
Safe Home Illinois

A Newsletter On Childhood Lead Poisoning and Prevention

Summer 2003

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In the News

Illinois Bills Become Law

Public Act 93-348: Governor Rod Blagojevich has signed into law HB 3229. The new law establishes the Lead Safe Housing Advisory Council, a critical first step for the thousands of children at risk of lead poisoning in Illinois. The law, sponsored by State Representative Harry Osterman and State Senator Carol Ronen, charges the Lead Safe Housing Advisory Council with making recommendations to the Governor and the General Assembly on proactive steps to end childhood lead poisoning in Illinois.

The new law provides that Gov. Blagojevich will appoint members of the Advisory Council including housing and child advocates, parents of lead poisoned children, pediatricians, and representatives of community based organizations, the insurance industry, realtor groups, and the lead-abatement industry .

According to the timetable set forth in the law, within nine months after its formation, the Advisory Council will submit a written report to the Governor and General Assembly on a variety of subjects, including development of a primary prevention program (fixing lead hazards before any child is poisoned); adoption of lead-safe work practices for contractors, painters and property maintenance personnel; and innovative funding mechanisms to assist homeowners and landlords with the cost of making homes lead safe.

Representative Osterman held a news conference at the Howard Area Community Center in the Rogers Park neighborhood in Chicago, announcing the new law.

Public Act 93-104: Governor Blagojevich signed HB 207 into law on July 8, 2003. The legislation requires doctors and health care providers to screen for lead poisoning in conjunction with school health care exams when, in the doctor's judgment, the child is potentially at high risk. This requirement is *in addition to* the mandate already existing in Illinois law which requires all children 6 and under be screened, or assessed, depending where they live. State Representative Monique Davis and State Senator Donne Trotter were chief sponsors of the bill.

Amendatory Veto of HB 197: State Representative Monique Davis also sponsored HB197, with the support of State Senator Ricky Hendon. The bill provides for a lead screening program for women and girls age 13 and over who are pregnant or nursing and who live in high-risk areas. Governor Blagojevich amendatorily vetoed the bill. His veto message recommended that the bill provide that subject to available funding, the Illinois Department of Public Health *may* establish a program to screen for lead poisoning in women who live in high risk areas, are 13 or older and pregnant or lactating. The bill sent to the Governor for his signature would have required the Department to develop the program subject to available funding.

The full text of these bills may be found at www.legis.state.il.us (At this site type in the bill number, click Search, then click Full Text).

Federal Legislation Proposes Income-Tax Credits for Lead Abatement

Senator Hillary Clinton (D-NY) and Senator Mike DeWine (R-OH) introduced legislation this summer to allow homeowners to claim a tax credit of 50%, up to \$1500, of the cost of removing lead paint in dwelling units. In its current form, the Home Lead Safe Tax Credit Act of 2003 (S. 1228) applies to units built prior to 1978, and requires that a certified abatement specialist perform the work in order to qualify for the credit.

Currently, lead abatement costs are tax deductible as a medical expense. The deduction covers the cost of removing lead-based paint from surfaces in the home if done in order to prevent a child who has lead poisoning from

eating the paint. The surfaces must be in poor condition and accessible to the child. Mitigation must entail more than repainting to qualify as a medical deduction. The taxpayer can only recover costs incurred that exceed 7.5% of their a d j u s t e d g r o s s i n c o m e. For more information about the bill see <http://www.senate.gov/> or Senator Clinton's website at <http://clinton.senate.gov>.

Arguments Heard On Motion to Dismiss in Chicago Lead Lawsuit

Arguments on a Motion to Dismiss the City of Chicago's lawsuit against lead-paint manufacturers for creating a public nuisance were heard in the Cook County Circuit Court July 31, 2003. The attorney for the paint industry argued, in part, that the court does not have authority to enforce an injunction to make lead paint manufacturers abate private properties. The city attorney responded by offering examples in which the court could enforce an injunction. The city attorney focused in part on the precedent the Illinois Appellate court recently set in *Lewis v. Lead Industries Association et. al.*, where the court recognized that the violation of a public right is properly alleged where plaintiffs assert that defendants promotion, manufacture, sale and distribution of lead paint exposed children to the risk of lead poisoning. (In *Lewis*, however, a public nuisance claim could not be maintained because the private plaintiffs could not allege a special injury, something public plaintiffs are not required to do). Judge Nancy Arnold is expected to release a written decision this Fall.

April 2004 Date Set For Retrial of Rhode Island Paint Lawsuit

The retrial of Rhode Island's suit against manufacturers of lead-based paints is set for April 5, 2004. The first trial, which lasted seven weeks, ended in a mistrial. For more information, visit the Action Alerts section of the Alliance for Healthy Homes website at http://www.afhh.org/res/res_alert_archives.htm

Milwaukee Judge Dismisses Lawsuit Against Lead Paint Companies

In January 2003, Milwaukee County Circuit

Judge Timothy G. Dugan dismissed the City of Milwaukee's lawsuit against two paint companies on a summary judgment motion. An appeal of the suit is expected.

In its suit, Milwaukee contended that Mautz Paint and NL Industries created a public nuisance by selling lead pigment and lead-based paint throughout the early part of the century. Milwaukee also charged that the two companies participated in a conspiracy to hide information about the harmful effects of lead on children.

The City of Milwaukee sought \$85 million to pay for its abatement program to remove lead paint from roughly 41,000 houses in specific targeted areas within Milwaukee neighborhoods where roughly 26% of the children have elevated lead levels in their blood.

Mautz, which was sold to Sherwin Williams in 2001, and NL Industries, argued Milwaukee failed to present any evidence proving its products caused lead poisoning in any of the children in the targeted areas in Milwaukee. In dismissing the suit, Judge Dugan said "It's unfair to try to hold two companies responsible when you can't prove their products had anything to do with the problem in the target areas."

HUD Awards Nearly \$29 million for Lead Hazard Work

This summer, the U. S. Department of Housing and Urban Development announced a grant of almost \$29 million to eleven communities to fund lead hazard control programs for three years. Illinois is the only state awarded more than one grant. Three communities in Illinois--Chicago, Kankakee and Madison County--will receive \$3 million each.

Alliance To End Childhood Lead Poisoning Changes Name

The organization formerly called the Alliance To End Childhood Lead Poisoning has changed its name to the Alliance for Healthy Homes. The new name reflects the expansion of the Alliance's work on lead poisoning prevention to encompass other housing-related health hazards.

For additional information, visit the Alliance's new website at www.afhh.org

Community Initiatives

Chicago Projects Underway

Exciting lead poisoning prevention efforts are underway in three Chicago communities, Austin, Rogers Park and North Lawndale. Neighborhood organizations, residents, health care providers and social service providers have joined together to get the word out and to gather resources to reduce lead hazards in their communities. Facilitation of the strategic planning was underwritten by the U.S. Environmental Protection Agency and overseen by Maria Woltjen, Director of Lead Safe Housing Community Initiatives at the Loyola University ChildLaw Center. Following is some of the work in progress.

Austin. Austin has a rich history of community activism and is graced with a number of thriving organizations. Those organizations, along with committed health care providers and community residents who actively work on lead poisoning, have put in place many of the projects conceived by the Austin Task Force.

Lead-Dust Sampling Project. Westside Health Authority (WHA) received a grant from the Community Environmental Health Resource Center, a project of the Alliance for Healthy Housing (formerly the Alliance to End Childhood Lead Poisoning) to train Austin

residents to take dust samples. To date, 136 homes have had dust samples taken; approximately one-third of the homes tested positive for lead dust according to HUD standards. WHA plans to write up the sampling results to use the data to advocate for more resources to remove lead hazards from homes in Austin.

The Chicago Department of Public Health plans to conduct another HITS (High Intensity Targeted Screening) project in Austin this fall. The teams will focus outreach on blocks identified as high risk through WHA's dust sampling program. Each team will include a phlebotomist, as well as a sampling technician from WHA.

Brochure. A brochure is now available that includes information specific to Austin about where to go for free blood lead tests and training on reducing lead hazards. The brochure, developed by the Austin Task Force, is distributed through community organizations and at community events.

Video for Clinic Waiting Rooms. Northwestern University students working with the Loyola ChildLaw Center created a video about lead poisoning prevention efforts in Austin. The video will be shown in the waiting areas in public health clinics in the Austin community.

Hardware Store Outreach/Education. WHA and hardware stores in and around Austin are discussing the possibility of distributing educational materials as well as educating store personnel about lead poisoning and lead-safe work practices.

Lead Safe Home Training. Twenty-four people attended a Lead Safe Home seminar on April 26, 2003, offered by WHA. The training, funded by the U.S. Environmental Protection Agency will be offered a second time by WHA, and two more times in the fall by the South Area Austin Community Coalition.

Planned future activities include: contractor education in lead-safe work practices, creation of a lead-safe housing registry for Austin and development of a voluntary program to inspect apartments at unit turnover. For more information about efforts in Austin, contact Cassandra Alexander, WHA at 773-378-5034.

Rogers Park The Rogers Park Lead Poisoning Prevention Task Force has been meeting regularly since October 2001. Howard Area Community Center (HACC) staff have taken the lead in carrying projects to completion and have actively sought new members, such as the Rogers Park Builders Group and a retired publicist who is now working on outreach and publicity. Following are some of the projects in progress in Rogers Park.

Legislative Advocacy. As a result of a meeting at which Maria Hernandez, the parent of a child who is lead poisoned, told the story of how she learned her son was lead poisoned, Representative Harry Osterman sponsored the Lead Safe Housing Advisory Council bill which became law this summer (see page 1 article). The bill was drafted by the Loyola ChildLaw Center on behalf of the Illinois Lead Safe Housing Task Force.

Community Health Worker Outreach. Ten community health workers from HACC who visit families' homes were trained to do visual assessments and counsel families about lead poisoning and other household environmental hazards. The training was provided by the Great Lakes Environmental Center at UIC (which also participates on the Task Force) and the U.S. Environmental Protection Agency.

Farmers' Market Outreach. For the last two summers, members of the Rogers Park Task Force manned a booth at the Farmers' Market and distributed written materials about lead poisoning prevention. This service is again being offered this Fall with assistance from students working with Prof. Hilary Godwin, at Northwestern University.

Rogers Park Lead Poisoning Prevention Brochure. A member of the Rogers Park Task Force, who also is the mother of a child who is lead poisoned, developed a brochure about lead poisoning prevention, in both English and Spanish to be distributed at community events.

Church Outreach and Screening. Members of the Rogers Park Task Force have begun providing screening and education on lead poisoning prevention at community churches. Phlebotomists from the Chicago Department of Public Health administer the blood tests.

Lead Safe Home Training. HACC hosted a Lead Safe Home Training in June 2003. Three more trainings are scheduled for late summer and fall 2003.

Future activities planned by the Rogers Park Task Force include: creating a flier for contractors and landlords about lead hazards, the disclosure rule and lead safe work practices; developing written information to distribute at satellite building permit offices; developing a program through which window manufacturers would offer discounts in exchange for receiving free lead safe work practices training for installers. For more information about efforts in Rogers Park, contact Monica Dillon, HACC, at 773-761-8324.

North Lawndale A core of committed individuals regularly attending meetings of the North Lawndale Lead Poisoning Prevention Task Force have undertaken a number of innovative projects.

Healthy Baby Program. With the goal of ensuring that healthy babies be raised in lead-safe households, Lawndale Christian Health Center (LCHC) in collaboration with Neighborhood Housing Services (NHS) has trained ten family case managers to do environmental assessments for lead. The family case managers visit the homes of pregnant women and as part of the visit, do the assessments. If lead paint is found, NHS reaches out to the property owner to offer information about grant programs while LCHC helps make sure all members of the household are screened.

The North Lawndale Task Force has plans for a number of additional projects: develop a pilot project to educate community service students to identify lead hazards through visual assessments and to educate their families about the danger of lead poisoning for younger siblings and relatives; work with Small Grants Initiative to leverage resources toward targeted blocks and focus training, outreach and grant programs; develop education for parents of children in early childhood centers and day care centers; link lead

poisoning with other issues, e.g. fire safety. For more information about efforts in North Lawndale, contact Charles Leeks, NHS, at 773-522-4637.

Windows of Opportunity Program in Fort Wayne, Indiana

In response to increasing numbers of children with unsafe blood lead levels, the Allen County Health Department in Ft. Wayne Indiana developed the Windows of Opportunity Program. The group replaces windows at no cost to families with a lead poisoned child (BLL >15 micrograms/deciliter). There are some restrictions on the landlords who agree to participate in the program: for families with Medicaid eligible children, a landlord must agree to pay 10% of the total cost of window replacement; for families with children who are not Medicaid eligible, a landlord is expected to pay slightly more. A landlord must also agree to maintain the current monthly rent for a period of three years after the installation of the windows.

The Department of Public Health administers the program and oversees every step of the window replacement process including licensing and training of lead abatement contractors, relocation of the family, and final clearance of the home after the work has been done. The grant money is expected to fund window replacement in approximately 15 to 20 homes and serve more than 50 families. In order to keep the program afloat once the community health grant is exhausted, the Health Department is seeking other funding sources.

L.A. Lead-Based Paint Pilot Program

Los Angeles has developed a proactive program to address the issue of lead paint and other environmental hazards in the home. Back in 1996, a local community group worked to get the city to change its protocols by arguing that lead paint and environmental hazards are housing issues with health consequences as opposed to a health problem that can be treated

after the fact. City officials responded that under the existing regulations they could not act until a child was poisoned, and therefore had no jurisdiction or resources for primary prevention through code enforcement. The group then focused their efforts on creating legislation that would give the City this authority.

California SB 460, approved in September 2003, creates this authority by redefining lead-based paint not only as a public health issue, but also as a housing issue. The new law requires the local enforcement agency to institute any appropriate action to prevent or abate a violation.

The program in L.A. will utilize the code enforcement program to identify buildings with potential lead hazards. Code inspectors will be trained to identify lead hazards visually, and in some cases they will collect lead dust samples for analysis. When a lead problem is identified, the owner will be counseled about using lead safe work practices, abatement and mitigation. The City will have the authority to bring enforcement actions against owners who do not comply with the regulations.

Litigation Digest

Lead Paint Claim OK in Eviction Suit

In an unusual ruling, a New York City Housing Court Judge has allowed a tenant in an eviction case to assert a treble damages counterclaim under Title X of the Federal Housing and Community Development Act of 1992, which mandates landlord disclosure of lead paint hazards to tenants. The judge found the defendant's claim that the landlord had failed to disclose knowledge of the lead-based paint was "inextricably intertwined" with the landlord's suit for unpaid rent.

The landlord argued that Title X was not applicable in the landlord-tenant proceeding because of a general federal statute barring an action for "any fine, penalty, or forfeiture

incurred under an Act of Congress" from being brought in state court. In her decision, Judge Maria Milin reasoned that a private cause of action would not fall within the prohibition against the enforcement in state court of fines or penalties imposed under Title X.

Jury: Housing Authority Owes \$3.5M

A 12 year old boy in Jefferson County, Kentucky was awarded \$3.5 million after a jury found that the Housing Authority of Louisville failed to adequately remedy the contaminated soil surrounding the building in which the boy lived. Although the Housing Authority claimed that it went to great lengths to correct the lead problems, the plaintiffs presented evidence supporting their contention that Housing Authority officials tried to hide the contamination from residents. City health officials warned the Housing Authority of the contamination in April, 1993, but the Housing Authority waited until May, 1994 to test the soil; readings indicated the lead contamination exceeded safe levels. The Housing Authority did not remove the soil until July, 1995. The jury found that the Housing Authority acted in reckless disregard for the life or safety of the plaintiff and awarded \$3 million in punitive damages and \$500,000 for impaired earning power. The jury forewoman stated that the jury wanted to "send a message to the Housing Authority." The Housing Authority is considering an appeal.

R e s e a r c h Updates

Environmental Exposure and Racial Disparities

In July 2003, the Environmental Justice and Health Union (EJHJ) released a report, entitled "Environmental Exposure and Racial Disparities." The study analyzed the significant

differences in exposure to chemicals experienced by people of different races in the United States. The study determined that African-American and Mexican-American people continue to suffer disproportionately from exposure to environmental toxins, including lead, pesticides, tobacco smoke, PCBs and dioxins. Studies have long shown that lead poisoning has produced more negative effects in poor minority communities than non-minority communities. To view a copy of the full report, go to the Environmental Justice and Health Union website at: <http://www.ejhu.org/disparities.html>

Lead as Possible Carcinogen

The National Toxicology Program is currently reviewing lead as a possible cancer causing substance. The International Agency for Research on Cancer considered lead for its Report on Carcinogens in 1987, but determined there was insufficient evidence available at that time on which to demonstrate human carcinogenicity. Since then a number of epidemiological studies on the association of lead exposure in humans and different forms of cancer including lung, stomach, kidney and bladder have suggested there is a weak association between lead exposure and cancer. One meta-analysis of 8 cohort studies found only a very slight increase in the risk of all cancers combined among highly exposed workers. The association seems to be the strongest for lung cancer with highly exposed workers being almost 1.4 times more likely to develop cancer in their lives. The Report on Carcinogens Committee will meet in October to consider whether to include lead as a carcinogen or possible carcinogen in the next Report on Carcinogens, which will be published in 2004.

Report on Lead in Drinking Water

Lead was one of the many contaminants evaluated in the National Resource Defense Council's (NRDC) report grading drinking water quality in the U.S. The report showed lead was present in Chicago's water system at relatively low levels. Overall, Chicago earned a water quality and compliance rating of "excellent" in 2000 and 2001. The data has not yet been reported for 2002.

The report mentioned that Chicago's plumbing code once required leaded service lines - the pipes running from the street to homes - causing lead contamination of water in homes and buildings. Leaded service lines are no longer required, but may still exist. Residents are advised to run faucets for one minute before drinking the water. To test the drinking water in your home, contact the Drinking Water Hotline 800-426-4791.

To access the full report on the web, visit: <http://www.nrdc.org/water/drinking/uscities/contents.asp>

Politics and Science

At the request of Representative Henry A. Waxman, the Minority Staff Special Investigations Division of the Committee on Government Reform recently issued a report assessing the treatment of science and scientists under the Bush administration. The report identifies numerous instances where scientific information has been distorted and suppressed, research has been interfered with, and scientific advisory committees have been manipulated to benefit industry. The Report cites the Bush administration's rejection of prominent scientists nominated to sit on the CDC's Advisory Committee on Childhood Lead Poisoning Prevention as the Committee was preparing to address the issue of whether to lower the level of blood lead levels that defines lead poisoning. The scientists were rejected in favor of several individuals with ties to the lead industry. For a copy of the report see http://www.house.gov/reform/min/politicsandscience/pdfs/pdf_politics_and_science_rep.pdf

FYI

IDPH Materials Available

"Get the Lead Out," Illinois' Childhood Lead Poisoning Surveillance Report 2002, is now available. 2002 surveillance data showed 6.3 percent or 16,653 of all children tested in Illinois had lead levels that were considered

elevated (≥ 10 mcg/dl). According to the Report, the Illinois Department of Public Health (IDPH) is re-evaluating the “high-risk” and “low-risk” zip codes for lead poisoning and exploring with CDC different ways to gather and maintain complete and accurate child specific information for physicians, labs, health care providers, and other state agencies. It is hoped these new procedures will allow IDPH to better track information and take appropriate action as necessary.

“Preventing and Screening for Childhood Lead Poisoning: A Reference Guide for Physicians and Health Care Providers” and an accompanying laminated reference card that summarizes screening and testing requirements, also are available.

For copies of any of these IDPH materials, contact IDPH, Childhood Lead Poisoning Prevention Program at 217-782-0403.

CDC Surveillance Report Shows Work Still Needs to be Done

The CDC's most recent Surveillance for Elevated Blood Lead Levels Among Children-United States 1997-2001, shows almost half a million children have blood lead levels ≥ 10 mg/dL. While the number of children has declined, the federal 2000 goal of eliminating blood lead levels above 25 mg/dL was not met. The report

concludes that attaining the federal goal of eliminating lead poisoning (blood lead levels ≥ 10 mg/dL) by the year 2010 will require intensive efforts targeted to high-risk areas, evaluating and strengthening preventive measures, and improving the quality of surveillance data. The report's data shows Illinois as the state with the highest number of lead poisoned children in the nation. For a copy of the Sept. 12, 2003 issue see <http://www.cdc.gov/mmwr> (click on Publications, then CDC Surveillance Summaries Current Volume).

New Training Course on Lead-Safe Work Practices

The EPA and HUD have partnered to create an updated 6.5-hour training course, which facilitates instruction on lead-safe work practices for painters, renovators, and maintenance personnel. The course provides practical hands-on exercises illustrating how to perform work activities safely to avoid disturbing lead paint in residential homes. The EPA recommends this course for anyone working in pre-1978 housing. This latest interagency collaboration offers the nation a practical curriculum for making lead safety the standard of care in all work projects in older homes. For more information, visit: <http://www.epa.gov/lead/epahudrrmodel.htm> or http://www.hud.gov/offices/lead/training/rrp/rrp_course.cfmfor

For more information or referrals on lead poisoning prevention efforts:

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