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December 12, 2007

Mr. Jim Maddux  
OSHA Directorate of Standards and Guidance

Re: Proposed Guidance on Workplace Stockpiling of Respirators and Facemasks for Pandemic Influenza

Dear Mr. Maddux:

The American Health Care Association (AHCA) and the National Center for Assisted Living (NCAL) welcome the opportunity to provide comments to the Occupational Safety and Health Administration (OSHA) on this proposed guidance concerning workplace stockpiling of respirators and facemasks for pandemic influenza. AHCA and NCAL represent more than 10,000 non-profit and for-profit providers dedicated to continuous improvement in the delivery of professional and compassionate care for our nation's frail, elderly and disabled citizens who live in long term care (LTC) facilities, including nursing facilities, assisted living residences, sub-acute centers and homes for individuals with developmental disabilities. Our member facilities employ nearly one million workers, the majority of whom are front-line caregivers. AHCA/NCAL also represents LTC to the Department of Homeland Security; the Centers for Disease Control and Prevention; the Department of Health and Human Services Centers for Medicare & Medicaid Services; the Office of the Assistant Secretary for Preparedness and Response; the Institute of Medicine; and other agencies and organizations in various disaster preparedness initiatives. On behalf of our more than 10,000 LTC employers, their employees and the patients that they serve, we submit the following comments on this draft guidance.


This draft guidance has been well thought out and is comprehensive, but we do have some concerns relating to LTC facilities as follows:

- On the pyramid illustration on page 4 of the guidance, health care employees who are exposed to pandemic patients are listed in the very high and high risk exposure groups to pandemic influenza. In general, LTC health care employees do not fit into these categories because they would not be exposed to a high concentration of known or suspected pandemic patients. It is our hope that we can keep our patients safe from an influenza pandemic, possibly by limiting admissions and visitors. Though we anticipate that we may be a surge site for hospitals, we would expect to only admit non-contagious hospital patients that do not pose an infection risk to our very vulnerable LTC residents or our employees. While, as the guidelines suggest, individual facilities should assess their employees' level of risk depending on individual circumstances, we do not see a risk category on the pyramid that is appropriate for LTC health care workers.

- As LTC facilities are largely funded by Medicaid, financial reserves are limited. Facilities would have to weigh the benefit of stockpiling respirators and facemasks against other important pandemic influenza resources such as anti-viral medications and vaccines to treat suspected pandemic exposure or illness, as well as against using the resources to meet immediate needs.
- Most LTC facilities currently do not use respirators and thus have no respiratory program in place. If a LTC facility wants to stockpile respirators for use during a pandemic, they should not be obligated to put a respiratory program in place before the influenza pandemic and before the respirators are utilized. There is significant employee turnover in LTC facilities, and employees that would receive respiratory protection training may not even be present during a future pandemic outbreak. In addition, if volunteer services are needed during a pandemic, future volunteers would not receive training until the imminent pandemic outbreak. Therefore, AHCA/NCAL recommends that OSHA clarify that respiratory program regulations do not take effect if the respirators are merely stockpiled for future use.
- Storage of stockpiled materials is very difficult for LTC facilities as they do not have on-site central supply rooms and some facility types, such as intermediate care facilities for individuals with mental retardation (ICFs/MR) in certain states have statutory bans on locked storage areas due to resident rights issues. Therefore, security of stockpiled face masks and respirators would be very challenging.

AHCA/NCAL appreciates this opportunity to submit comments on the *Proposed Guidance on Workplace Stockpiling of Respirators and Facemasks for a Pandemic Influenza* and how it affects LTC providers. We encourage OSHA to contact us at any time for additional information.

Sincerely,



Melissa Temkin  
Director of Regulatory Services