



Health Policy Briefing

November 21, 2022

2022 Midterm Elections Update

More than a week after Election Day, the majorities in the Senate and House of Representatives have been determined. Republicans will control the House of Representatives having won the minimum 218 seats necessary. Five House races remain undecided. The Georgia runoff between incumbent Senator Raphael Warnock (D) and Herschel Walker (R) on December 6th will determine whether Democrats have a 50 or 51-seat majority in the Senate next year. Hart Health Strategies is maintaining a document to summarize what is currently known about the ongoing election results. The latest document can be found [here](#) and includes updates on state ballot initiatives, health professionals in the 118th Congress, committee leadership and members changes, and what to expect in the lame duck.

Congressional Leadership Updates

Congressional Republicans held their party leadership elections last week. Minority Leader Mitch McConnell (Ky.) overcame a challenge from Sen. Rick Scott (Fla.) to remain the Republican party’s leader in the Senate. McConnell received 37 votes to Scott’s 10. McConnell will surpass Mike Mansfield’s (D-Mont.) 16-year record as the longest-serving Senate party leader next year. Senate Republicans also elected Sen. John Thune (S.D.) as Senate minority whip, Sen. John Barrasso (Wyo.) as chairman of the Senate Republican Conference, Sen. Joni Ernst (Iowa) to run the Senate Republican Policy Committee, Sen. Shelley Moore Capito (W.Va.) to serve as vice chair of the Senate Republican Conference, and Sen. Steve Daines (Mont.) to replace Scott at the top of the National Republican Senatorial Committee.

In the House of Representatives, current Minority Leader Kevin McCarthy (Calif.) was voted the Republican nominee for Speaker of the House during the GOP’s closed-door leadership elections. McCarthy received only 188 votes – short of the 218 he will need during the formal House speaker vote in January. Many conservative members of the Freedom Caucus backed Rep. Andy Biggs (Ariz.), who received 31 votes. Republicans also reelected Rep. Steve Scalise (La.) as the party’s

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number two leader. He was unopposed for the position of majority leader. Rep. Tom Emmer was elected whip of the House Republican Conference, besting Reps. Jim Banks (Ind.) and Drew Ferguson (Ga.) for the leadership post. Rep. Elisa Stefanik was re-elected conference chair, beating Rep. Byron Donalds (Fla.), and Rep. Richard Hudson (N.C.) defeated Rep. Darin LaHood (Ill.) for National Republican Congressional Committee Chair.

Senate Democrats will hold their leadership elections the week of December 5, and House Democratic leadership elections are expected to take place on November 30. Current Speaker Nancy Pelosi (Calif.), 82, who has served as the Democratic House leader for nearly two decades and is the only woman to ever serve as speaker, announced her exit from congressional leadership last week. She plans to remain in the chamber representing her San Francisco district. Chairman of the House Democratic Caucus Hakeem Jeffries (N.Y.), 52, is expected to be chosen as her successor when Democrats hold their leadership elections after Thanksgiving. He would be the first Black party leader in Congress. Majority Leader Steny Hoyer (D-Md.) also announced that he will not seek a leadership post in the next Congress.

Senate Committee Leadership Updates

Sen. Patty Murray (D-Wash.) officially announced that she will step down as chair of the Health, Education, Labor, and Pensions (HELP) Committee to seek the gavel on the Appropriations Committee following the retirement of Patrick Leahy (D-Vt.). Sen. Susan Collins (R-Maine) is expected to replace retiring Richard Shelby (R-Ala.) as the top Republican on the panel.

As a result, Sen. Bernie Sanders (I-Vt.) will seek to chair the HELP Committee next year. As chair, Sanders stated that he would focus on universal health care and lowering the cost of prescription drugs. Sen. Rand Paul (R-Ky.) has decided to replace the retiring Sen. Rob Portman (R-Ohio) and serve as the Ranking Member of the Senate Homeland Security and Governmental Affairs Committee (HSGAC) next Congress, foregoing the opportunity to lead Republicans on the HELP Committee. Paul has stated his intent to investigate the origins of COVID-19 from this leadership position. Sen. Gary Peters (D-Mich.) is expected to remain as HSGAC chair. Sen. Bill Cassidy (R-La.), a physician, is poised to take the Ranking Member position on HELP. His priorities for the panel include oversight of HHS spending and implementation of the *No Surprises Act* and reducing drug prices.

Indiana Republican Rudy Yakym Sworn-In to House of Representatives

Rep. Rudy Yakym (R-Ind.) was sworn-in to the House of Representatives last week. Yakym was selected as the Republican nominee by Indiana's 2nd congressional district GOP precinct committee to replace Rep. Jackie Walorski (R) following her death in a car accident in August of this year. He will serve the remainder of Walorski's term as well as a full two-year term starting in January after winning the general election in November. Yakym is a businessman and served as the finance director of Walorski's 2012 congressional campaign.

COVID-19 PHE Expected to Be Extended into April 2023

The U.S. Department of Health and Human Services (HHS) is expected to extend the COVID-19 public health emergency (PHE) beyond the current declaration's expiration on January 12. In keeping with the Department's commitment to provide a 60-day notice to states and health providers before terminating the PHE or allowing it to expire, HHS would have needed to issue such a notice by November 11 but did not do so. The continued PHE declaration will allow expanded Medicaid coverage, telehealth flexibilities, and other waivers and policies tied to the pandemic to remain in place presumably for at least another 90 days – extending into April 2023. Once the PHE concludes, the federal government will also stop paying for COVID-19 vaccines, tests, and treatments and shift those costs to the commercial sector. The current PHE was first declared in January 2020 and is revisited every 90 days. While daily deaths and case rates have been declining, more than 300 people still die each day from COVID-19 in the U.S. and public health professionals are preparing for a potential surge of COVID-19 infections – alongside projected increases of the flu and respiratory syncytial virus (RSV) – this winter. Congressional Republicans have been urging the administration to end the emergency declaration, with Republican leadership of the House Energy and Commerce Committee calling on the administration “to provide to the public what metrics it will use to evaluate the state of COVID-19 risk and what [the President's] plan is to unwind the PHE.”

In related news, the Senate voted 62-36 last week to pass S.J.Res. 63, to end the COVID-19 national emergency. The joint resolution passed with the support of 12 Democrats. The measure would end the national emergency declared on March 13, 2020, in response to the emergence of COVID-19. This national emergency is separate from the HHS-declared PHE. The joint resolution is not expected to pass the House of Representatives and has received a veto threat from the White House, which argued that abruptly ending the emergency would be “a reckless and costly mistake.”

White House Requests Nearly \$10 Billion in Supplemental Public Health Appropriations

The Biden administration is requesting that Congress provide approximately \$10 billion in additional public health funding before the end of the year. According to a report from the Washington Post, the request will include \$5 billion for an initiative known as *Project Covid Shield* to develop the next generation of COVID-19 vaccines and treatments, \$2.5 billion for continued access to vaccines and therapeutics domestically, \$750 million for long COVID research and treatment, \$1 billion for global COVID-19 response, and \$750,000 to respond to other public health problems like hepatitis C, HIV, and monkeypox. The White House's prior requests for additional public health funding have been repeatedly rejected by Republican lawmakers this year who are skeptical that more pandemic response money is necessary when dollars from prior COVID-19 legislation remain unspent. The administration has predicted that those funds could be exhausted by early 2023. Democrats are expected to try and package the supplemental appropriations request with the year-end omnibus spending bill.

Marijuana Research Bill Sent to President for His Signature

The Senate passed legislation last week to ease restrictions on medical and scientific research on marijuana and its compounds. The *Medicare Marijuana and Cannabidiol Research Expansion Act* (H.R. 8454) was previously passed by the House of Representatives in July and will now be sent to President Joe Biden for his signature. The bill would streamline the registration process for conducting research with marijuana under the Controlled Substances Act. Senate Majority Leader Chuck Schumer (D-N.Y.) has indicated that he may bring other cannabis-related bills to the floor during the lame duck session.

Reps. Bergman, Correa Launch Bipartisan PACT Caucus

Reps. Jack Bergman (R-Mich.) and Lou Correa (D-Calif.) have launched the Congressional Psychedelics Advancing Clinical Treatments (PACT) Caucus. According to a statement from the lawmakers, the new caucus will examine how to “alleviate the national mental health crisis through psychedelic science and research.” They also seek to promote research into the efficacy of psychedelics for the treatment of brain health conditions.

Wyden, Casey Push to Strengthen MA Consumer Protections

Senate Finance Committee Chair Ron Wyden (D-Ore.) and Senate Special Committee on Aging Chair Bob Casey (D-Pa.) have penned a [letter](#) to the White House urging the administration to implement additional consumer protections in the Medicare Advantage (MA) program. The lawmakers cite reports of deceptive marketing practices by insurance plans aimed at MA beneficiaries. Wyden [released](#) a related investigation further detailing these allegations earlier this month.

State AGs Ask WH to Make Permanent Telehealth Prescribing Flexibilities

The National Association of State Attorneys General have sent a [letter](#) to Biden administration officials urging them to make permanent COVID-era regulatory flexibilities that allow patients to be prescribed controlled substances via telehealth. The bipartisan letter to Attorney General Merrick Garland, U.S. Department of Health and Human Services Secretary Xavier Becerra, and leadership at the Drug Enforcement Administration (DEA) and Substance Abuse and Mental Health Services Administration (SAMHSA) was signed by 42 state AGs and the AGs of Washington D.C., Guam, and Puerto Rico. The DEA and SAMHSA waived portions of the ***Ryan Haight Online Pharmacy Consumer Protection Act*** requiring doctors to see a patient in-person before prescribing controlled substances, including opioid use disorder treatment buprenorphine, in response to the COVID-19 pandemic. This waiver is tied to the public health emergency declaration, which is currently slated to run until April 2023. “Enabling creative, effective strategies, such as telemedicine, is critical to reducing the number of overdose deaths in our country, particularly in underserved areas, and ending the overdose crisis,” letter states. “We need your help now so that successful strategies implemented during the pandemic are not discontinued.” A DEA proposed regulation to create a registration process for providers seeking to prescribe controlled substances via telehealth is currently under review at the Office of Management and Budget.

Recently Introduced Health Legislation

H.Res.1466 — Of inquiry requesting the President to transmit certain documents to the House of Representatives relating to the investigation by the intelligence community into the origins of the COVID-19 virus; Sponsor: Turner, Michael R. [Rep.-R-OH-10]; Committees: House - Intelligence (Permanent Select)

H.Res.1468 — Of inquiry directing the Director of National Intelligence to transmit certain documents to the House of Representatives relating to the investigation by the intelligence community into the origins of the COVID-19 virus; Sponsor: Turner, Michael R. [Rep.-R-OH-10]; Committees: House - Intelligence (Permanent Select)

S.Res.831 — A resolution designating October 10, 2022, as “World Mental Health Day”; Sponsor: Coons, Christopher A. [Sen.-D-DE]; Committees: Senate – Judiciary

S.Res.832 — A resolution supporting the designation of September 13, 2022 as National Sepsis Day; Sponsor: Schumer, Charles E. [Sen.-D-NY]; Submitted in the Senate, considered, and agreed to without amendment and with a preamble by Unanimous Consent.

S.5086 – A bill to amend the Internal Revenue Code of 1986 to protect children’s health by denying any deduction for advertising and marketing directed at children to promote the consumption of food of poor nutritional quality. Sponsor: Sen. Blumenthal, Richard [D-CT]; Committees: Senate – Finance

S.5088 — A bill to amend title XVIII of the Social Security Act to improve the enrollment of retiring individuals in the Medicare program; Sponsor: Casey, Robert P., Jr. [Sen.-D-PA]; Committees: Senate – Finance

S.5093 — A bill to further protect patients and improve the accuracy of provider directory information by eliminating ghost networks; Sponsor: Smith, Tina [Sen.-D-MN]; Committees: Senate - Health, Education, Labor, and Pensions

H.R.9299 — To amend the Internal Revenue Code of 1986 to protect children's health by denying any deduction for advertising and marketing directed at children to promote the consumption of food of poor nutritional quality; Sponsor: DeLauro, Rosa L. [Rep.-D-CT-3]; Committees: House - Ways and Means; Education and Labor

H.R.9297 – To amend the Federal Food, Drug, and Cosmetic Act to facilitate the exchange of certain product information, and for other purposes; Sponsor: Rep. Guthrie, Brett [R-KY-2]; Committees: House - Energy and Commerce

H.R.9303 — To direct the Secretary of Health and Human Services, in consultation with the Secretary of State, to formulate a strategy for the Federal Government to secure support from foreign countries, multilateral organizations, and other appropriate entities to facilitate the development and commercialization of qualified pandemic or epidemic products, and for other purposes; Sponsor: Levin, Mike [Rep.-D-CA-49]; Committees: House - Foreign Affairs

S.5106 — A bill to amend title XVIII of the Social Security Act to ensure Medicare-only PACE program enrollees have a choice of prescription drug plans under Medicare part D; Sponsor: Carper, Thomas R. [Sen.-D-DE]; Committees: Senate – Finance

H.R.9310 — To amend the Public Health Service Act to give the United States Preventive Services Task Force the authority to take early action based on scientific evidence, and for other purposes; Sponsor: Blunt Rochester, Lisa [Rep.-D-DE-At Large]; Committees: House - Energy and Commerce

H.R.9321 — To amend the Public Health Service Act to provide for the development and publication of independent value assessments for drugs, and for other purposes; Sponsor: Speier, Jackie [Rep.-D-CA-14]; Committees: House - Energy and Commerce

H.Res.1483 — Supporting the goals and ideals of National Rural Health Day; Sponsor: Cole, Tom [Rep.-R-OK-4]; Committees: House - Energy and Commerce

H.Res.1485 — Expressing support for the designation of November 17, 2022, as “National Rural Mental Health Day”; Sponsor: Emmer, Tom [Rep.-R-MN-6]; Committees: House - Energy and Commerce; Agriculture

H.Con.Res.115 — Expressing support for the Geneva Consensus Declaration on Promoting Women's Health and Strengthening the Family and urging that the United States be added as a signatory; Sponsor: Banks, Jim [Rep.-R-IN-3]; Committees: House - Foreign Affairs

H.Con.Res.117 — Expressing the sense of Congress that public health professionals should be commended for their dedication and service to the United States on “Public Health Thank You Day”, November 21, 2022; Sponsor: Wittman, Robert J. [Rep.-R-VA-1]; Committees: House - Energy and Commerce

H.R.9328 — To amend title XVIII of the Social Security Act to establish a demonstration program to promote collaborative treatment of mental and physical health comorbidities under the Medicare program; Sponsor: Boyle, Brendan F. [Rep.-D-PA-2]; Committees: House - Energy and Commerce; Ways and Means

H.R.9329 — To amend the Federal Food, Drug, and Cosmetic Act to allow waivers of annual establishment registration fees for small businesses, and for other purposes; Sponsor: Bucshon, Larry [Rep.-R-IN-8]; Committees: House - Energy and Commerce

H.R.9336 — To amend title XIX of the Social Security Act to require coverage under State plans under the Medicaid program for annual lung cancer screening with no cost sharing for individuals for whom screening is recommended by U.S. Preventive Services Task Force guidelines, to expand coverage under Medicaid of counseling and pharmacotherapy for cessation of tobacco use, and for other purposes; Sponsor: Higgins, Brian [Rep.-D-NY-26]; Committees: House - Energy and Commerce; Ways and Means