

ASPPH POLICY & ADVOCACY

December 20, 2021

Highlights:

- [Carole Johnson Named HRSA Administrator](#)
- [Appeals Court Reinstates OSHA's Covid-19 Employer Regulation](#)
- [Debt Limit Increase Enacted; Default Avoided to 2023](#)
- [Build Back Better Act On Life Support](#)
- [ASPPH Advocacy Activities Report Updated](#)
- [Federal Court Rejects Opioid Settlement Over Sackler Family Immunity](#)
- [News Briefs](#)

Publishing Schedule and Editorial Transition: This is the final issue in 2021 of the *ASPPH Advocacy and Policy Newsletter*. The next issue will be distributed on January 10, 2022. This is also the final issue written by Tony Mazzaschi, who is retiring at the end of the year. Beeta Rasouli will edit the newsletter going forward. Happy Holidays!

Carole Johnson Named HRSA Administrator

HHS Secretary Xavier Becerra on Friday [announced](#) the formal appointment of Carole Johnson as administrator of the Health Resources Services Administration (HRSA). The appointment was expected, and the rumor of her pending appointment was reported in this newsletter a few weeks ago. Ms. Johnson was most recently the testing coordinator for the White House Covid-19 response team. She earlier was commissioner of New Jersey's human services department and worked on the White House Domestic Policy Council's health team during the Obama Administration. [Tom](#)

[Inglesby](#) is assuming her testing position on the White House response team. He has been on a temporary assignment in the Office of the HHS Secretary. Since 2009, he has been director of what is now the Johns Hopkins Center for Health Security at the Bloomberg School of Public Health.

Appeals Court Reinstates OSHA's Covid-19 Employer Regulation

A three-judge panel of the Federal Court of Appeals for the 6th Circuit -- in a 2-1 [ruling](#) -- reinstated the Occupational Safety and Health Administration's (OSHA) emergency Covid-19 regulation for large private businesses, reversing an earlier 5th Circuit Court ruling. The ruling was quickly appealed to the US Supreme Court, which is likely to have the final say over the rules that are set to take effect on January 4. Under the OSHA regulation, employers with more than 100 workers must require staff to get vaccinated or face weekly testing and mandatory masking. There are exceptions for employees who do not work on-site or with others.

ASPPH and APHA, joined by dozens of other organizations, deans, program directors, and other public health scholars, filed a [Friend of the Court brief](#) in the case on November 30. The regulations were [issued](#) by OSHA on November 4 and [enjoined](#) by the 5th Circuit Court of Appeals on November 12. That written opinion has been [derided](#) due to numerous scientific errors. Subsequently, all cases challenging the OSHA regulations were consolidated and assigned - by lottery - to the Sixth Circuit Court.

Separately, the Biden Administration on Thursday [petitioned](#) the Supreme Court to allow it to fully enforce a nationwide requirement that health care workers be vaccinated if they work at facilities participating in Medicare and/or Medicaid. A lower court decision suspended the policy after 24 states filed lawsuits. On Friday, the Supreme Court told states fighting the CMS rule to respond by Dec. 30.

Debt Limit Increase Enacted; Default Avoided to 2023

President Joe Biden on Thursday, December 16 signed legislation ([SJ Res 33, now Public Law 117-73](#)) raising the debt ceiling by \$2.5 trillion, ending for now the absurd prospect that the nation would default on its debts. The bill means the nation will avoid defaulting until at least January 2023 according to Treasury Department and Congressional Budget Office estimates. The Senate passed the bill on December 14 by a vote of [50-49](#), and the House followed suit by a [221-209](#) vote on December 15. Passage in the Senate was only possible when about a dozen GOP Senators finally agreed to allow the measure to pass in the Senate with a simple majority vote. The GOP had blocked the bill in the Senate to wrestle concessions from Biden, who refused to negotiate on the issue.

Build Back Better Act On Life Support

Senate consideration of the Build Back Better (BBB) Act has been [delayed](#) until 2022, and its fate is very much in doubt. Senator Joe Manchin (D-WV) on Sunday said he will oppose the bill, leaving Democrats without enough votes to pass the measure. Senate Republicans are united in their opposition to the bill necessitating unanimous support from Senate Democrats and independents if the bill is to proceed. On Sunday, Senator Manchin issued a [statement](#) stating his current position on the bill, with the White House press secretary issuing a sharp [response](#). Chances for a rapprochement between Manchin and the White House are considered remote.

Early Monday, Senate Majority Leader Chuck Schumer (D-NY) said in a [letter](#) to colleagues that he would bring the legislation to the Senate floor for a vote early next year. Although the bill is unlikely to pass without Senator Manchin's support in the evenly divided Senate, Senator Schumer said a vote was necessary to put every senator on the record.

On Thursday, the Senate Parliamentarian ruled that the latest Democratic proposal on immigration would be ruled a violation of the Byrd rule if offered as an amendment to the BBB.

ASPPH Advocacy Activities Report Updated

ASPPH regularly takes positions on regulatory, legislative, and other policy issues that directly impact schools, programs, faculty, and students. The

Association also seeks to give voice to the concerns of the academic public health community on policy issues that violate or affirm the values of our community. A listing of ASPPH's Advocacy Activities in 2021 is posted on-line [here](#), with links to source documents. This listing is updated regularly. In the past few weeks, the Association joined or originated the following letters and statements:

- November 10: [Letter](#) to the Acting Director of the Office of Management and Budget requesting that the Administration's budget request for Fiscal Year (FY) 2023 include provisions that expand efforts to reduce tobacco use, which remains the leading preventable cause of death in the United States.
- November 15: [Letter](#) to House and Senate Appropriations Committee leaders urging swift passage of the House-passed \$46.4 billion for the NIH base budget in FY 2022.
- November 18: [Letter](#) to leaders of the Senate Appropriations Subcommittee on Labor, Health and Human Services, Education, and Related Agencies urging them to provide a fiscal year 2022 appropriation of \$6 million to the new HHS Office of Climate Change and Health Equity (OCCHE) to address the effects of climate change on the health of the American people.
- November 29: Letters to [House](#) and [Senate](#) members opposing the Traditional Cigar Manufacturing and Small Business Jobs Preservation Act of 2021 (S 438/ HR 3982). The bills would exempt some cigars, including some inexpensive, machine-made cigars, from FDA oversight. FDA earlier concluded in the final Deeming Rule that there was no public health justification for exempting any cigars from FDA oversight because all cigars pose significant health risks.
- November 30: [Letter](#) to the leaders of the House and Senate Appropriations Committees highlighting ASPPH's priorities during negotiations on the fiscal year 2022 Labor-HHS-Education appropriations bill.
- November 30: [Friend of the Court brief](#) in support of the emergency standard issued by the Occupational Safety and Health Administration (OSHA) that requires covered employers to ensure that employees are either vaccinated against Covid-19 or wear masks and undergo regular testing.
- November 30: [Letter](#) to House and Senate Appropriations Committee leaders urging them to include at least the House-passed level of \$10.5 billion for CDC in the final FY 2022 appropriations package.

- December 03: [Letter](#) to House and Senate Appropriations Committee leaders requesting at least the Senate-proposed level of \$8.84 billion for HRSA's discretionary program funding for fiscal year 2022.
- December 06: [Letter](#) to House and Senate Appropriations Committee leaders urging them to approve a \$40 million appropriation in FY 2022 for the CDC's Advanced Molecular Detection Program, which brings next generation genomic sequencing to the front lines of public health. Such a funding level would represent a 33 percent increase over the FY 2021 level.
- December 10: [Letter](#) to Senator Diane Feinstein (D-CA) endorsing S 2888, the Support of US Air Travel Public Safety Act, which would require all domestic airline staff and customers to be vaccinated.
- December 13: [Letter](#) to the leaders of the House and Senate Appropriations Committees urging them to fund the CDC's Office on Smoking & Health (OSH) at the House-passed funding level of \$250 million for FY 2022. This would be a \$12.5 million increase from the FY 2021 level.
- December 16: [Endorsement](#) of legislation sponsored by Rep. Lois Frankel (D-FL), the Protecting the Health of America's Older Adults Act, which would create a program at CDC to support age-friendly public health systems.

Federal Court Rejects Opioid Settlement Over Sackler Family Immunity

Federal District Court Judge Colleen McMahon on Thursday struck down the Purdue Pharma bankruptcy plan because it provided immunity for the owners of the company in exchange for a \$4.5 billion payout to victims of the opioid crisis. In a 142-page [opinion](#), Judge McMahon said the federal bankruptcy judge who approved the company's bankruptcy plan in September did not have authority to prevent future lawsuits against members of the Sackler family. More than 40 states approved the bankruptcy plan, but the Justice Department and a handful of other states challenged it, arguing that it impermissibly denied victims the right to sue the company. US Attorney General Merrick Garland welcomed the court's ruling in a [statement](#) released on Thursday: "We are pleased with the District Court's decision invalidating the Purdue Pharma bankruptcy plan. The bankruptcy court did not have the authority to deprive victims of the opioid crisis of their right to sue the Sackler family. The department remains

committed to opioid abatement efforts and supporting victims of opioid abuse."

The ASPPH Task Force on Public Health Initiatives to Address the Opioid Crisis made dozens of [recommendations](#) on the possible use of settlement funds to further address the opioid epidemic. The recommendations have been shared with the hundreds of state, municipal, territorial, and tribal governments that are parties to the opioid litigation.

News Briefs:

- **Student Debt and Early-Career Earnings:** The *Wall Street Journal* has run a series of articles this fall on student debt in relation to income levels. On Monday, December 20, the paper ran an [article](#) focused on New York University and some of its graduate programs. The paper reports, "NYU's 2015 and 2016 public-health graduates who took out federal loans borrowed a median \$106,000 for the degree, the Journal's analysis of Education Department data found; half earned roughly \$61,000 or less two years after graduation. That is one of the biggest gaps between debt and early-career earnings of 124 public-health master's programs with published data, the Journal found. Roughly three-quarters of the programs had a median debt load lower than median earnings."
- **Health Care Spending Surges:** The National Health Expenditure Account Team at the HHS Centers for Medicare and Medicaid Services (CMS) issued their [annual report](#) on December 15, which was published by *Health Affairs*. According to the report's abstract, "US health care spending increased 9.7 percent to reach \$4.1 trillion in 2020, a much faster rate than the 4.3 percent increase seen in 2019. The acceleration in 2020 was due to a 36.0 percent increase in federal expenditures for health care that occurred largely in response to the Covid-19 pandemic. At the same time, gross domestic product declined 2.2 percent, and the share of the economy devoted to health care spending spiked, reaching 19.7 percent. In 2020 the number of uninsured people fell, while at the same time there were significant shifts in types of coverage."
- **Learning From CDC's Testing Misstep:** A detailed CDC staff report on the causes of the CDC's flawed initial Covid PCR test, distributed in February 2020, was published on December 15 by *PLOS One*. The

article is titled, [“Analysis of the initial lot of the CDC 2019-Novel Coronavirus \(2019-nCoV\) real-time RT-PCR diagnostic panel.”](#) The authors discuss the findings “in the context of improvements to quality control, quality assurance, and assay validation practices that have since been improved at the CDC.”

- **2022 Congressional Calendars Released:** The House and Senate Majority Leaders have released their 2022 calendars. The House calendar is available [here](#), and the Senate calendar [here](#). Several associations and publications have now posted a combined Congressional calendar ([here](#)).
- **Lead Pipe and Paint Action Plan Released:** The Biden Administration on December 16 [released](#) the “Lead Pipe and Paint Action Plan,” intended to deliver clean drinking water, replace lead pipes, and remediate lead paint. The plan is the work of more than 10 federal agencies and will utilize \$15 billion of direct funding from the bipartisan infrastructure bill and more than \$11 billion from the Drinking Water State Revolving Fund for lead pipe replacement.
- **Califf Confirmation Hearing:** The Senate Health, Education, Labor and Pensions Committee held a [confirmation hearing](#) on Tuesday, December 14 on the nomination of Robert Califf to be commissioner of the Food and Drug Administration. Dr. Califf appears to have escaped unscathed from the hearing. The only area of serious disagreement related to the FDA’s standards for approving new opioids. Senator Richard Burr (R-NC), ranking GOP member on the panel, [told](#) reporters that he would support Dr. Califf’s nomination, as would several other GOP Senators. A Senate vote on the nomination is not expected until January.
- **Gawande Confirmed:** On Friday, the Senate confirmed Atul Gawande to be an Assistant Administrator of the United States Agency for International Development. The vote was [48-31](#). Dr. Gawande, a surgeon, is a bestselling author who served at HHS during the Clinton Administration. He also earlier worked on Capitol Hill as a legislative assistant to Rep. Jim Cooper (D-TN).
- **Carnegie Classification Update Posted:** The Indiana University Center for Postsecondary Research has posted a [draft update](#) of the Carnegie Classification of Institutions of Higher Education. The 2021 Carnegie Classification Update was released on December 15 for six weeks of public review before being made “official” at the end of January 2022. The classifications were last updated in 2018.
- **Interprofessional Approaches to Address the Opioid Epidemic:** The National Academy of Medicine has posted a new “special publication” titled, [Education Together, Improving Together:](#)

[Harmonizing Interprofessional Approaches to Address the Opioid Epidemic](#). The publication's development was led by the Action Collaborative on Countering the US Opioid Epidemic, of which ASPPH is a "[Network Organization](#)."

Tony Mazzaschi | *Chief Advocacy Officer*
Tel: (202) 809-5469 | tmazzaschi@aspvh.org

ASPPH ASSOCIATION OF
SCHOOLS & PROGRAMS
OF PUBLIC HEALTH
THE VOICE OF ACADEMIC PUBLIC HEALTH FOR **80** YEARS



Copyright © 2021, All rights reserved.

[Update subscription preferences](#)