

Legislative Update



December 2019

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House Energy and Commerce Committee advances critical public health legislation

On Nov. 18, the House Energy and Commerce Committee advanced several important public health measures supported by APHA including [H.R 2339, the Reversing the Youth Tobacco Epidemic Act](#). This legislation would raise the minimum purchasing age for all tobacco products to 21, create advertising and sales parity for all tobacco products including e-cigarettes, ban all flavored tobacco products including menthol, and expedite the timeline for graphic health warning compliance. This bill comes at a critical time for public health. In contrast to the [immense progress made in reducing cigarette smoking among U.S. adults](#), data from the 2019 National Youth Tobacco Survey of 2019 showed e-cigarette use among high school students nationwide rose from 20.8% in 2018 to 27.5% in 2019. In other words, more than 1 in 4 high school students, or 5 million U.S. kids, are now using e-cigarettes. [APHA supports](#) this comprehensive approach to combat the alarming rise of tobacco use among America's youth, and will continue to work with Congress to address this growing public health crisis.

In early September, the Trump administration [announced a plan](#) to clear the market of all flavored e-cigarettes, including mint and menthol flavors. However, in

the last several weeks, the president has wavered in his commitment to the ban, and the outlook for administrative action to address this public health crisis remains unclear. On Nov. 18, APHA and 65 additional public health organizations issued a [joint statement](#) urging the administration to finalize and implement the originally proposed plan to remove all non-tobacco flavored e-cigarettes, including mint and menthol, from the marketplace both in retail stores and online.

During the Nov. 18 markup, the House committee also advanced [H.R. 4996, the Helping Medicaid Offer Maternity Services \(MOMS\) Act](#), which would provide states with the option to extend Medicaid coverage to a full year postpartum. A majority of maternal deaths in the United States happen after the day of delivery, and [nearly one quarter](#) of deaths happen more than 6 weeks postpartum. Yet right now, although Medicaid pays for nearly half of all births, it only covers women for two months postpartum. Extending Medicaid coverage for the full year postpartum and closing this coverage gap is an important step forward to reduce maternal death in the United States.

Additionally, the committee approved [H.R. 1603, the Alan Reinstein Ban Asbestos Now Act of 2019](#). The bill would ban the manufacture, sale, export or importation of asbestos-containing products, create a right-to-know program to inform the public about the presence of asbestos in U.S. commerce and require a comprehensive study into the risks of asbestos exposure in homes, schools, workplaces and other public places. On May 18, APHA member Celeste Monforton, a lecturer at Texas State University and George Washington University, [testified in support of the bill](#) before the Subcommittee on Environment and Climate Change of the House Committee on Energy and Commerce.

Congress passes second continuing resolution to keep health programs funded and the government open

On Nov. 21, President Trump signed the second continuing resolution of the year. The new CR passed the House by a vote of [231-192](#) and passed the Senate by a vote of [74-20](#). The bill prevents a government shutdown and will keep the federal government funded through Dec. 20. Congressional leaders and key appropriators continue to work to hash out an agreement to finalize the FY 2020 spending bills. Appropriators overcame one of the biggest hurdles standing in the way when they agreed to funding allocations that each subcommittee will receive for each of the 12 annual spending bills. Yet ongoing differences over providing the president with funding for construction of a proposed board wall on the southern border remain.

For additional information about the status of the FY 2020 Labor-HHS-Education bills in both the House and the Senate, please check out APHA's [November 2019 Legislative Update](#).

APHA members are encouraged to [weigh in with their members of Congress](#) to encourage them to make public health funding a priority as they work to finalize FY 2020 funding legislation.

Court ruling on TSCA includes wins for public health

On Nov. 14, the U.S. Ninth Circuit Court of Appeals ruled on a challenge to the Environmental Protection Agency's implementation of certain provisions under the updated Toxic Substances Control Act. Several groups joined in a legal challenge to the way EPA evaluates the risks of chemicals under TSCA stating that EPA's implementation of the new law ran counter to congressional intent. APHA and other health organizations submitted an [amicus brief](#) in support of the petitioners and urged the court to require EPA to properly implement the law under its "framework rules," which outlines how EPA will conduct its unreasonable-risk assessments and identify the chemicals it will subject to that analysis. The court ruled that EPA was incorrect in not considering "legacy" uses and "associated" disposal in evaluating chemical risks. Even though a particular chemical may no longer be manufactured, EPA must include exposures from legacy chemicals such as asbestos and lead in products that are still in use and still disposed of. The court also held that EPA must consider all exposures of a chemical when undertaking a risk evaluation for a chemical. Both [EarthJustice](#) and the [Environmental Defense Fund](#) have good explanations of the court's decision.

Health organizations praise 100% clean economy legislation

On Nov. 20, APHA joined seven other leading health organizations in [support of the 100% Clean Economy Act](#). This legislation, introduced by Reps. Rep. Donald McEachin, D-Va., Deb Haaland, D-N.M., Debbie Dingell, D-Mich., Earl Blumenauer, D-Ore., Paul Tonko, D-N.Y., and Chellie Pingree, D-Maine, would require all federal agencies to use their existing authority to achieve the goal of net-zero greenhouse gas emissions by 2050. In the letter, the groups wrote "We strongly support the 100% Clean Economy Act's goal of reaching net-zero climate pollution by 2050, and its requirement that federal agencies take actions that improve public health, especially among communities disproportionately impacted by air pollution and climate change. The nation must dramatically reduce greenhouse gas emissions while cleaning up other harmful emissions from polluting sources at the same time. In the electricity sector, this means switching to clean, renewable electricity sources and avoiding sources that add to the burden of air pollution, such as burning biomass."

Organizations express continued opposition to misguided EPA "transparency" proposal

On Nov. 13, APHA joined more than 60 other public health, medical, academic and scientific organizations in [a letter to the leaders of the House Committee on Science, Space and Technology](#) expressing deep concern regarding the U.S. Environmental Protection Agency's "Strengthening Transparency in Regulatory Science" proposed rule. The proposed rule would allow EPA to exclude scientific studies that rely on confidential patient information, thus limiting the access of EPA scientists to the best available health research to set limits on air pollution, toxic exposures and water pollution, and inevitably leading to regulations that fail to adequately protect public health. APHA and its partners previously weighed in

against the proposed rule in 2018, [submitting comments to EPA](#) urging the agency to withdraw the proposal and follow the current, effective measures in place to ensure the use of robust, uncensored scientific research. EPA ultimately delayed finalizing the proposed rule, but a leaked draft of a new version of the rule that has been sent to the Office of Management and Budget for review has been circulating in the media recently, raising the same concerns among the groups.

Trump administration finalizes rule to weaken the Supplemental Nutrition Assistance Program

On Dec. 4, the Trump administration issued a [final rule](#) that will eliminate access to food assistance for hundreds of thousands of individuals between the ages of 18 to 49. Under current law, able-bodied adults without dependents, or ABAWDs, are eligible for Supplemental Nutrition Assistance Program benefits for only three months during a three-year period unless they are working or registered in an education or training program. However, states can request to waive this time limit if their unemployment rate exceeds 10% or is 20% above the national average. The final rule will drastically tighten the criteria states must meet to qualify for a waiver, and if allowed to go into effect, will eliminate access to SNAP benefits for more than 700,000 adults. The rule will take effect April 1, 2020, unless Congress or the courts intervene.

SNAP provides more than 40 million low-income Americans, including people with disabilities, children, seniors, veterans and working families, with critical nutrition benefits to strengthen their food security and provide access to a nutritious diet. This regulation adds additional barriers to accessing nutritious food, which would make it even more difficult for individuals already facing economic inequity to find and maintain employment, and to prioritize their individual health and the health of their communities. APHA submitted [comments](#) opposing the proposed rule, detailing the important role SNAP plays in reducing hunger and inequity throughout the nation. APHA is deeply disappointed that this rule was finalized, and will continue to support efforts to oppose implementing the final rule.

APHA weighs in on public health-related federal court cases

In November and early December, APHA joined the following amicus curiae briefs on important public health cases currently pending in the federal courts:

- On Nov. 25, APHA joined other medical, public health and mental health organizations in submitting a [brief to the U.S. Court of Appeals for the Fourth Circuit in support of Gavin Grimm](#), a former student who had been denied access to the bathroom facility that aligns with his gender identity. In the brief, the groups argue that excluding transgender individuals from facilities consistent with their gender identity endangers their physical and mental health, safety, and well-being. The case is expected to be heard by the court on March 28. APHA has urged public and private entities to ensure that policies and practices across all sectors are explicitly inclusive of transgender and gender-nonconforming people. APHA previously weighed in on the case

in 2017 when it was slated to be considered by the U.S. Supreme Court. The court sent the case back to the Fourth Circuit Court of Appeals to be reconsidered after the U.S. Department of Education rescinded a Title IX guidance clarifying protections for transgender students.

- On Dec. 2, APHA joined other leading medical and public health organizations in submitting an [amicus brief to the U.S. Supreme Court](#) in support of the petitioners in the case June Medical Services v. Gee. The case challenges a Louisiana law requiring doctors who provide abortion care to hold admitting privileges at a nearby hospital. In the brief, the groups argue that Louisiana's local admitting privileges requirement for physicians and other clinicians who provide abortion is medically unnecessary as abortion is extremely safe, and patients who obtain abortions rarely require hospitalization. The Louisiana law is similar to the Texas law that the U.S. Supreme Court found to be unconstitutional in its 2016 Whole Woman's Health decision. APHA also [submitted a brief to the Supreme Court in 2016](#) when it heard the challenge to the Texas law.

Additional APHA advocacy news

Given the rapid pace of action in Washington, D.C., we wanted to highlight additional issues we have weighed in on recently. Those include:

- [Health organization comments to U.S. EPA](#) opposing rollback of New Source Performance Standards for the oil and natural gas industry
- [Organization letter](#) supporting passage of H.R. 1309, the Workplace Violence Prevention for Health Care and Social Service Workers Act
- [Organization letter](#) to the leaders of the House Foreign Affairs and Senate Foreign Relations committees in support of S.2715/H.R.4862, the Global Thrive Act of 2019
- [Organization letter](#) urging congressional leaders to extend and increase federal funding for the Medicaid programs in U.S. territories
- [Organization letter](#) to House and Senate leaders in support of the Dignity in Aging Act, legislation to reauthorize the Older Americans Act
- [Organization letter](#) to House and Senate Appropriations Committee leaders in opposition to the relocation of the Economic Research Service and the National Institute of Food and Agriculture
- [Organization letter](#) to House and Senate Appropriations Committee leaders in support of increasing funding levels for the WIC Breastfeeding Peer Counselor Program in FY 2020
- [Friends of HRSA Coalition letter](#) to House and Senate Appropriations Committee leaders urging a funding level of at least \$7.32 billion for the Health Resources and Services Administration in any final FY 2020 Labor, Health and Human Services, and Education, and Related Agencies Appropriations bill