



## Health Care

---

### What to Watch For

With the change in control in the House, the new Republican majority will likely emphasize its oversight role, including in issues of health care, COVID response, and implementation of the drug negotiation provisions of the Inflation Reduction Act.

#### Prescription Drug Pricing Reform

House Republicans have made it clear that they will focus on modifying the recently enacted drug negotiation law, which is likely to be the focus of oversight hearings in the new congress. Some House Republicans have indicated support for a vote to repeal the new measure, although such attempts would be certain to face a Senate filibuster.

#### Affordable Care Act

The three Committees in the House with jurisdiction over the Affordable Care Act (ACA) (Ways and Means, Energy and Commerce, Education and Labor) will likely evaluate the process and any potential changes to the ACA to ensure there is affordable coverage without excessive oversight. Changes are likely to be proposed to permit more flexibility at the State and local level and reduce the complexity of the three Agency requirements at the federal level.

#### Oversight and Investigations

The House, under Republican leadership, will likely evaluate several health and the Food and Drug Administration (FDA) issues as “oversight” efforts to highlight various irregularities and overreach. The expected areas to be covered include FDA actions in expediting drug approvals, interpreting legal and scientific requirements with bias and CMS actions to continue proposing guidelines in various areas that are not based on law or regulations.

These include:

#### Rural Health Care

The House, under Republican leadership, will raise issues regarding access to health care services in rural America. A majority of the rural hospitals in these communities are having financial difficulties and many individuals are having to

travel distances to obtain appropriate health care services. Given the strength of the rural vote in the election, we anticipate this issue to be a high priority.

### **Medicaid Oversight**

House Republicans will likely evaluate the Medicaid program and State flexibility in establishing programs. There are several States that have not expanded Medicaid because of the cost and some Republicans are likely to seek alternative avenues to permit States to cover certain individuals outside of Medicaid. The Medicaid waiver process, for many States, is complex and will likely be under scrutiny.

### **Health Care Workforce**

The Republican House will likely propose efforts to increase and support education and training for health care professionals because of the shortage of physicians, nurses, and other providers.

### **COVID funding and response**

Incoming Energy and Commerce Chairwoman Cathy McMorris Rodgers (R-WA) has indicated that the committee will focus on the COVID response and lessons learned that can be helpful in addressing the “next” pandemic. One of these focuses will likely be a review of the Centers for Disease Control and Prevention (CDC). The Biden administration has requested \$22 billion for the U.S. and global COVID response. This pending request is unlikely to be funded during the Lame Duck session, and its prospects in 2023 will be even more uphill and will depend upon facts on the ground.

### **Mental Health**

In June the House passed the Restoring Hope for Mental Health and Well-Being Act by a 402-20 vote. The Senate Finance Committee released discussion draft text for segments of a comprehensive mental health bill, but the full package never reached the Senate floor. These issues will be revisited by the new congress.

### **Drug and Device Approvals**

Last June the House passed Food and Drug User Fee Reauthorization legislation. The Senate Health, Education, Labor and Pensions Committee passed its version of the bill later that month, but it did not reach the Senate floor. As a result, a simple extension of user fee authority for drugs, devices, biosimilars, and generics was enacted in September, but other reforms remain pending. These additional reforms may be considered by the new congress. Both bills contained accelerated approval process reforms that need to be negotiated. The House bill also included clinical trial diversity requirements. The Senate committee

product included provisions related to cosmetics, dietary supplements, and authority to regulate laboratory-developed tests, which was in the House version.

### **Lame Duck Issues – Expiring Programs**

Several expiring health programs were given short-term extensions as part of the continuing resolution that funds discretionary programs through Dec. 16. These programs and others that expire at the end of the year are likely to be extended again. These include the following:

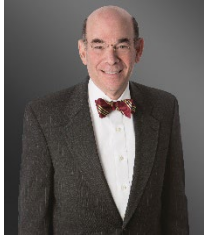
- 4% Medicare sequestration
- Medicare extenders for rural hospitals (Low-volume Hospitals and Medicare Dependent Hospitals)
- Physician fee schedule cuts eliminated 4.4% reduction
- Various Public Health Emergency waivers likely to be extended if Sec. provides the 60-day warning letter – these include telehealth, behavioral and mental health and pandemic preparedness.

### **Congressional Leadership Changes**

The House Energy and Commerce Committee has jurisdiction over public health care programs. Rep. Cathy McMorris Rodgers (R-WA), current Ranking Member, is seen as the most likely person to take over as Chair of the committee, with current Chair Frank Pallone (D-NJ) serving as Ranking Member.

Control of the Senate remains uncertain. Should Democrats retain control of the chamber, Sen. Patty Murray (D-WA) is expected to continue as Chair of the Health, Education, Labor, and Pensions Committee. After current Ranking Member Richard Burr's (R-NC) retirement, Sen. Rand Paul (R-KY) is seen as the most likely candidate to be Chairman if Republicans win a majority.

## Meet the Authors:



**Robert P. Charrow**  
Shareholder  
Washington, D.C.  
202.533.2396  
[charrow@gtlaw.com](mailto:charrow@gtlaw.com)



**Nancy E. Taylor**  
Shareholder  
Washington, D.C.  
202.331.3133  
[taylorn@gtlaw.com](mailto:taylorn@gtlaw.com)



**Robert Mangas**  
Shareholder  
Washington, D.C.  
202.530.8507  
[mangasr@gtlaw.com](mailto:mangasr@gtlaw.com)