

Overview

In 2013, all 50 states and the District of Columbia are expected to convene regular legislative sessions. To provide an overview of the issues impacting state health agencies and public health, ASTHO has reviewed available pre-filed bills and surveyed the state health agency legislative liaisons regarding priorities and issues they expect their legislature to address in the coming year. We hope that this document, which summarizes our findings, facilitates the sharing of information and strategies among states.

State Budgets

States will continue to face budgetary pressures in the coming year. According to the National Association of State Budget Officers, state fiscal conditions are modestly recovering along with the national economy. Forty-two states enacted higher general fund spending levels in FY 2013 as compared to FY 2012. On average, general spending levels are expected to increase by 2.2 percent this fiscal year. However, state policymakers will still face numerous fiscal issues as legislatures convene for 2013. According to the National Conference of State Legislatures, these key fiscal issues include the rising cost and expansion of Medicaid, education funding, state employee pensions and benefits, transportation and infrastructure projects, and the impact of the federal deficit.

Emerging Issues

Regulation of Compounding Pharmacies

State and federal policymakers will be considering what laws could have prevented the fungal meningitis outbreak caused by tainted injections produced at the New England Compounding Center. Up to 14,000 people received the tainted injections, leaving 590 people in 19 states with meningitis or another infection. Traditionally, compounding pharmacies mix ingredients to make a customized medication for individual patients with special needs. For decades, pharmacy compounding practices were regulated solely by state Boards of Pharmacy, and the drugs made by compounding pharmacies were not required by FDA to be approved as "new drugs." However, some compounding pharmacies have exceeded the scope of traditional compounding producing thousands of doses for sale through interstate commerce. The legal framework governing these pharmacies will be a focus for states in 2013. Massachusetts Gov. Deval Patrick has announced that he is filing a bill to strengthen state regulation over compounding pharmacies. Bills have also been filed in New Jersey and South Carolina. The California State Board of Pharmacy will sponsor a bill that would allow inspectors to make unannounced on-site inspections of nonresident pharmacies distributing sterile compounded medications in the state.

Drug Shortages

According to HHS, shortages of key anesthesia, chemotherapy, and anti-infective drugs have quadrupled over the last six years. These drug shortages are affecting pharmacies, physicians, and patients across the country. A variety of factors have been cited for the cause of shortages, including quality control problems at plants, manufacturers choosing not to produce drugs with low profit margins, shortages of raw materials, and changes in contracts with pharmacies and hospitals. State legislatures will be looking at ways they can ease the problem. In Maryland, this may include legislation to prohibit pharmacies from selling drugs to wholesalers rather than hospitals.

Violence Prevention and Mental Health

Following the tragic events in Newtown, Connecticut, and Aurora, Colorado, state legislators are among those vowing to take action in the hopes of making similar tragedies less likely. Improving mental health systems, improving communication of mental health records to law enforcement, allowing teachers to have weapons in schools, requiring psychological evaluations to carry a concealed weapon, and improving school safety are among the many proposals being discussed at the state level. New York was the first state to pass a more restrictive gun law in response to the shootings in Connecticut. Gov. Andrew Cuomo signed the bill into law on the second full day of their 2013 legislative session.

Ongoing Issues

Health Reform Implementation

The Patient Protection and Affordable Care Act (ACA) included many provisions left to the state governments to implement. Last session, many states were awaiting the Supreme Court ruling on the constitutionality of the law. In June, the court largely upheld the Act; thus, the big decision before states this year is whether or not to expand Medicaid. Some governors have declared that their states will not expand Medicaid while others have announced their plans to expand the program. Still other states are studying the costs and benefits of expansion prior to making a decision. States will also be preparing for open enrollment in their health insurance exchanges in late 2013 with plan coverage set to begin in January 2014.

Promoting Healthy Behaviors

Overweight and obesity are among the most urgent health challenges facing our country today. Excess weight contributes to many of the leading causes of death in the United States, including heart disease, stroke, diabetes, and some types of cancer. With a focus on driving down healthcare costs, policymakers are increasingly exploring programs to incentivize healthy behaviors. In 2013, states will consider health guidelines for government procurement of food, farm-to-school programs, physical education standards, and revenue sources for childhood prevention programs.

Tobacco use is a major preventable cause of premature death and disease. Additional effort and support for evidence-based, cost-effective strategies to reduce tobacco use will have a significant impact on our nation's health. This session, we can expect states to address banning the sale of electronic cigarettes to minors, prohibiting smoking in cars with children, the weakening and strengthening of clean indoor air laws, and state employee benefit plans covering tobacco cessation therapy.

Food Safety

Foodborne diseases affect tens of millions of people and kill thousands in the United States each year. They also cause billions of dollars in healthcare-related and industry costs annually. The past few years have seen an increased focus on economic development in the states, which has included a push to implement regulations in a manner that gives businesses flexibility. One result for public health has been the enactment of "cottage food" laws, exempting non-potentially-hazardous foods from state regulation. We expect this trend to continue into the 2013 session along with proposals to make raw milk more accessible and food freedom laws, which declare that Congress's authority to regulate commerce does not apply to food grown and produced in the state when it is sold in the state. A number of states are also slated to consider bills related to labeling genetically modified foods.

Newborn Screening

In September 2011, HHS Secretary Kathleen Sebelius approved the Secretary's Advisory Committee on Heritable Disorders in Newborns and Children's recommendation that all newborns be screened for critical congenital heart disease (CCHD) using pulse oximetry to prevent mortality and morbidity. In 2013, we expect a number of states to consider adding this test to their newborn screening program.

Prescription Painkiller Abuse, Misuse and Overdose

According to CDC, deaths from prescription painkillers have reached epidemic levels in the past decade. Improving the way prescription painkillers are prescribed can reduce the number of people who misuse, abuse, or overdose from these powerful drugs, while maintaining patient access to safe, effective treatment. In 2013, states will consider how to finance and maintain their prescription drug monitoring programs and who should have access to that data. States will also consider establishing immunity for individuals who seek medical assistance for victims of overdoses and authority for laypersons to administer naloxone in the event of an opiate drug overdose.

Synthetic Drugs

Since 2009, state legislatures have been working to outlaw synthetic cannabinoids and substituted cathinones. At least 45 states and Puerto Rico have already banned one or both of these types of substances. But lawmakers cannot keep pace with producers, who constantly adjust their chemical formulations to come up with new synthetic drugs that are not covered by new laws. In 2012, states targeted entire classes of substances, aiming to prevent new formulations of synthetic drugs from remaining unregulated. In 2013, states will continue to adding substances to the states list of Schedule I drugs, as well as strengthening the penalties for manufacturing, distributing, and using synthetic drugs.

Resources

1. National Conference of State Legislatures. "Top Fiscal Issues for 2013 Legislative Sessions." Available at www.ncsl.org/issues-research/budget/top-fiscal-issues-for-2013-legislative-sessions.aspx. Accessed on 1-14-2013.
2. National Association of State Budget Officers. "Fiscal Survey of States Fall 2012." Available at www.nasbo.org/publications-data/fiscal-survey-states/fiscal-survey-states-fall-2012. Accessed on 1-14-2013.
3. American Legislative Exchange Council 2013. "ALEC 2013: Jobs, Innovation and Opportunity in the States." Available at www.alec.org/publications/alec-2013-jobs-innovation-and-opportunity-in-the-states/. Accessed on 1-14-2013.
4. Governing. "Top 10 Legislative Issues to Watch in 2013." Available at www.governing.com/topics/finance/gov-top-10-legislative-issues-2013.html. Accessed on 1-14-2013.
5. The Council of State Governments. "Top 5 Issues for 2013 Expanded: Health." Available at knowledgecenter.csg.org/drupal/content/top-5-issues-2013-expanded-health. Accessed on 1-14-2013.