$630 Million Dedicated to Polio Eradication

The Gates Foundation, Rotary International, and the British and German governments have pledged $630 million for the eradication of polio in Nigeria, India, Pakistan, and Afghanistan where the disease is still plaguing significant portions of the population. Global public health officials had originally vowed to wipe out the disease by 2000, but in 2009, these four countries still face problems. According to Gates Foundation Co-chair and Trustee Bill Gates, "Eradicating a disease is hard, slow, painstaking work. We can't circle a year on the calendar and say we'll end polio by this date or that date. That sets us up for failure." In Nigeria, rumors that the polio vaccine contains HIV or is a Western plot to sterilize Muslim girls have thwarted efforts and led to the spread of the disease to neighboring countries. In some Nigerian states, more than 30 percent of kids are unvaccinated, making Nigeria "the main threat to eradication [of polio] in Africa and globally." This compares to the troubles in Pakistan's North –West Frontier Province and Afghanistan's southern region. Here, insecurity and a strong Taliban presence have led to a decline in vaccinations. India, on the other hand, was very close to eradicating the disease in 2005 when only 66 cases were reported, but the past few years the cases have increased by 500. Impoverished neighborhoods where monsoon rains flood open sewers seem to be to blame for the recent insurgence. (Celia W. Dugger, "$630 Million Donated Toward Polio Eradication Efforts," 21 January, 2009; http://www.nytimes.com/2009/01/22/world/africa/22polio.html?ref=health)

Obama Ends "Mexico City Policy" With Early Executive Order

President Obama, in his first week of office, overturned a policy known as the global gag rule or the "Mexico City Policy" which stops U.S. government money from going to groups that perform or provide information about abortion abroad. Former President Ronald Reagan introduced the policy in 1984 at a UN Conference in Mexico City, giving the rule its name. Bill Clinton later repealed the policy in 1993 and George W. Bush reinstated it in 2001. Some applaud the move saying that hundreds of organizations working in the poorest, least developed countries that have high rates of maternal mortality and infant death have had to choose between being silenced on abortion and receiving money or refusing and losing millions in aid. Several conservative groups oppose the use of U.S. tax money for abortions or its promotion. (http://news.bbc.co.uk/2/hi/americas/7847651.stm)

Drug Company Freebies – A Thing of the Past

As of January 1, 2009, pharmaceutical companies are no longer providing pads of paper, pens, mugs, and other freebies with drug logos on them. Some say these promotional gifts encourage doctors to prescribe these drugs while pharmaceutical companies claim the items are a means of "fostering good will." Unknown is whether this supposedly self-imposed ban will curtail drug company spending or lessen attempts at persuading doctors to prescribe these drugs. Proponents, however, see it as a positive step toward the onslaught of logo branded products that may "subliminally influence doctors and patients." The goal of these new guidelines is to combat the perception that the free gifts are "intended to unduly influence medicine." However, doctors are not without pharmaceutical influence; $16 billion worth of free drug samples were given away last year. (Natasha Singer, "No More Goodies for Doctors from Drug Makers," 30 December 2008, *New York Times;* http://www.nytimes.com/2008/12/31/business/31drug.html?ref=health)

Medicare Sanctions WellPoint

On January 12, 2009, the Centers for Medicare & Medicaid Services banned WellPoint, the second-largest insurer by revenue, from adding customers to Medicare plans. This sanction is in response to a "sharp increase" in complaints of WellPoint's denial of prescription drugs to its elderly clients, thereby endangering their lives. Medicare patients were denied "critical medications" such as cardiac drugs, seizure drugs, anti-clogging drugs and prescriptions for asthma and chronic obstructive pulmonary disease. In a letter to WellPoint, CMS said, "WellPoint's conduct poses a serious threat to the health and safety of both its prospective and current Medicare beneficiaries. The recent failures in WellPoint's information systems have resulted in beneficiaries not receiving necessary medications at their pharmacies.' WellPoint currently has approximately 1.39 million enrollees in Medicare Part D programs and another 460,000 in Medicare Advantage programs. These current enrollees will not be affected by the sanction, but they will be given the

option to disenroll. (http://www.latimes.com/features/health/la-fi-wellpoint13-2009jan13,0,2832007.story; http://www.bloomberg.com/apps/news?pid=20601103&sid=aRIc6VGa.0IQ&refer=us; http://www.cjr.org/campaign_desk/wellpoint_gets_in_trouble_with.php)

Teen Pregnancy Rates on the Rise

A recent study by the National Center for Health Statistics shows that teen birth rates have significantly increased in 26 states. Unlike previous years when the rate only increased in one state (Tennessee in 2004-2005 and South Dakota in 2003 to 2004), this significant increase crosses the map. From 1991 to 2005, there was a 34 percent decrease in 15-19 year-old-mothers. In 2006, the same age group had a 3 percent increase in teen births with a rate of 41.9 births per 1,000 15-19 year olds. Groups are quick to place blame. A more sexualized culture, greater acceptance of births to unmarried women, abstinence-only education, celebrity pregnancies by Jamie Lynn Spears and Bristol Palin, and even the movie "Juno" were all cited as possible reasons. States with the highest teen birth rates were Mississippi with 68.1 births per 1,000 teens, New Mexico with 64.1 per 1,000 teens and Texas with 63.1 births per 1,000 teens. The Northeast had the lowest rates with 18.7 per 1,000 in the region. (*USA Today,* "Teen Birth Rates Up in 26 States," by Sharon Jayson, Jan. 8, 2009; http://www.usatoday.com/news/health/2009-01-07-teen births_N.htm).

MRSA Rates Increase Among Children

Most children suffer from at least one ear, nose, and throat infection. However, ENT staph infections that are resistant to standard drug treatments have dramatically increased over the past six years. According to a study at Emory University, 28.1 percent of children's head and neck infections were Methicillin-resistant Staphylococcus aureus infections (MRSA), up from 11.8 percent in 2001. Over 21,000 head and neck staph infections in children were analyzed from January 2001 to December 2006 from a national electronic microbiology database affiliated with 300 hospitals across the country. From these reports, 4,534 of head and neck staph infections were defined as MRSA. One of the most concerning statistics is that around 60 percent of the MRSA head and neck infections occurred in children without previous exposure to medical settings. This means that kids are being exposed to the resistant bacteria in the outside community. (http://www.eurekalert.org/pub_releases/2009-01/jaaj-mha011509.php Source: *Arch Otolaryngol Head Neck Surg.* 2009; 135[1]:14-16.)

Third-Hand Smoke is a New Cigarette Hazard

Researchers recently identified third-hand smoke as a new threat from cigarettes. Doctors from Massachusetts General Hospital in Boston created the term third-hand smoke to explain the invisible but toxic gases and particles that cling to a smoker's hair, clothing, or household items like cushion or carpeting after smoking. This residue includes heavy metals, carcinogens, and radioactive materials. Some of the substances in third-hand smoke include hydrogen cyanide, used in chemical weapons, butane (lighter fluid), toluene in paint thinners, arsenic, lead, carbon monoxide, and polonium-210. The study highlighted the dangers of the lingering residue after the second-hand smoke clears from the room or car. The message to smokers is that attempts to control second-hand smoke such as closing the kitchen door to smoke, smoking outside the home, or cracking a window in the car are insufficient to protect others from the cancer risk of third-hand smoke. (*New York Times,* "A New Cigarette Hazard: 'Third-Hand Smoke'" by Roni Caryn Rabin, Jan. 2, 2009).

CDC Reports Decrease in Incidence and Death Rate From Cancer

For the first time since its initial report in 1998, the annual report to the nation from the CDC showed that the incidence and death rates from cancer are decreasing for men and women. The incidence of all cancers combined decreased 0.8 percent per year from 1999 through 2005 for both men and women. The rates decreased 1.8 percent per year from 2001 through 2005 for men and 0.6 percent per year from 1998-2005 for women. Overall, cancer death rates were highest for African-Americans and lowest for Asian-American/Pacific Islanders. The report found the decrease was largely due to declines in the three most common types of cancer for men (lung, colon/rectum, and prostate) and declines in the two most common cancers (breast and colon/rectum) in women. Smoking continues to account

for about 30 percent of all cancer deaths with lung cancer accounting for 80 percent of all smoking-attributable cancer deaths. Otis W. Brawley, M.D., chief medical officer of the American Cancer Society, said, "[T]he continuing drop in mortality is evidence once again of real progress made against cancer, reflecting real gains in prevention, early detection, and treatment." (Center for Disease Control and Prevention, *Annual Report to the Nation Finds Declines in Cancer Incidence and Death Rates; Special Feature Reveals Wide Variations in Lung Cancer Trends across States,* Nov. 25, 2008).

CMS Finalizes Rule to Limit Drug Costs for Patients with Medicare Coverage

On January 6, 2009, the Centers for Medicare & Medicaid Services finalized a rule to curb a pharmaceutical practice that CMS says has inflated drug costs for some patients with Medicare drug coverage. The practice begins when middlemen pharmacy benefit managers (PMBs) negotiate drug prices for insurers with pharmacies and reimburse the pharmacy for drugs the patient purchases. Insurers then pay the PBMs for administering the claims. Some PBMs use a so-called lock-in approach where insurers pay PBMs a set amount for drugs, regardless of what the PBMs actually pay the pharmacies. Often, the amount of money PBMs pay the pharmacies is less than what the insurers pay the PBMs. PBMs have argued that the extra money they make from these transactions encourages patients to use lower-cost generic drugs. This practice, however, can drive patients into Medicare's "doughnut hole" gap in coverage more quickly and can result in higher drug costs for patients. Under the new CMS rule, plans can still use the lock-in approach. The amount paid by the pharmacy and not the higher price paid by the insurer, however, will be used to determine the pace at which patients enter the doughnut hole. The regulation will go into effect on Jan. 1, 2010 and should reduce what patients pay at the pharmacy counter. (*Wall Street Journal,* "Rule Change Aims to Cut Drug Prices," by Sarah Rubenstein, Jan. 7, 2009).

AMA Will Create a Code of Conduct for Disruptive Doctor Behavior

After various studies and a high-profile article in *The New York Times,* the Joint Commission created a new requirement for regulating doctor behavior. As of Jan. 1, 2009, all accredited hospitals and health organizations must have a code of conduct that defines acceptable, disruptive, and inappropriate doctor behaviors and a process for managing inappropriate behaviors. The AMA has announced it will help in the definition process. Concerned that requiring a new standard could serve as a way for hospitals to shut down doctor criticism, the AMA is developing a universal code of conduct that will identify and define appropriate, inappropriate, and disruptive behavior by physicians. The code will present a model process for addressing any disruptive conduct and will include a due process mechanism for physicians who are the subject of complaints. While stating that most physicians do not act inappropriately, the AMA acknowledged that the subject is important because of how much it can jeopardize the quality of care and impact crucial team communication. The AMA further stated that while disruptive behavior may be atypical, when it does occur, physicians may be adversely reacting to pressure or it might be triggered by a health issue. The AMA reiterated that it is important for physicians to pay attention to their own well-being and for the organization to have a strong policy stating that doctors have a responsibility to maintain their own health and wellness. (*American Medical Association,* "How We Treat Others – And Ourselves," by Nancy H. Nielsen, Dec. 11, 2008. The new Joint Commission standard can be found in Issue 40 of the Joint Commission newsletter from July 9, 2008, "Behaviors that Undermine a Culture of Safety.")

Senate Drafting a Health Reform Plan

Before Congress ended its 2008 session, Senate leaders began laying the foundation for comprehensive health system reform for 2009. Sen. Max Baucus (D, Mont.), chair of the Senate Finance Committee, released an 89-page vision for health care reform on Nov. 12. The report, a culmination of months of committee hearings, urged revisiting Medicare's physician payment formula, requiring all Americans to have insurance, and expanding eligibility for Medicaid and the State Children's Health Insurance Program. While some Republican senators are concerned about additional spending, Sen. Baucus stated that health care is linked to the current economic crisis: "There's no way we'll solve America's economic troubles without fixing the health care

system. . . . Inaction is more expensive than acting." Sen. Edward Kennedy (D, Mass.) announced on Nov. 18 that he, along with three committee members of the Senate Health, Education, Labor and Pensions Committee, would lead a group on issues such as prevention and public health, quality improvement and insurance coverage. In a joint statement Nov. 19, Baucus and Kennedy, stated, "We agree that members of the 111th Congress should seek to achieve comprehensive health care reform that includes access to effective coverage, quality care for all and measures to control rising costs." Baucus' plan would also revisit Medicare's physician payment formula and its subcategories of services and would redistribute resources from potentially overpaid aspects of health care to underutilized services such as primary care. The senators expressed concern that primary care in Medicare is not receiving the attention it should. (*American Medical News,* "Senate Gets Early Start on Health Reform Plan," by Doug Trapp, Dec. 8, 2008).

Washington Becomes the Second State to Allow Physician-Assisted Suicide

Fourteen years after Oregon voters approved a ballot measure to allow physician-assisted suicide, 58 percent of Washington residents voted in favor of a nearly identical ballot initiative. The law legalizes physician-assisted suicide with procedural safeguards and will take effect March 4, 2009. The Washington law, like the Oregon law, first requires that a patient has been judged terminally ill by two doctors. If either physician believes the patient has a psychiatric disorder that impairs the patient's judgment, then the patient must be referred for counseling. The patient then makes an oral and a witnessed written request. After 15 days, the patient must make another oral request. Physicians must tell patients about alternative options such as hospice and palliative care. Peg Sandeen, the executive director for the Portland-based Death with Dignity National Center, whose political action committee raised more than $615,000 for the Washington ballot fight, predicted that within the next two to three years the group will mount another state ballot drive. Legislative bills in thirteen states have failed before reaching the governor and ballot initiatives in Michigan and Maine failed at election booths. Since its inception, Oregon's law has been continually challenged, but more than 350 Oregonians have ended their lives through lethal prescriptions. The ballot initiatives are highly controversial. Some physician groups, such as the AMA, oppose the practice because it is "fundamentally inconsistent with the physician's role as healer." (*American Medical News*, "Washington Becomes 2nd State to Allow Physician-Assisted Suicide," November 24, 2008).

NOTE: Students from the Center for Health Law Studies at Saint Louis University School of Law contributed the preceding items to this column. Amy N. Sanders, assistant director, Center for Health Law Studies, supervised the contributions of health law students, Felicia B. Eshragh, (JD/MPH-HP anticipated 2010) and Nicole M. Oelrich (JD anticipated 2010).

Medicare Pays Doctors a Bonus for Using E-Prescriptions

Medicare began paying doctors a bonus of 2 percent of charges billed to Medicare for 2009 for switching to electronic prescriptions. Some private health plans offer extra payments along with free digital handheld devices. In the past year, the number of physicians prescribing medicines electronically has more than doubled to 70,000, or about 12 percent of all office-based doctors. The Obama administration's plan to invest $50 billion over five years in health information technology is expected to include additional incentives for e-prescribing. However, barriers exist to full-fledged adoption. Federal drug laws currently forbid prescribing controlled substances such as narcotics, anti-depressants and insomnia drugs. Safety experts worry about errors in selecting options on the screen. "There are more than 1.5 million people hurt every year by preventable medication errors, and the evidence is strong that patients are better off when we e-prescribe than when we don't," said Janet Marchibrody, CEO of eHealth Initiative, a non-profit group of public health agencies, consumer groups, health plans and technology companies. (*Wall Street Journal,* Jan. 21, 2009)

U.S. Receives Grade of "C" for Its Emergency Health System

In the annual report card issued by the American College of Emergency Physicians, the United States received a "C-"grade for its overall emergency health system. Concerning access to emergency care, the nation received a "D-". The report showed that because of the rising cost of health care, emer-

gency rooms were closing while the number of emergency room visits had increased by 32 percent in the last decade. Other factors such as shortages of nurses and physicians, overcrowding of hospitals, inadequate reimbursement, increased number of medical malpractice claims and lack of preventive programs have attributed to the overall problem of emergency medical care. The report was not criticizing the quality of current emergency room doctors and nurses but was examining the availability of resources. The report is a sign for needed reform within the government. (*MSNBC,* December 10, 2008)

Layoffs Spike Rise in Uninsured

In Ashland, Ohio, the closing of the Archway cookie factory has left many people out of a job and without health insurance for themselves and their families. Their predicament reflects a national trend as people lose employer-provided health coverage when they become unemployed. As unemployment rises, there is increased urgency for the government to expand access to health insurance. The recession has also affected hospitals with an increase in charity care write-offs. (*The New York Times,* December 7, 2008)

Interruptions in Medicaid Coverage Linked to More Hospitalizations

A study published in the *Annals of Internal Medicine* showed that patients who have non-continuous Medicaid coverage are over three times more likely than those whose coverage was uninterrupted to end up in the hospital for a condition that could have been managed with doctor's visits and medication. In the study, most patients admitted to the hospital did so within three months of losing Medicaid coverage. During their stay, they re-qualified for Medicaid. Recipients of Medicaid are required to re-qualify periodically. Some do not provide all the proper documentation which leads to loss of coverage and loss of refills of medication. The loss of medication often results in a decline in health which goes untreated until hospitalization is necessary. (*The New York Times,* December 17, 2008)

Catholic Healthcare West Supports Sustainable Food Practices

Catholic Healthcare West is promoting sustainable food practices by seeking to avoid purchasing food using genetically engineered sugar and meat and dairy products from cloned animals. The use of genetically engineered foods or products from cloned animals is controversial due to the lack of long-term safety testing and possible environmental damages. Mary Ellen Leciegewiski, CHW's ecology program coordinator, stated that the aim of CHW's changes is to "promote alternative approaches that produce food that is safer and healthier for our patients, staff, and visitors and can sustain the farmers and food producers in our communities." CWH is advocating for change in public policies to safeguard food production. (Marketwire, January 6, 2009)

Couples Face Questions About Frozen Embryos

A new issue concerning frozen embryos is surfacing at fertility clinics. What should be done with the frozen embryos once the couple is finished having children? A recent survey published in the journal, *Fertility and Sterility,* examined the question. The survey asked questions of 1,020 fertility patients and found that 53 percent did not want to donate their embryos to another couple and 43 percent did not want to discard them. The most popular option, stated by 66 percent of the couples, was to donate the embryos to science but only a small number of clinics are able to provide that choice. There is a need to discuss this issue at the beginning of the in vitro fertilization process. (*The New York Times,* December 4, 2008)

First Successful Windpipe Transplant Uses Patient's Own Stem Cells

An article in the British medical journal, *The Lancet*, brings news of the first successful transplant of a human windpipe using a patient's own stem cells. Performed in Barcelona, Spain, the operation replaced a windpipe badly damaged by tuberculosis. A segment of a trachea, three inches in length, was taken from a patient donor who died of a cerebral hemorrhage. The trachea was stripped of the donor's cells. Stem cells from the recipient were grown and seeded into the donated windpipe using a technique developed in Milan. Because the transplant contains the recipient's cells, antibodies have not developed, and avoiding the need to take immunosuppressive drugs. This new surgery offers opportunities for transplant with less risk of organ rejection. (*The New York Times*, November 19, 2008)

Most People Lack an Advance Directive

Advance directives, also known as living wills, are documents intended to make

known a person's wishes concerning end-of-life decisions. Although advisable to have, less than one-third of people have an advance directive, and even fewer make them known to their doctor or family members. Advance directives are often worded vaguely or do not address a clinical situation that may emerge. The biggest problem surrounding advance directives is that 3 out of 10 patients change their minds about life sustaining treatment. Many suggest it is just as important, if not more important, to name a durable power of attorney for health care, also known as a surrogate, to handle medical decisions when the patient is unable. (*American Medical News,* January 5, 2009)

Reprogrammed Cells May Help in Research

Research published in the journal, *Nature*, shows the beginnings of using reprogrammed disease cells to study, test medication and eventually correct a genetic disorder. The study used skin cells from a young boy with spinal muscular atrophy, or SMA, which affects motor neurons. Using the reprogramming technique to send the skin cells back to the embryonic state, they were able to grow reprogrammed cells into motor neurons. These motor neurons showed the defects of the disease. The reprogrammed diseased cells can be studied in a Petri dish to observe their origins, the progression and even test effectiveness of new drugs. There is a caution that the reprogrammed cells may not act exactly as the original cells. In the future, the hope is to extract the cells, reprogram them, correct the defect, produce healthy cells and inject those cells back into the patient. There is still much to be done in order to make sure reprogrammed cells are safe for humans. (*Journal Sentinel*, December 21, 2008)

Many Doctors Hesitate to Advise Critically Ill about a Poor Prognosis

Recent research shows that doctors hesitate to tell families about the poor prognosis of critically ill patients out of fear that it will cause the family to lose hope. A study in the *Annals of Internal Medicine* showed that 93 percent of family members of critically ill patients believed that it was not acceptable for doctors to avoid communicating a poor prognosis. These people consider discussions about prognosis as essential in preparing themselves for all possible outcomes, even the death of a loved one. Another study which interviewed 179 families of patients in intensive care units showed that 87 percent want full information even if it is a tentative prognosis. These families also expressed a need to be prepared for possible outcomes, be given time to get financial and personal affairs in order and have time to say goodbye. The studies call for doctors to be balanced between giving truthful prognosis and giving emotional support. (*Reuters,* December 15, 2008 and *Washington Post,* December 29, 2008)

New Screening Technique Raises Ethical Questions

A new screening technique called preimplantation genetic diagnosis (PGD) is being used in London. This technique, licensed by Human Fertilization and Embryology Authority, consists of creating embryos using IVF and removing a cell from each. The cells will be tested for the mutated BRCA1 gene, which increases the chance of breast and ovarian cancer. The embryos which do not contain the mutated gene will be implanted in the mother's womb. The embryos which test positive for the mutated gene will be disposed of. The ethics of using the procedure with the BRCA1 gene is being questioned. BRCA1 mutation does not mean the child will definitely suffer from cancer and the cancer is not necessarily lethal. The question surrounds the disposal of embryos that could be perfectly health human beings even with the mutated gene. (*The Guardian*, December 20, 2008)

New Fetal DNA Testing Checks for Genetic Disorders

Baylor College of Medicine has developed a new fetal DNA testing which makes it possible to check for a number of genetic disorders. This test is cause for ethical debate. Some question the accuracy of the test because an unreliable positive could result in the abortion of a health fetus. Advocates say that only one percent of the tests are ambiguous, and in the 500 tests that have been done, no one has chosen to abort a fetus on grounds of an uncertain result. There is also concern that only the affluent will be able to afford the testing, creating a disparity in access for the poor. The testing is currently in a multi-institutional study. The question remains whether or not the testing is ready for general use. (*The Houston Chronicle,* December 21, 2008)