Election 2020: Public Health Legal Reforms and Projections
November 16, 2020 | 2:00 – 3:00 PM ET

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**Leila Barraza**, Senior Consultant, Network for Public Health Law – Western Region Office; Associate Professor, Zuckerman College of Public Health

- J.D., Arizona State University – Sandra Day O’Connor College of Law
- M.P.H., University of Arizona – Zuckerman College of Public Health
Presenter

James G. Hodge, Jr., Director, Network for Public Health Law – Western Region Office; Peter Kiewit Foundation Professor of Law, Arizona State University

- J.D., Northern Kentucky University – Salmon P. Chase College of Law
- LL.M., Georgetown University
Presenter

Jennifer Piatt, Senior Attorney, Network for Public Health Law – Western Region Office; Research Scholar, ASU Center for Public Health Law & Policy

- J.D., Arizona State University – Sandra Day O’Connor College of Law
Presenter

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Election 2020: Public Health Legal Reforms and Projections

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Primary Objectives

- Post-Election Results
- Core Public Health Issues
  - Challenges & Objectives
  - Law & Policy Responses
- Questions & Comments
- Disclaimer - information provided during this session does not constitute legal advice nor is intended to promote specific legal or policy positions.
Election 2020: Presidential Race
Election 2020: Presidential Race

As of November 9, 2020

Joe Biden: 290
Donald Trump: 214

270 to win

As of November 9, 2020
Election 2020 - Beyond the White House

Federal Elections

100% U.S. House of Representatives (218 D/202 R)

33% U.S. Senate (46 D/50 R/2 I)

State Elections

22% Gubernatorial (23 D/26 R/1 I)

88% State Legislatures 44 States

Source: https://www.270towin.com/2020-senate-election/
What are the factors that most influenced your vote? **70% are core public health/health care issues**

- COVID-19: 40%
- Economy: 28%
- Health Care: 9%
- Racism: 7%
- Climate Change: 4%
- Immigration: 3%
- Law Enforcement: 4%
- Abortion: 3%
Array of Public Health Law & Policy Issues

- Maternal & Child Health
- Mental Health
- Illicit Drugs/Marijuana
- LGBTQIA
- Medicare for All
- Non-communicable Diseases
- Tobacco & Alcohol
- Global Health
- Telehealth
- Vaccination
- Non-communicable Diseases
- Vaccination
- Tobacco & Alcohol
- Mental Health
- Medicare for All
- Non-communicable Diseases
- Telehealth
Select Core Public Health Law & Policy Issues

1. COVID-19 Pandemic Response Efforts
2. Revitalizing Public Health Services
3. Gun Violence Prevention
4. Abortion & Reproductive Health
5. Climate Change
6. Health Equity & Justice
7. Affordable Care Act
8. Medicaid
Core Public Health Law & Policy Issues

1. COVID-19 Pandemic Response Efforts
2. Revitalizing Public Health Services
3. Gun Violence Prevention

James G. Hodge, Jr., J.D., LL.M.
Director, Network for Public Health Law - Western Region Office; Peter Kiewit Foundation Professor of Law, Arizona State University
COVID-19 Pandemic Efforts - Challenges

Global Cases 52.9 million | Deaths: 1.3 million
U.S. Cases 10.6 million | Deaths: 242,436
U.S. Stats 20% all cases | 19% all deaths

COVID-19 Pandemic Efforts - Responses

- Reinstitution of public health “best practices” grounded in law, science & global commitments
- Enhanced & aggressive federal responses & coordination to allay national security threats
- Increased funding for global & domestic public health interventions & economic impacts
- Crafting new alliances with state, tribal & local governments on the frontlines of response efforts
Revitalizing Public Health Services - Challenges

• Substantial new threats
• Chronic funding reductions
• Interjurisdictional battles
• Gross inequities
• Lower life expectancies
Revitalizing Public Health - Responses

Quelling the pandemic leads to legal innovations that become models for what works in routine public health & health care services.

Re-assessing the constitutional balance between communal protections & individual rights lends to 21st century reconception of public health powers.

Addressing specific threats to the public’s health – cancer, Alzheimer's, illicit drugs - through revised law & policy interventions via HiAP approaches.

Commitment to reducing health disparities through greater focus on the social determinants of health at the “grass root” & other levels.
Gun Violence Prevention - Challenges

NY State Rifle & Pistol Assoc. v. NYC
Gun Violence Prevention - Responses

- Banning the manufacture & sale of assault weapons + heavily regulating weapons already in circulation
- Ending online purchases of firearms/ammo & requiring background checks for all other sales
- Incentivizing states to enact their own laws supporting federal initiatives consistent with 2nd Amendment
- Empowering police to effectively enforce gun violence prevention laws & reforming their own practices to limit unwarranted acts
Core Public Health Law & Policy Issues

4. Abortion & Reproductive Health
5. Climate Change
6. Health Equity & Justice

Jennifer L. Piatt, J.D.
Senior Attorney, Network for Public Health Law - Western Region Office; Research Scholar, ASU Center for Public Health Law & Policy
Abortion & Reproductive Health - Challenges

Justice Ruth Bader Ginsburg

Justice Amy Coney Barrett

Abortion & Reproductive Health - Responses

- Codifying *Roe v. Wade* & progeny, under threat in the Supreme Court
- Ensuring that funding Title X family planning services will no longer be restricted for discussing/referring for abortion
- Supporting repeal of the Hyde Amendment, which restricts federal funding for abortion services
- Rescinding the “Mexico City Policy,” allowing federal aid to organizations in developing countries who also offer info on abortion services
Climate Change - Challenges

- A divided Congress could delay passage of climate change legislation
- The majority of the cost will fall on a vocal & politically powerful minority opposed to action
- Challenges to regulatory actions could stymie a climate change agenda
Climate Change - Responses

- Rejoining the Paris Agreement
- Demanding a worldwide ban on fossil fuel subsidies
- Ensuring EPA & DOJ prosecute pollution cases
- Considering climate change in federal permitting & infrastructure investment
Health Equity & Justice - Challenges

- Political pendulum swings both ways
- Senate control of the purse may impact actions taken
- Underrepresentation of affected groups in positions of political power stifles growth

**EQUALITY VERSUS EQUITY**

In the first image, it is assumed that everyone will benefit from the same supports. They are being treated equally.

In the second image, individuals are given different supports to make it possible for them to have equal access to the game. They are being treated equitably.

In the third image, all three can see the game without any supports or accommodations because the cause of the inequity was addressed. The systemic barrier has been removed.
<table>
<thead>
<tr>
<th>Responses</th>
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<tbody>
<tr>
<td>Installing appointees who represent vulnerable populations most in need of improved access</td>
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<tr>
<td>Providing a health insurance public option &amp; focusing on reducing maternal mortality rates</td>
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<td>Doubling investment in community health centers &amp; increasing federal minimum wage to $15</td>
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<td>Rescinding executive order banning implicit bias training</td>
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**Sarah Somers, J.D., M.P.H.**
Managing Attorney, Network for Public Health Law - Southeastern Region Office and National Health Law Program
Affordable Care Act - Challenges
Affordable Care Act - Responses

The Court
One major threat:
U.S. Supreme Court: *California v. Texas*

The Executive Branch
Champion not foe:
Promotion & support
New regulations & guidance
Support from the Justice Department

Congress
Status quo?
Senate - GOP
House - DEM

States
Status quo:
Governors: status quo
State Houses: GOP, mostly status quo
Medicaid - Challenges

Status of State Medicaid Expansion Decisions

Photo Credit: Market Watch

The Network for Public Health Law
Medicaid - Responses

The Court
Moderate threat:

U.S. Supreme Court:
*California v. Texas*

The Executive Branch
A new direction:

Reversal on work requirements & block grants
Delivery system innovation

Congress
Disappointment but disaster averted:

Entitlement to benefits intact
Improvements stalled?

States
A mixed bag:

Mostly the same political composition
Budget crises impending
Ballot initiatives
Questions & Comments

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