

Congress of the United States

Washington, DC 20515

May 25, 2006

The Honorable Michael O. Leavitt
Secretary of Health and Human Services
200 Independence Avenue, SW
Washington, DC 20201

The Honorable Elaine Chao
Secretary of Labor
200 Constitution Avenue, NW
Washington, DC 20210

Dear Secretary Leavitt and Secretary Chao:

We write to express serious concerns that planning and preparations related to pandemic influenza fail to address the occupational threat of pandemic flu faced by nurses and other health care workers who will play a critical role in the public health response to an outbreak.

As we have learned from other emergencies, most recently from the 9/11 attacks and Hurricane Katrina, it is imperative that the health and safety of responders be an integral part of any national preparations. We should not wait until nurses experience a high rate of illness before we act to protect them from the risk of pandemic flu. Unfortunately, preparation thus far by both Departments fails to properly account for the risks of infection and implement a plan to minimize them.

Specifically, the *HHS Pandemic Influenza Plan* released in November 2005 recommends that health care workers and emergency responders wear surgical masks for personal respiratory protection. However, surgical masks are not designed to protect the wearer from contaminants, but rather to prevent the wearer from spreading contaminants when sneezing or coughing. Surgical masks will not protect wearers from exposure to respirable airborne droplets that contain pandemic flu virus. In addition, surgical masks do not provide a seal against a wearer's face to prevent leakage of contaminated air into the breathing zone as respirators do.

The plan's recommendation for surgical masks directly contradicts the requirements of the Occupational Safety and Health Administration's (OSHA) respiratory protection standard, 1910.134, which requires employers to take steps to protect workers at risk of exposure to airborne hazards. This standard requires that respirators be issued to at-risk workers, that the respirators be certified by the National Institute of Occupational Safety and Health (NIOSH) and that they be used within a complete respiratory program that includes fit-testing, training, and other requirements.

The plan also contradicts the Centers for Disease Control and Prevention's *Interim Recommendations for Infection Control in Health Care Facilities Caring for Patients with Known or Suspected Avian Influenza*. This guidance calls for, among other things, the use of a fit-tested respirator, at least as protective as a NIOSH-approved N-95 disposable respirator. Likewise, the World Health Organization's (WHO) most recent draft in February 2006 of its guidance document, *Avian Influenza, Including Influenza A (H5N1) in Humans: WHO Interim Infection Control Guidance for Health Care Facilities*, recommends that health care workers be provided with respiratory protection that is at least as protective as a NIOSH N-95 certified respirator.

While we note that both the CDC and WHO guidance documents are specifically for avian flu, we are mindful that the most likely and closely monitored pandemic flu threat on the horizon – and the threat for which a vaccine is being developed - is avian influenza. It only makes sense that other countermeasures and infection controls are sufficient to address this potential threat.

With respect to the Department of Labor, we are concerned that the Occupational Safety and Health Administration (OSHA) is not meeting its responsibility to protect health care workers from occupational exposure to an infectious agent in the event of a pandemic. The *Pandemic Influenza Implementation Plan*, issued by President Bush on May 3, 2006, indicates that HHS will be responsible for establishing infection control measures in the workplace, with the Department of Labor playing only a consultative role. This arrangement contradicts the Department of Labor's statutory responsibility for workplace safety.

We are mindful of the experience of Canada during the SARS outbreak, when hospitals were forced to scramble to obtain appropriate respiratory protection for nurses and other health care workers. Forced to react to an immediate crisis without planning, nurses were issued respirators that were not fitted and that they were not properly trained to wear. The consequence was a high rate of infection among nurses treating SARS patients and a large role in spreading the disease. Fortunately, we have the opportunity to plan ahead and prepare for rigorous infection control and respiratory protection during pandemic flu. We urge you to revise the HHS plan and OSHA standards to provide effective protection of workers from pandemic influenza and to increase the procurement of respirators for the national stockpile.

If asked to answer the call of duty, nurses and other responders must have confidence that their government has taken necessary steps to protect their health and that of their patients and families.

Sincerely,

Spis Coppa

J. C. [Signature]

Dennis J. Kucinski

Devin [Signature]

Hilda [Signature]

Thaddeus [Signature]

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