For the first time we will have representation nationally.

2010 is a turning point for the association. Our membership is strong and getting stronger. We have a much needed injection of young enthusiastic minds to bring our association to the next level, and we are stable financially. What does this mean for the future? From what I can see, the future looks very bright indeed.

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## Connecticut AG files first state-brought data breach lawsuit under HITECH Act provisions

The Attorney General for Connecticut has apparently filed the first state-brought lawsuit over violations of federal privacy laws since Congress authorized state AGs to do so in the HITECH Act of 2009. The defendant, Health Net of Connecticut, Inc., is alleged to have breached the security of 1.5 million clients through the loss of a portable computer disk drive from the company's Shelton, CT office. Allegedly, protected health and financial information were exposed for at least six months before the defendant notified authorities and consumers. The AG alleges that the data on the drive were not encrypted and were viewable through commonly available software; the company claims the contrary - the data was in an image file format requiring special equipment to decipher. In addition to claims arising from HIPAA violations, the AG alleged claims under Connecticut's Unfair Trade Practices statute, including statutory penalties for its willful violation. [Attorney General of the State of Connecticut v. Health Net of the Northeast, Inc., et al. No. 3:10-cv-0057-PCD, D. Conn., Filed 1/13/10]

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## Sole RPh in Congress to Retire

Citing health reasons, Arkansas Rep. Marion Berry (D), the only pharmacist in Congress, announced yesterday that he would not seek an eighth term in November. Berry, 67, has been a strong advocate for community pharmacy throughout his career, this year introducing legislation to exempt pharmacists from Medicare Part B accreditation requirements.

He practiced pharmacy from 1965-67 at two independent pharmacies in North Little Rock, before leaving to run his family's rice and soybean farm. He also served as a White House aide to President Clinton before running for the House in 1996.

"As a lifelong farmer, time has taken its toll on my health and I am no longer able to serve the district with the vitality I once possessed," Berry said in a statement.

# Bipartisan Summit on Health Reform

President Obama met with Members of Congress from both sides of the aisle during a bipartisan summit on health reform. This event, which lasted nearly seven hours, had been widely anticipated by Republicans and Democrats since the event was first announced by the President earlier this month. While lawmakers were hopeful that the summit would produce a bipartisan agreement, no clear consensus was reached between the two parties. In fact, the summit further highlighted the vastly different approaches to health reform.

In addition to the Congressional attendees, several members of the Administration joined President Obama at the summit, including HHS Secretary Kathleen Sebelius, White House Office of Health Reform Director Nancy DeParle, and Vice President Joe Biden. Representatives from the Office of Management and Budget (OMB), the Joint Committee on Taxation (JCT), and the Congressional Budget Office (CBO) also attended. The House and Senate attendees were the following:

- House of Representatives: Speaker Nancy Pelosi (D-CA), Majority Leader Steny Hoyer (D-MD), Minority Leader John Boehner (R-OH), Majority Whip James Clyburn (D-SC), Minority Whip Eric Cantor (R-VA), Ways and Means Committee Chairman Charles Rangel (D-NY) and Ranking Member Dave Camp (R-MI), Energy and Commerce Committee Chairman Henry Waxman (D-CA) and Ranking Member Joe Barton (R-TX), Education and Labor Committee Chairman George Miller (D-CA) and Ranking Member John Kline (R-MN), former Energy and Commerce Committee Chairman John Dingell (D-MI), Xavier Becerra (D-CA), Jim Cooper (D-TN), Louise Slaughter (D-NY), Robert Andrews (D-NJ), Charles Boustany (R-LA), Paul Ryan (R-WI), Marsha Blackburn (R-TN), and Peter Roskam (R-IL).

- Senate: Majority Leader Harry Reid (D-NV), Minority Leader Mitch McConnell (R-KY), Majority Whip Dick Durbin (D-IL), Minority Whip Jon Kyl (R-AZ), Finance Committee Chairman Max Baucus (D-MT) and Ranking Member Grassley (R-IA), HELP Committee Chairman Tom Harkin (D-IA) and Ranking Member Mike Enzi (R-WY), HELP Committee member Chris Dodd (D-CT), Charles Schumer (D-NY), Patty Murray (D-WA), Jay Rockefeller (D-WV), Tom Coburn (R-OK), Lamar Alexander (R-TN), John McCain (R-AZ), Kent Conrad (D-ND), and John Barrasso (R-WY).

Despite the lack of bipartisan agreement on health reform, this event highlighted President Obama's more active role in pushing for enactment of a comprehensive reform bill. Prior to the summit, Obama released a health care proposal that contained significant modifications to the Senate-passed bill. The president's proposal is important because it will likely set the foundation for budget reconciliation legislation that Congress will consider in the near future. The president's proposal was designed to appease House Democrats, who have expressed opposition to many of the key provisions of the Senate bill.

White House Press Secretary Robert Gibbs indicated that the President will soon present a specific strategy to move health care reform forward. Gibbs said that the President's plan may be revealed next week. Congressional Democrats will continue their own negotiations on health care legislation and

the procedural strategy to achieve passage. It is widely anticipated that lawmakers will pursue health care reform through the budget reconciliation process.

Budget Reconciliation - Barring a significant departure from how the health care debate has unfolded over the past year, budget reconciliation is the only method for Democrats to enact comprehensive health care reform. Under this scenario, House Democrats would agree to pass the Senate bill with the understanding that significant changes would be made through reconciliation. Senate leaders are working on a strategy to ensure that 50 senators would support reconciliation, partly to alleviate concerns among House Democrats about passing the Senate bill before the reconciliation bill. Because reconciliation can only be used to address revenue and spending provisions, a third "policy" bill may have to be voted on. This bill would address those issues not having a direct impact on the budget, such as abortion. Many of these controversial issues remain unresolved and could ultimately spell disaster for Democrats' efforts to pass a comprehensive package.

The use of budget reconciliation, while expected, has not been officially agreed upon by Democratic leaders as the end-game strategy. It may be several weeks before a clear strategy has been developed and publicly agreed upon by House and Senate Democrats.

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## Pharmacy Impact of the President's Proposed Fiscal Year 2011 Budget

President Obama kicked off the annual budget process today with the release of his Fiscal Year 2011 Budget proposal. Over the coming weeks, members of the Cabinet will go to Capitol Hill to defend the Administration's proposals through a series of hearings. After the Administration has the opportunity to defend its proposals, Congress will pivot to the consideration of their FY 2011 Budget Resolution.

The Budget Resolution, which serves as a blueprint for the work of the Appropriations and Authorizing Committees, will give us a good indication of the remaining Congressional agenda in the run up to the 2010 elections. However, final resolution on the President's proposals will not be determined until after the conclusion of the annual appropriations process.

Each step in the budget process gives Congress the opportunity to evaluate the President's proposals and determine whether or not they will accept the proposals or chart their own course. Below is a summary of the President's Budget:

### **The President's 2011 Budget (October 1, 2010 – September 30, 2011)**

\$3.8 trillion in total spending;

\$1.415 trillion in discretionary spending;

\$1.3 trillion deficit in 2011

### **Macro Budget Proposals**

A three-year spending freeze on non-security spending (defense, homeland, vets, and foreign aid are exempted)—baseline will return to basically inflation after the three years.

\$1.2 trillion deficit reduction package over 10 years.

TARP Fee on Banks--\$90 billion

Expiration of Bush tax cuts on families over \$250,000--\$678 billion

Reduces the itemized deduction write-off for families with incomes over \$250,000--\$291 billion

Non-Security Freeze--\$250 billion

Elimination of Fossil Fuels Subsidies--\$40 billion

Extends the Bush tax cuts for families making under \$250,000.

Proposes a Deficit Commission to balance the Budget less debt service by 2015.

### **Small Business Proposals**

Expiration of Bush tax cuts and reduction of itemized deduction write-off for family incomes over \$250,000 could affect some independent pharmacy owners who file as a small business through their personal tax forms.

\$100 billion jobs package, including small business tax credit, infrastructure, and clean energy.

\$33 billion for Small Business Tax Credit

Elimination of Capital Gains on new investments in small business.

Extends through 2010 the provision that allows small businesses to expense up to \$250,000 of qualified investment.

### **Health Related Proposals**

No proposals related to DME or AMP.

\$741 million in savings from CMS Program Integrity Allocation Adjustment—Fraud, Waste, and Abuse.

Activities include investigations, audits, educational activities, and data analysis.

\$561 million in 2011 for Health Care Fraud and Abuse Control Activities, which is designed to expand Health Care Fraud Prevention & Enforcement Action Teams (coordinated with DOJ).

Enable CMS to respond to emerging program integrity vulnerabilities through identifying excessive payments and new processes for identifying and correcting problems.

\$109 million in savings from Expansion of CMS Program Integrity—Empowers CMS to take specific actions against providers who inappropriately bill Medicare, including:

recouping overpayments

allowing additional flexibilities in medical review and access to certain information about fraudulent suppliers

requiring State Medicaid agencies to track and monitor prescription drug billing, prescribing, and utilization patterns that could be indicative of abuse or overutilization

**Medicare Demonstration Projects** that evaluate reforms to provide higher quality care at lower costs, improve beneficiary education and understanding of benefits offered, and better align provider payments with costs and outcomes.

Special emphasis will be placed on demonstrations that improve care coordination for beneficiaries with chronic conditions, better integrate Medicare and Medicaid benefits, and provide higher value for dollars spent.

\$25 billion for continuing temporary Medicaid **FMAP extension through June 2011**

\$110 million for continuing efforts to strengthen **health IT policy**, coordination, and research.

**\$2.5 billion for health centers to provide primary and preventative care for underserved populations**, including a continuation of services for 2 million patients who were able to receive care because of the Stimulus Bill.

\$169 million in the National Health Service Corps (NHSC) to place **providers** in medically underserved areas to improve access to needed health care services. Under the NHSC, **primary health professionals such as physicians, nurse practitioners, and dentists** serve in a medically underserved community in exchange for having a portion of their student loans paid off.

Add 400 NHSC clinicians to the more than 8,100 who will **provide essential primary and preventative care services** in health care facilities across the country.

\$20 million to fund a new effort in up to 10 of the largest U.S. cities to reduce the rates of morbidity and disability due to chronic disease.

**\$79 million for initiatives to strengthen regional and local partnerships among rural health care providers.**

FDA budget authority has increased to \$2.51 billion (\$2.365 billion for FY 2010 - estimated); \$2.062 billion for FY 2009 (actual)

Includes increases to bring more safe, effective, and lower cost generic drugs and generic biologics to market expand post-market safety surveillance of medical products, and support FDA's efforts to make such safety data more comprehensive and accessible to patients, providers, and scientists in a way that also protects privacy.

Agency for Healthcare Research & Quality Funding--\$661 million for FY 2011; a \$214 million (54%) increase over FY 2010. Of note:

\$32 million for HIT research (+4 million).

\$65 million for patient safety research (-\$26 million). This includes \$34 million for healthcare-associated infections including MRSA. It does not include \$25 million for medical liability demos provided in FY 2010.

### **Military/Defense Health Program**

\$30.9 billion overall for medical care, an increase of 5.8% over 2010 enacted.

No mention of TRICARE reforms.

Supports DOD efforts to update health IT—Virtual Lifetime Electronic Record (Coordinated with VA).

### **Veterans Health**

Authorize the dispensing of prescription drugs from Veterans Health Administration facilities to enrolled veterans with privately written prescriptions.

### **Office of Personnel Management (OPM)/FEHBP**

Provides agency-wide audit authority, including audits of PBMs.

Continues the development of its prescription drug audit program, which includes audits of pharmacy benefit managers.

### **Federal-Wide Improper Payments**

More transparency—online dashboard of key indicators and statistics by agency and program.

Require the designation of one Senate-confirmed appointee at each agency to be accountable for meeting improper payment reduction targets and consolidating program integrity activities.

Incentives for States, agencies, and recipients to report and reduce payment errors by using rewards and penalties.

Launching the Partnership Fund for Program Integrity Innovation.

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## Pharmacists adjust to changing roles

A new study suggests people who fill prescriptions by mail are less likely to run short of medication. But other studies show those who meet regularly with druggists stay healthier and save money for their insurers.

The studies come as pharmacists try to find their place in a world where prescriptions can be filled more cheaply by mail but where people struggle to use their medications consistently and correctly.

"The role of the neighborhood pharmacist is undergoing a major transformation," says Edith Rosato, a senior vice president at the National Association of Chain Drug Stores in Alexandria, Va.

Pharmacist counseling is often crucial for someone on a new medication. But efficient delivery may matter more for many people on long-term regimens, who may have trouble getting to stores regularly. People often dislike mail order they're dealing with an anonymous person on the other end.

# Kerr Drug teams up with The People's Pharmacy program

Kerr Drug is underwriting a nationally syndicated public radio program focused on drug and health information, the regional retail pharmacy chain announced Monday.

Kerr will make content from the library of The People's Pharmacy program available on its Web site under an agreement that calls for cross-promotional opportunities between the two, as well as with creators and hosts Joe and Terry Graedon.

"Through their nationally syndicated radio program, newspaper column and bestselling books, Joe and Terry Graedon are recognized as experts in prescription drugs, herbals and supplements, vitamins and home remedies," Kerr president and CEO Tony Civello said. "Kerr Drug is pleased to partner with Joe and Terry Graedon and The People's Pharmacy because we both respect people's ability to make informed decisions about their health care."

"The People's Pharmacy" was one of the first books to provide drug and health information to consumers when it was published in 1976 and went on to become a bestseller, and the Graedons have written 14 more books since then. Their radio program reaches 250,000 people listening to 120 public radio stations every week, while 80 newspapers publish their syndicated newspaper column.

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## P&G develops eStore concept with PFSweb

Procter & Gamble is testing Web sales via an online "learning lab" developed in partnership with e-commerce services provider PFSweb. The online store, called the eStore, will be owned and operated by PFSweb and will exclusively feature P&G products to consumers in the United States. The eStore is expected to launch in the spring, following a pilot of the site with 5,000 consumers that will begin in the coming weeks.

"We are very excited about the eStore's potential to reach more consumers and create new online experiences and innovations that build our brands online," stated Kirk Perry, P&G's VP, North America. "Ultimately, our goal in working with an experienced e-commerce business like PFSweb is to test concepts and programs that can be reapplied with all of our online retail partners in ways that exponentially grow consumer affinity for our brands and mutually increase sales for P&G and our retailer partners.

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