



## Health Policy Briefing

December 7, 2020

### California AG Nominated to Lead Health and Human Services; Walensky to Run CDC; Murthy Selected as Surgeon General

President-elect Joe Biden has selected Xavier Becerra, former congressman and current attorney general of California, as his nominee for secretary of the U.S. Department of Health and Human Services (HHS). During his time as attorney general, Becerra has led several legal efforts on health care, including a defense of the Affordable Care Act (ACA) in the current case before the Supreme Court. Before he became attorney general of California in 2017, Becerra served 12 terms in Congress, representing the congressional district containing the city of Los Angeles. While in Congress, he served on the powerful Ways and Means Committee and chaired the House Democratic Caucus.

Biden has chosen Rochelle Walensky, chief of infectious diseases at Massachusetts General Hospital, to serve as Director of the Centers for Disease Control and Prevention (CDC). Walensky is also a professor of medicine at Harvard Medical School. As the leader of the CDC, she will be responsible for supporting the Biden administration’s response to the coronavirus pandemic.

In related news, President-elect Biden selected Dr. Vivek Murthy to serve as his surgeon general. Dr. Vivek currently serves as co-chair of Biden’s COVID-19 Advisory Board. He previously served as Surgeon General for former President Obama. Biden is expected to name additional nominees for his health team later in the week.

### ***New Bipartisan Stimulus Plan Gains Momentum; Congress Likely to Pass a Stopgap CR***

A bipartisan group of lawmakers from the House and Senate have drafted a \$908 billion coronavirus stimulus [plan](#) that they are pushing to pass before the end of the year. The legislation is designed to provide coronavirus relief through March. It includes nearly \$300 billion in support for small businesses

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and the Paycheck Protection Program (PPP), \$160 billion in aid for state and local governments, and \$180 billion to extend pandemic unemployment benefits. Vaccines, testing, and tracing would get \$16 billion, and \$35 billion is allocated to the provider relief fund. An additional \$5 billion would be set aside for opioid treatment. The proposal includes a short-term moratorium on COVID-19 related liability lawsuits.

The proposal is supported by House Speaker Nancy Pelosi (D-Calif.) and Senate Minority Leader Chuck Schumer (D-N.Y.), who have backed down from their prior insistence on a much larger \$2.4 trillion relief bill. They have characterized the bipartisan proposal as the baseline for negotiations with congressional Republicans and the White House. The Democratic leaders hope to combine the relief measure with a fiscal year (FY) 2021 omnibus spending package.

Senate Majority Leader Mitch McConnell (R-Ky.) responded by circulating his own package, a slightly revised update of his previously introduced \$500 billion plan. The bill includes \$333 billion in spending on business subsidies, plus funding for schools, vaccines, and agriculture. It also includes legal liability protections and a one-month extension of pandemic unemployment relief followed by a two-month phase out. Neither proposal has been released in legislative form.

It is not clear whether President Trump would sign any measure beyond the \$500 billion bill proposed by Senate Majority Leader Mitch McConnell (R-Ky.). President-elect Joe Biden has endorsed passage of the \$908 billion package during the lame-duck session as a “down payment” on a more comprehensive bill he wishes to sign into law next year.

Lawmakers are considering the use of a one week stopgap spending bill to avoid a government shutdown when current government funding expires on December 11. The continuing resolution (CR) would provide additional time (through December 18) for negotiators to reach a deal on a full-year spending bill to which coronavirus stimulus relief could be attached. Appropriators had hoped to finish their work by the end this week.

### ***ACIP Makes Recommendations for COVID Vaccine Prioritization; Other Key Vaccination Plans***

The Centers for Disease Control and Prevention’s (CDC) Advisory Committee on Immunization Practices (ACIP) has made its formal recommendations for determining the allocation of an eventual coronavirus vaccine, deciding that health care workers and residents of long-term care facilities should be first in line to receive the vaccine. The recommendations for phase 1a of vaccine distribution passed by a vote of 13-1. On [Thursday](#), CDC Director Robert Redfield accepted the recommendations, making them officially CDC guidance. ACIP will discuss other high-priority groups – phase 1b – later this month, after the FDA reviews the emergency use authorization (EUA) for its first vaccine and late-stage trial data is available for review. The panel expects most jurisdictions to be able to vaccinate every health care worker within three weeks of receiving initial vaccine doses. The first doses will be targeted toward those with direct patient contact.

The Food and Drug Administration (FDA) is targeting authorization of the Pfizer/BioNTech and Moderna vaccines about a week after they are reviewed by the agency’s advisory committee. The Pfizer/BioNTech vaccine will be reviewed by the advisory panel on December 10, followed by Moderna’s vaccine on December 17. A CDC official told ACIP that there will likely be 5 to 10 million doses a week once a vaccine is authorized. The first shipments of Pfizer’s vaccine could be delivered as early as December 15, while the first shipment of Moderna’s vaccine could be delivered on December 22.

States will still have the authority to make their own prioritizations in determining their vaccine distribution plans. Some states have decided to defer to health care providers about who should receive the initial doses of coronavirus vaccine, arguing that hospitals and the health care industry best understand the populations most at risk for the virus. Kentucky, Mississippi, and New York are asking hospitals to develop a tiering system to decide which employees will be first to receive the vaccine.

## ***Lawmakers Push to Make Telehealth Changes Permanent; Other Telehealth Information***

A bipartisan, bicameral group of more than four dozen lawmakers have sent a [letter](#) to congressional leadership calling for legislation to make permanent expanded coverage of Medicare telehealth services. The letter argues that extending temporary coverage expansions instituted in response to the COVID-19 pandemic would provide much-needed certainty about Medicare telehealth coverage for health care providers and improve access to care for patients. The letter was led by Sen. Brian Schatz (D-Hawaii). The members of congress express support for the inclusion of immediate action to permanently waive geographic restrictions for originating sites, authorize health centers in rural and underserved areas to provide telehealth, and to allow beneficiaries to use telehealth in their homes in end of the year legislation.

In related news, the U.S. Department of Health and Human Services (HHS) has decided that telehealth services can be offered across state lines during the COVID-19 public health emergency (PHE), regardless of state and local regulations. The [declaration](#), which was made under the Public Readiness and Emergency Preparedness Act (PREP Act), gives immunity to health care providers using treatments authorized by the Food and Drug Administration (FDA) to combat COVID-19. It also expands the number of providers able to administer vaccines by modifying and clarifying the training requirements for pharmacists, pharmacy interns, and pharmacy technicians pursuant to the PREP Act.

## ***Ways and Means Dems Call for Rescinding of Retrospective Regulatory Review***

Democratic leadership of the House Ways and Means Committee have sent a [letter](#) criticizing a regulation from the U.S. Department of Health and Human Services (HHS) that would require older regulations to be reviewed or automatically expire. “This sweeping and improper change would waste resources, undermine smooth program operation, and force the next administration to divert resources away from addressing the COVID-19 pandemic,” Health Subcommittee Chair Lloyd Doggett (D-Texas), Oversight Subcommittee Chair Bill Pascrell (D-N.J.), and Worker and Family Support Subcommittee Chair Danny Davis (D-Ill.) write. They ask Secretary Alex Azar to immediately rescind the notice of proposed rulemaking (NPRM).

## ***Democratic Staff Report on COVID-19 in Behavioral Health Centers***

House Oversight and Reform Chair Carolyn Maloney (D-N.Y.), Rep. Katie Porter (D-Calif.), and Sen. Elizabeth Warren (D-Mass.) have released a staff [report](#) investigating coronavirus outbreaks in behavioral health and addiction treatment programs. The probe found that 14 percent of facilities had experienced COVID-19 outbreaks of 10 or more cases, which is comparable to the rate of infection for the general population. The report expresses concerns, however, about the limited testing capabilities in such facilities.

## ***Sen. Kelly Sworn In***

Arizona Democrat Mark Kelly has been sworn in as a member of the Senate following his victory over incumbent Sen. Martha McSally (R-Ariz.) in the state’s special election in November. Kelly narrows the chamber’s Republican majority during the lame-duck session to 52-48. Kelly is a former astronaut and retired Navy captain and the husband of former Arizona Congresswoman Gabby Giffords.

## ***House of Representatives 2021 Schedule***

House Majority Leader Steny Hoyer (D-Md.) released the schedule for the House of Representatives for the first session of the 117th Congress. The schedule continues the use of committee work days, which were created earlier this year to facilitate the House’s work during the pandemic. The House is scheduled to have 101 voting days and 59 committee work days. On the first day of each week, votes will occur in the House at 6:30 p.m. The last votes of the week will not occur after 3:00 p.m. The House is scheduled to convene on January 3, 2021. View the schedule for the U.S. House of Representatives for calendar year 2021 [here](#).

### ***House Committee Leadership for 117th Congress***

House Democrats and Republicans have selected their committee [chairs](#) and [ranking members](#) for the 117th Congress. The positions were ratified by the full party conferences following recommendations from each respective steering committee. Rep. Frank Pallone (D-N.J.) will remain the chairman of the Energy and Commerce Committee, while Rep. Cathy McMorris Rodgers (R-Wash.) was selected as Energy and Commerce ranking member. McMorris Rodgers was in competition with Reps. Michael Burgess (R-Texas) and Bob Latta (R-Ohio) for the position. She will replace outgoing Ranking Member Greg Walden (R-Ore.), who is retiring at the conclusion of the 116th Congress. Rep. Rosa DeLauro (D-Conn.) will begin chairing the Appropriations Committee next year. DeLauro was in competition with Reps. Debbie Wasserman Schultz (D-Fla.) and Marcy Kaptur (D-Ohio) for the position. She will likely remain chairwoman of the Labor-Health and Human Services-Education Subcommittee as well.

### ***GAO Releases Latest Report on COVID-19***

The Government Accountability Office (GAO) has released a [report](#) detailing the concerns of many states that they will not have adequate supplies to administer an eventual COVID-19 vaccine. The report also details the issues states continue to face regarding a deficit of testing materials. The GAO makes recommendations for states to ensure an adequate supply of coronavirus testing and personal protective equipment (PPE), improve safety in nursing home settings, and to make decisions around vaccines and public-health guidance more transparent. The report makes 11 recommendations and one suggestion for Congress to consider.

### ***CDC Updates Coronavirus Guidance***

The Centers for Disease Control and Prevention (CDC) has updated its [guidance](#) to reduce the quarantine time for individuals exposed to the coronavirus. The agency previously recommended that people who have been exposed should stay home for 14 days after their last contact with a COVID-19 positive individual. The new recommended quarantine time would be seven days for those who test negative (with the test performed on day 5 after exposure or later), and 10 days for those who do not take a test. The CDC also issued new [guidance](#) recommending universal face mask use to mitigate the impact of COVID-19, as well as [guidelines](#) for reducing travel risks.

### ***HHS Issues Regulation on Significant Guidance Documents***

The U.S. Department of Health and Human Services (HHS) has finalized a [rule](#) in line with current law underscoring that regulatory guidance cannot impose binding legal obligations. Under the final rule, HHS must publish significant guidance documents – those with an annual effect of at least \$100 million on the economy, or those raising a new legal or policy issue – through notice-and-comment rulemaking. Guidance must include certain uniform information, including the entities to which it applies, the issue date, and the applicable statutes or regulations. All guidance documents will be posted in an online, searchable portal, and those guidances that are not included in the portal within 30 days of publication of the rule will be considered rescinded. The Department will also establish a process through which to petition the correction of unlawful guidance.

### ***COVID-19 Cases in Congress and the Administration***

Three members of congress announced that they tested positive for COVID-19 this week: Reps. Austin Scott (R-Ga.), Ted Budd (R-N.C.), and Robert Aderholt (R-Ala.). In addition, Rudy Giuliani has tested positive for COVID-19. He has been leading President Trump's legal challenges related to the election.

## Hart Health Strategies COVID-19 Resources

Hart Health Strategies Inc. continues to update the following resources related to the coronavirus pandemic. Please remember to clear your cache to ensure you download the most recent documents.

- [COVID-19 Testing](#)
- [Disaster Primer](#)
- [Federal Relief Overview](#)
- [Health Care Workers on the Front Lines](#)
- [Hospice and Palliative Care](#)
- [Nursing Resources](#)
- [Personal Protective Equipment](#)
- [Physician Provisions](#)
- [Re-Opening America](#)
- [Small Business Resources](#)
- [Small Business - Paycheck Protection Program](#)
- [Small Business - PPP FAQ](#)
- [State Resources](#)
- [Tax Provisions](#)
- [Telehealth Overview](#)

## Upcoming Congressional Hearings and Markups

**House Veterans' Affairs Subcommittee on Economic Opportunity hearing "Identifying Congressional and Administration Priorities for the Next Congress: How we can support our Veterans through and after COVID-19;" 10:00 a.m., remote; December 8**

**Senate Homeland Security and Governmental Affairs Committee hearing "Early Outpatient Treatment: An Essential Part of a COVID-19 Solution, Part II;" 10:00 a.m., 342 Dirksen Bldg.; December 8**

**Senate Veterans' Affairs Committee hearing "VA's Response to COVID-19 across the VA Enterprise;" 10:00 a.m., G50 Dirksen Bldg.; December 9**

**Senate Commerce, Science, and Transportation Committee hearing "The Logistics of Transporting a COVID-19 Vaccine;" 9:30 a.m., 253 Russell Bldg.; December 10**

**Senate Homeland Security and Governmental Affairs Subcommittee on Investigations hearing "Combatting the Opioid Crisis: Oversight of the Implementation of the STOP Act;" 10:00 a.m., 342 Dirksen Bldg.; December 10**

**Senate Small Business and Entrepreneurship hearing "Small Business in Crisis: The 2020 Paycheck Protection Program and its Future;" 10:00 a.m., 301 Russell Bldg.; December 10**

## Recently Introduced Health Legislation

**H.R.8826 — To amend the IMPACT Act of 2014 to reset data collection and the development of a payment system technical prototype for post-acute care providers under the Medicare program to take into account the effects of COVID-19; Sponsor: Rep. Sewell, Terri A. [D-AL-7]; Committees: House - Energy and Commerce; Ways and Means**

**S.4930 — A bill to amend the Elementary and Secondary Education Act of 1965 to improve mental health services for students, and for other purposes; Sponsor: Sen. Kennedy, John [R-LA]; Committees: Senate - Health, Education, Labor, and Pensions**

*S.Res.780 — A resolution designating November 2020 as “National Lung Cancer Awareness Month” and expressing support for the early detection of lung cancer; Sponsor: Sen. Smith, Tina [D-MN]; Submitted in the Senate, considered, and agreed to without amendment and with a preamble by Unanimous Consent.*

*S.Res.781 — A resolution supporting the goals of World AIDS Day; Sponsor: Sen. Booker, Cory A. [D-NJ]; Committees: Senate - Foreign Relations*

*S.4932 — A bill to amend title XVIII of the Social Security Act to ensure appropriate global surgical package code values in the Medicare program; Sponsor: Sen. Paul, Rand [R-KY]; Committees: Senate – Finance*

*H.Res.1244 — Providing for consideration of the bill (H.R. 3884) to decriminalize and deschedule cannabis, to provide for reinvestment in certain persons adversely impacted by the War on Drugs, to provide for expungement of certain cannabis offenses, and for other purposes; Sponsor: Rep. McGovern, James P. [D-MA-2]; Committees: House – Rules*

*H.Res.1245 — Expressing the sense of the House of Representatives regarding prioritizing the COVID-19 vaccine for members of the military; Sponsor: Rep. DesJarlais, Scott [R-TN-4]; Committees: House - Energy and Commerce*

*H.R.8834 — To amend title XVIII of the Social Security Act to extend and improve the Independence at Home Medical Practice Demonstration Program under the Medicare program; Sponsor: Rep. Dingell, Debbie [D-MI-12]; Committees: House - Energy and Commerce; Ways and Means*

*H.R.8836 — To amend title XIX of the Social Security Act to prohibit estate recovery from certain expansion individuals under the Medicaid program; Sponsor: Rep. King, Steve [R-IA-4]; Committees: House - Energy and Commerce*

*H.R.8840 — To amend the Coronavirus Aid, Relief, and Economic Security Act to extend the temporary suspension of Medicare sequestration, and for other purposes; Sponsor: Rep. Schneider, Bradley Scott [D-IL-10]; Committees: House – Budget*

*S.Res.783 — A resolution designating November 2020 as “National Hospice and Palliative Care Month;” Sponsor: Sen. Rosen, Jacky [D-NV]; Submitted in the Senate, considered, and agreed to without amendment and with a preamble by Unanimous Consent.*

*S.Res.784 — A resolution supporting the goals and ideals of American Diabetes Month; Sponsor: Sen. Shaheen, Jeanne [D-NH]; Submitted in the Senate, considered, and agreed to without amendment and with a preamble by Unanimous Consent.*

*S.Res.785 — A resolution expressing support for the goals of Stomach Cancer Awareness Month; Sponsor: Sen. Young, Todd [R-IN]; Submitted in the Senate, considered, and agreed to without amendment and with a preamble by Unanimous Consent.*

*S.4944 — A bill to amend title XI of the Social Security Act to improve access to care for all Medicare and Medicaid beneficiaries through models tested under the Center for Medicare and Medicaid Innovation, and for other purposes; Sponsor: Sen. Booker, Cory A. [D-NJ]; Committees: Senate – Finance*

*S.4945 — A bill to improve end-of-life care; Sponsor: Sen. Blumenthal, Richard [D-CT]; Committees: Senate - Health, Education, Labor, and Pensions*

*S.4949 — A bill to require the Secretary of Health of Human Services to publish guidance for States on strategies for maternal care providers participating in the Medicaid program to reduce maternal mortality and severe morbidity with respect to individuals receiving medical assistance under such program; Sponsor: Sen. Toomey, Pat [R-PA]; Committees: Senate – Finance*

*S.4952 — A bill to establish a grant program to expand the domestic production of certain medical supplies; Sponsor: Sen. Ernst, Joni [R-IA]; Committees: Senate - Health, Education, Labor, and Pensions*

*H.Res.1249 — Expressing support for frontline workers, residents of long-term care facilities, individuals with preexisting conditions, and K-12 educators to receive priority access to a COVID-19 vaccine; Sponsor: Rep. Walberg, Tim [R-MI-7]; Committees: House - Energy and Commerce*

*H.R.8845 — To amend title XVIII of the Social Security Act to provide for Medicare coverage of multi-cancer early detection screening tests; Sponsor: Rep. Sewell, Terri A. [D-AL-7]; Committees: House - Energy and Commerce; Ways and Means*

*H.R.8861 — To permit Centers for Disease Control and Prevention-recognized virtual diabetes prevention program suppliers to be included in the Medicare Diabetes Prevention Program Expanded Model conducted by the Center for Medicare and Medicaid Innovation under section 1115A of the Social Security Act (42 U.S.C. 1315a); Sponsor: Rep. Rice, Tom [R-SC-7]; Committees: House - Energy and Commerce; Ways and Means*

*H.R.8867 — To amend title 38, United States Code, to prohibit the Secretary of Veterans Affairs from conducting medical research causing significant pain or distress to cats; Sponsor: Rep. Titus, Dina [D-NV-1]; Committees: House - Veterans' Affairs*

*S.4957 — A bill to provide for an emergency increase in Federal funding to State Medicaid programs for expenditures on home and community-based services; Sponsor: Sen. Casey, Robert P., Jr. [D-PA]; Committees: Senate - Finance*

*S.4958 — A bill to provide for a vaccine safety public awareness campaign; Sponsor: Sen. Portman, Rob [R-OH]; Committees: Senate - Health, Education, Labor, and Pensions*

*S.4959 — A bill to increase transparency and access to group health plan and health insurance issuer reporting, and for other purposes; Sponsor: Sen. Braun, Mike [R-IN]; Committees: Senate - Health, Education, Labor, and Pensions*