

The background of the page is a close-up, slightly blurred image of the American flag, showing the stars and stripes. The stars are white on a blue field, and the stripes are red and white.

The 111th Congress is ready to tackle health care issues

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The 111th Congress was sworn in and began work on January 6. This article identifies newly elected legislators and their respective positions on health care issues. In addition, it provides an overview of the specific concerns that these individuals and their more senior colleagues are likely to address this year.

The Senate

As a result of the November 2008 election, nine outgoing senators were replaced with seven Democrats and two Republicans, while five seats were left open or unfilled. At press time, the Senate was composed of 56 Democrats, 41 Republicans, and two Independents. Many of the new members ascended from the House of Representatives, and all have taken a position on issues that affect health care delivery, education, and access. In Alaska, **Mark Begich (D)** defeated incumbent Ted Stevens (R). Senator Begich focused on providing affordable student loans for Alaska's college and vocational-technical students when he was chair of the Alaska Student Loan Corporation. Senator Begich has been appointed to the Senate Commerce and Armed Services Committees.

Mark Udall (D) of Colorado succeeded retiring Sen. Wayne Allard (R). Environmental and energy issues will drive much of Senator Udall's agenda, as they did during his five terms in the House. Senator Udall will serve on the Senate Armed Services Committee and on the Committee on Energy and Natural Resources.

Jim Risch (R) succeeded retiring Sen. Larry Craig (R) of Idaho. Before his bid for national office, Senator Risch served the state of Idaho for more than 30 years. Senator Risch believes innovation and technology make for high-quality health care and, as governor, he created a task force to deliver more well-educated nurses with strong technology skills to the medical profession.

In Nebraska, **Mike Johanns (R)** succeeded retiring Sen. Chuck Hagel (R). Senator Johanns has had a long career in executive service as a mayor, as the governor of Nebraska, and as U.S. Secretary of Agriculture under former President George W. Bush. He supports a permanent tax credit for research and development.

Jeanne Shaheen (D) of New Hampshire defeated incumbent John Sununu (R). Senator Shaheen served as governor of New Hampshire from 1997 to 2003 and has identified health care as a top priority. She hopes to offer Americans more access to preventive care and investment in health care technology. As a small business owner, Senator Shaheen also is concerned about the ability of small businesses to provide health care coverage to their employees.

Tom Udall (D) of New Mexico succeeded retiring Sen. Pete Domenici (R). A five-term U.S. House member, Senator Udall has been a champion for universal health care and supports the concept of allowing uninsured Americans older than age 55 to buy into Medicare at a fixed cost. He also maintains that small businesses should be allowed to buy into the federal employee benefit package. Senator Udall serves on the Senate Commerce Committee.

In North Carolina, **Kay Hagan (D)** defeated incumbent Elizabeth Dole (R). Senator Hagan previously served in the North Carolina Senate, where she attained extensive experience in working on budget issues. With respect to health care reform issues, Senator Hagan favors allowing reimportation of prescription drugs to cut prices. She also believes Congress should reauthorize and strengthen the State Children's Health Insurance Program (SCHIP) and expand it to cover mental health care. She supports programs aimed at encouraging small businesses to provide health care coverage to their employees, including enabling small firms to pool coverage and providing tax credits for premiums.

In Oregon, **Jeff Merkley (D)** defeated incumbent Gordon Smith (R). Senator Merkley is Oregon's former House Speaker and is a former Congressional Budget Office analyst. Citing a deep interest in health care that he shares with his wife, a registered nurse, he has been awarded a seat on the powerful Health, Education, Labor, and Pensions (HELP) Committee.

The seat vacated by retiring Virginia Sen. John Warner (R) of Virginia will be filled by **Mark Warner (D)**. A popular governor from 2002 to 2006, Senator Warner has said he wants to build coalitions of both parties in the Senate and intends to exhibit the same bipartisan impulses as he did in Richmond. He has been appointed to the Senate Commerce Committee.

When the Congress began its work on January 6, several Senate seats were still vacant. After considerable debate over his appointment by Illinois Gov. Rod Blagojevich (D), who has been accused of trying to appoint President Barack Obama's vacated Senate seat based on what he could get in exchange, Roland Burris (D) was officially sworn in on January 15. Two senators, Hillary Clinton of New York and Ken Salazar of Colorado, have resigned their seats in order to serve in Obama's cabinet: Senator Clinton as Secretary of State and Senator Salazar as Secretary of the Interior. New York Gov. David Paterson (D) appointed Rep. Kirsten Gillibrand (D-NY-20), a member of the moderate Blue Dog Coalition from upstate, to replace former Senator Clinton, and Colorado Gov. Bill Ritter, Jr., announced that he had chosen Michael Bennet (D), Denver Public Schools Superintendent, to replace former Senator Salazar. In addition, based on recount results, Al Franken (D) claimed victory against incumbent Sen. Norm Coleman (R) of Minnesota, but, at press time, Mr. Coleman was challenging the results in a lawsuit. And in Delaware, Vice-President Joseph Biden's Senate seat has been filled by Ted Kaufman (D), who previously served as Senator Biden's chief of staff. Kaufman will serve a special two-year term and has announced he will not run again for the seat in 2010.

In addition, Sen. John Barrasso, MD (R-WY), won reelection; Tom Coburn, MD (R-OK), was not up for reelection.

The House

In the House of Representatives, Democrats now occupy 256 seats, having gained 21 seats in the 2008 election. Republicans, who suffered losses in the election, occupy 178 seats. At press time, one House seat remained vacant as a result of Democrat Rahm Emanuel (IL-5) becoming Chief of Staff to President Obama.



Representative Cassidy



Representative Fleming



Representative Griffith



Representative Roe

Of note, with the incoming freshman class of 54 members and two delegates, four physicians were added to the chamber.

A board-certified radiation oncologist and businessman, **Parker Griffith, MD (D-AL-5)**, was elected to fill the seat held by retiring Rep. Bud Cramer (D-AL). Representative Griffith received his medical degree from the Louisiana State University (LSU) Medical School and completed his residency at the University of Texas. After spending much of his career treating cancer patients, Dr. Griffith plans to focus his efforts in government service on access to and affordability of health care. A former Alabama senator, he won the early endorsement of the Blue Dog Coalition, a group of fiscally responsible, moderate Democrats in the House that are a forceful voting block.

A hepatologist from Baton Rouge, **Bill Cassidy, MD (R-LA-6)**, defeated incumbent Don Cazayoux (D) in one of five seats that Republicans picked up from Democrats. Dr. Cassidy, whose wife is a surgeon, is an associate professor of medicine at LSU Health Science Center, Baton Rouge, and teaches at Earl K. Long Hospital. Dr. Cassidy has said that any solution to the health care crisis must address access, cost, and quality. He advocates portable insurance, increased competition among insurers, and the establishment of insurance pools to expand choices for consumers. In the days following Hurricane Katrina, he led a group of volunteers to convert an abandoned building into a makeshift field hospital where several hundred evacuees were treated.

An obstetrician-gynecologist who has delivered more than 5,000 babies in his 31 years of practice, **David “Phil” Roe, MD (R-TN-4)**, received his medical degree from the University of Tennessee, Knoxville. He defeated incumbent David Davis in the Republican primary. Dr. Roe wants to draw attention to health risks, such as obesity and smoking, and to improve access to care without adding to physicians’ regulatory burdens. His district houses several drug manufacturers and a major medical hub at East Tennessee State University, Johnson City.

Family physician, author, and businessman **John Fleming, MD (R-LA-4)**, has been elected to replace retiring Rep. Jim McCrery (R). Representative Fleming received his bachelor of science and medical degrees at the University of Mississippi at Oxford. He served in the U.S. Navy to help fund his medical education and in 2006 his book, *Preventing Addiction: What Parents Must Know to Immunize Their Kids Against Drug and Alcohol Addiction*, was published. He served on Republican Gov. Bobby Jindal’s transition team and on the governor’s advisory council on social services, providing advice on health care issues.

These four physician-legislators join reelected House incumbents Vic Snyder, MD (D-AR); Tom Price, MD (R-GA); Paul Broun, MD (R-GA); Phil Gingrey, MD (R-GA); Charles Boustany, MD (R-LA); Ron Paul, MD (R-TX); Michael Burgess, MD (R-TX); Jim McDermott, MD (D-WA); and Steve Kagen, MD (D-WI).

Issues to be addressed

The top health care issues likely to emerge in the 111th Congress pertain to reauthorizing and expanding SCHIP, improving access to health coverage for all Americans, and overhauling Medicare. Late in the last congressional session, the Bush Administration and congressional Democrats came to agreement on the continuing resolution funding measure, avoiding a shutdown of the federal government at the start of the 2009 fiscal year (FY) on October 1, 2008. This legislation provides funding for many federal programs, including the National Institutes of Health and Title VII health professions education, through March 6, 2009. The 111th Congress is likely to increase funding for all of these programs when the appropriations process begins early in the 2009 legislative session.

Indeed, by press time, the House had already passed SCHIP legislation, providing a temporary extension of the program, which was set to expire in April. The new legislation raises the income threshold for eligibility. In the 110th Congress, Democrats could not garner enough votes to overcome the Bush veto of legislation that would have increased the eligibility cap for SCHIP from 200 percent of the federal poverty level to 300 percent. With the new Administration in place, this expansion is much more likely to occur. Extension of coverage through the SCHIP program will help to ensure that many of the 46 million Americans without health insurance are covered.

In addition, several prominent members of Congress and the Obama Administration have been drafting proposals that would provide patients with options for obtaining access to affordable health care. Senate Finance Committee Chairman Max Baucus (D-MT) released his plan as a white paper at the end of 2008. It is anticipated that Senate HELP Committee Chairman Edward Kennedy (D-MA) will release a plan as well.

Another issue that Congress is likely to consider is Medicare physician reimbursement rates. Last summer, the Congress voted to override President Bush's veto of the Medicare Improve-

ments for Patients and Providers Act (MIPPA), which included a physician payment "fix." Without congressional intervention, physicians faced a 10.6 percent reduction in Medicare payments retroactive to July 1, 2008, and additional projected cuts of 5.4 percent cut in 2009. MIPPA replaced these cuts, extending through December 31, 2008, the 0.5 percent conversion factor bonus that expired June 30, and established a 1.1 percent update for 2009.

Whereas congressional action averted these cuts for 18 months, physicians face a 22 percent cut in reimbursement starting in January 1, 2010. Though all-encompassing reforms are being discussed, the costs are high. Another "temporary" solution would cost an estimated \$20 billion. The 111th Congress is hoping to enact numerous changes to the Medicare program, including modifications to the Part D benefit, such as prescription drug price-negotiating authority, extension of the therapy cap exceptions process, and cuts to Medicare Advantage plans to reimbursement with fee-for-service rates. It may be necessary to attach these initiatives to the must-pass legislation that halts the physician payment cuts.

It is estimated that the FY 2009 deficit may well exceed \$1 trillion, compared with \$407 billion in 2008 and \$162 billion in 2007. The new Administration and Congress also will have to deal with the cost of continuing the wars in Iraq and Afghanistan and the expiration of the 2001 and 2003 tax cuts, possibly limiting the ability to move forward rapidly on health system reform.

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In anticipation of actions that might be carried out in the 111th Congress and through the incoming Obama Administration, the American College of Surgeons released a comprehensive policy statement to help frame the debate. In this comprehensive Statement on Health Care Reform,* the College calls on policymakers to support an approach that improves access to safe,

*The statement was published on pages 5–9 of the December 2008 *Bulletin*. It may also be viewed at <http://www.facs.org/ahp/hcreform08.pdf>.

high-quality, and affordable surgical care. The College takes a shared responsibility approach in its policy statement and recommends that all stakeholders work together to build a better health care delivery system, embracing policy initiatives that will accomplish the following goals:

- Help eliminate disparities in surgical care by expanding the National Health Service Corps to include surgeons. The College believes that doing so will help increase public service and also assist surgeons with medical school debt.
- Support and help fund a national health workforce database to identify areas with little or no access to surgical care.
- Explore alternative methods for paying for health care to ensure the presence of an adequate and robust surgical workforce over time by working with the ACS to develop a demonstration program.
- Reduce medical errors, improve safety, provide patients with higher-quality care, and potentially reduce the incidence of medical liability cases by partnering with the College and the surgical community to test surgical and patient safety initiatives.

In addition, the statement outlines related activities that the College is committed to undertaking to meet its policy objectives. These commitments include providing better educational and quality measurement resources and opportunities, promoting health information technology among the surgical community, and developing better patient safety standards to help reduce medical errors.

Furthermore, the ACS and many surgical specialty organizations have compiled a united agenda regarding long-term Medicare payment reform. This agenda includes the following:

- Repealing the current sustainable growth rate (SGR) and establishing a new baseline for the physician payment system
- Replacing the current SGR with a system of multiple conversion factors based on category of service, similar to the approach that was included in the Children's Health and Medicare Protection Act
- Ensuring that any additional payments that are made to primary care physicians are not taken from payments made to surgeons

Much of the legislative agenda will be influ-

enced by the personalities and priorities of committee chairmen. At the beginning of the 111th Congress, there are still some unanswered questions. On the powerful House Energy and Commerce Committee, for instance, Henry Waxman (D-CA) successfully ousted former Chairman John Dingell (D-MI), who had headed that committee for 16 years. Also unknown is how the House Energy and Commerce Committee and the House Ways and Means Committee, which have a history of friction and that both handle Medicare issues, will share jurisdiction.

Of concern is that Senator Kennedy continues to face serious personal health issues that may hinder him from taking an aggressive role in shaping policy. In addition, changes in the leadership and makeup of the Appropriations Committees could affect funding for health care research and other priorities.

Despite these challenges, President Obama's Administration will enjoy a honeymoon period, during which there will be the opportunity to set the agenda and tone in Washington. The close collaboration and smooth transition between the Bush and Obama Administrations and the depth of experience in the new White House team—which includes veterans of the Clinton Administration—indicate that the new President will have the ability to take advantage of the early months of his Administration.

The 111th Congress will most certainly bring congressional hearings on aspects of health system reform, the release of reform proposals by committees of jurisdiction, bill introductions, policy papers, and outside coalition activities. However, the difficult budget situation could delay enacting comprehensive health reform efforts until 2010 or later. Nonetheless, the 111th Congress will undoubtedly have a heavy health care agenda. In fact, it could well be quite robust. Congress will no longer face a Presidential veto threat that previously halted efforts to significantly modify both the public and private sector of health care. With this new revelation will most certainly come many new activities, and many opportunities for the ACS to participate in the reform debate. □