

## **American Public Health Association Legislative Updates December 2016**

### **Send a message to Congress to protect public health**

[Tell Congress to adequately fund federal public health programs](#)  
[Tell Congress to pass common-sense measures to reduce gun violence](#)  
[Protect child nutrition programs](#)  
[Tell Congress to Protect the Clean Air Act!](#)  
[Climate change is a public health issue!](#)  
[Support the Affordable Care Act](#)  
[Support the Prevention and Public Health Fund!](#)  
[Tell Congress to support paid sick leave](#)

### **2016 election results: Trump wins presidency, minor shifts in Congress**

With Donald Trump's election, public health advocates are likely to face a number of significant challenges should the president-elect act on several of the promises he made during the campaign. At the top of Trump's list is repealing the Affordable Care Act. In the short term, APHA and Affiliate members can show their support for the ACA by [sending a message to their members of Congress in support of the ACA](#) and by signing the [Families USA petition](#) urging the Trump administration and congressional leaders to uphold the gains made under the historic health law.

In Congress, Democrats picked up two seats in the U.S. Senate, bringing the balance to 51 Republicans and 48 Democrats. One remaining Senate race in Louisiana will be decided in a Dec. 10 runoff election. Sen. Chuck Schumer, D-N.Y., was elected as Minority Leader by Democrats in the Senate, and Sen. Mitch McConnell, R-Ky., will remain as Senate Majority Leader. In the House, Rep. Rodney Frelinghuysen, R-N.J., was selected to chair the House Appropriations Committee, while Rep. Nita Lowey, D-N.Y., will remain the committee's ranking Democratic member. At the House Energy and Commerce Committee, Republicans chose Rep. Greg Walden, R-Ore., as the new chair of the committee replacing outgoing chair, Fred Upton, R-Mich., Rep. Frank Pallone, D-N.J., will remain as the committee's ranking Democrat. Leadership of the Senate Health, Education, Labor and Pensions Committee will also remain intact with Sen. Lamar Alexander, R-Tenn., chairing the committee and Sen. Patty Murray, D-Wash., serving as the committee's ranking Democrat.

In addition, the president-elect has announced he will nominate Rep. Tom Price, R-Ga., the current House Budget Committee chairman, to be the next secretary of Health and Human Services. The HHS secretary has oversight of federal agencies including the Centers for Medicare and Medicaid Services, the Centers for Disease Control and Prevention and the Health Resources and Services Administration. Price's past voting record is troubling to public health advocates as he has voted in support of repealing the Affordable Care Act, in support of block granting the Medicaid program, against expanding the Children's Health Insurance Program and in support of cutting funding for nondefense discretionary programs, which includes public health funding. His nomination must be approved by the full Senate next year before he can be formally appointed to the position.

### **Congressional leaders defer to incoming Trump administration with planned extension of continuing resolution**

Congressional leaders, at the request of the incoming Trump administration, are planning to extend the current continuing resolution that is set to expire on Dec. 9. House and Senate Republican leaders have floated the idea of extending the current funding measure into sometime in the spring of 2017, rather than completing work on a 2017 omnibus spending bill that would run through the end of the 2017 fiscal year. [APHA and other advocates have urged Congress to pass a full year spending bill for health programs](#), rather than relying on a continuing resolution.

APHA joined other health partners in weighing in on a number of appropriations-related public health issues that could arise during the development of a CR or longer-term funding bill. First, APHA joined with the American Lung Association, American Academy of Pediatrics and others urging [President Obama](#) and [leaders in Congress](#) to ensure adequate funding for the U.S. Environmental Protection Agency and to reject any dangerous policy riders to weaken or delay clean air protections and threaten public health. APHA also joined with the National WIC Association, American Academy of Pediatrics and others in [urging Congress](#) to reject the inclusion of any policy changes in FY 2017 funding measures that would dictate the content of the WIC food packages. The groups stated that any such action would undermine the scientific judgment of our nation's leading nutrition science experts.

### **APHA and ACOG file brief in support of Planned Parenthood**

APHA and the American College of Obstetricians and Gynecologists joined efforts to file a [friends-of-the-court brief](#) in the U.S. Court of Appeals for the Eighth Circuit to provide additional insight about the critical reproductive health issues at stake in the Planned Parenthood of Arkansas & Eastern Oklahoma case. In 2015, Arkansas enacted the Arkansas Abortion-Inducing Drugs Safety Act. The measure requires the provider of medication abortions to have a signed contract with a doctor who agrees to handle complications. The doctor must have admitting privileges at a hospital designated to handle emergencies associated with the use of the abortion pill. As a result of the requirement, the law would likely eliminate medication abortion entirely in the state. Surgical abortion would be the only procedure available in Arkansas and would limit abortion care in the state to a single facility located in Little Rock.

Planned Parenthood is challenging the admitting privileges restriction. APHA and ACOG support the challenge and urged the court to affirm the district court's decision issuing a preliminary injunction preventing the enforcement of the contracted physician requirement. APHA and ACOG argue in the brief that access to reproductive health services, including abortion, is critical to a fully functioning public health system, and that the contracted physician requirement injures public health by imposing medically unnecessary restrictions on abortion care.

### **Congress raids the prevention fund to pay for Cures**

The House overwhelming passed a \$6.3 billion medical innovation package known as the 21st Century Cures Act by a vote of [392-26](#). The legislation intends to accelerate the development and distribution of new drugs and medical devices. Additionally, the package includes language to improve the nation's mental health system and to provide \$1 billion over two years to the

states to help address the opioid epidemic. Over the next decade, the bill would provide the National Institutes of Health \$1.5 billion for the Precision Medicine Initiative to develop individualized care, \$1.8 billion for the cancer “moonshot” initiative to accelerate cancer research and \$1.5 billion for the Brain Research through Advancing Innovative Neurotechnologies Initiative to advance our understanding of the human brain. The bill would also provide \$500 million over 10 years to the Food and Drug Administration to implement changes at the agency, including FDA’s oversight of drugs, devices and biologics. The bill would be paid for by redirecting money from the Prevention and Public Health Fund – drawing \$3.5 billion from the fund over the next seven years – and by selling 25 million barrels of oil from the Strategic Petroleum Reserve. While the package would be fully offset, the funding would need to be allocated every year through the annual appropriations process.

APHA has been a vocal supporter of the prevention fund and strongly [opposed](#) the action by Congress to use the fund to offset the cost of the package. The fund was created in 2010 under the Affordable Care Act to expand and sustain national investment in prevention and public health programs to improve health and slow the rise of health care costs. This is not the first time Congress has used the prevention fund to pay for other issues than what was originally intended. In 2012, Congress passed legislation that cut the fund by \$6.25 billion over nine years (FYs 2013-2021) to offset a scheduled cut to Medicare physician payments. Additionally, the fund has been cut every year by sequestration since FY 2013.

The Senate is expected to vote on and pass the Cures bill early next week. The White House has issued an official statement in strong support of the bill, signaling the president’s intent to sign the bill into law.

Join APHA in opposing the use of the fund as an offset for the Cures bill or any other unintended purpose through [APHA’s action alert](#).

### **Tobacco prevention and cessation advocates weigh in**

APHA joined other tobacco prevention and cessation advocates in multiple advocacy efforts including calling for strong funding for tobacco control, opposing any efforts to weaken FDA oversight of tobacco products and in support of extending tobacco cessation coverage for women one year post-partum. Groups [sent a letter](#) to House and Senate appropriators urging them to reject the House Appropriations Committee’s more than 50 percent cut to CDC’s Office on Smoking and Health, and ensure that OSH is funded at least at its FY 2016 funding level of \$210 million. The groups also called on the appropriators to oppose the inclusion of policy riders included in the House Appropriations Committee’s bill that would weaken FDA’s authority to oversee tobacco products. In May, FDA issued a final rule that will enable the agency to oversee cigars, e-cigarettes and other tobacco products that had been outside of FDA’s authority. The House bill included two provisions that would weaken the rule and restrict FDA’s authority to oversee these products. One provision would block FDA from using funds to “implement, administer, or enforce” this final rule unless the rule excludes large and premium cigars from FDA oversight. The groups also expressed concern that the rider defines large and premium cigars so broadly that it creates a loophole that could result in tobacco companies modifying their products to qualify for this exemption. The second House provision would change the

grandfather date to exempt e-cigarettes, cigars and other tobacco products now on the market from an FDA product review requirement. Changing this date would significantly weaken FDA's ability to take prompt action to protect children from thousands of fruit- and candy-flavored e-cigarettes and cigars, including products in flavors that appeal to kids, such as cotton candy, gummy bear and fruit punch.

Tobacco cessation advocates [sent a letter](#) to the Senate in support of a provision in H.R. 670, the Special Needs Trust Fairness and Medicaid Improvement Act, that would extend tobacco cessation coverage for women one year post-partum. The bill overwhelmingly passed the House, by a vote of [383-22](#), on Sept. 20. The provision would build on existing Medicaid policy that provides expectant mothers with tobacco cessation treatment. Pregnant women with Medicaid coverage smoke at over three times the rate of pregnant women with private health insurance. Infants and young children are especially vulnerable to secondhand smoke. Encouraging new mothers to quit smoking and remain smoke-free would support the health of the mother and baby.

### **Policy watch: State and international updates**

#### **Drones provide health care in rural Madagascar**

An autonomous drone successfully delivered blood samples to a central lab from a rural village in Madagascar. The fast transportation of blood samples will allow for diagnosis and delivery of proper medications. The drone was developed by Vayu, a company that seeks to expand access to health care for people living in rural villages. One of the biggest challenges the company had to overcome was regulatory rather than technical – no country allows for beyond-line-of-sight autonomous flight as blanket permission. The company had to work with each national government individually for permission. Vayu has partnered with the Stony Brook University Global Health Institute to provide a holistic approach to preventing disease by training local health workers to properly take samples for an accurate diagnosis and subsequently to administer the vaccines correctly. The company plans to launch similar projects in Papua New Guinea, Peru and Nepal, among other countries across the globe.

#### **Voters approved end-of-life measure in Colorado**

Colorado voters overwhelmingly passed proposition 106, the End of Life Options Act, by a 2 to 1 margin. The measure will allow terminally ill adults with a prognosis of six months or less to live to obtain a prescription from a physician and self-administer the life-ending medication. The patients seeking this medication must be evaluated as mentally competent and confirmed as having six months or fewer to live by two separate physicians. Colorado joins Montana, California, Oregon, Vermont and Washington in legalizing an end-of-life option. Colorado's new law was modeled after Oregon's law, which has been in effect since 1997, the longest of any of the states. Colorado's measure will go into effect in early January 2017.