The Capitol Circuit
January 2021

In this Issue:

National Advocacy

• 117th Congress and New Administration Begin
• New Medicare Part D Demonstration Would Restrict Access to Vital Treatments for Beneficiaries
• Epilepsy Foundation Statement on Violence at the U.S. Capitol
• U.S. Department of Transportation Releases Final Service Animal Rule
• Meet the Epilepsy Policy Advisory Committee Members

State Advocacy

• Seizure Safe Schools Legislation Introduced Across the Country

National Advocacy

117th Congress and New Administration Begin

On January 3, 2021, the 117th Congress began. On January 20, 2021, President Joseph R. Biden and Vice President Kamala Harris were sworn in. As a result of the 2020 elections and the Georgia Senate run-offs held in early January, the Democratic party will hold a majority in the U.S. House of Representatives and the Senate. The party breakdown in the Senate is 50 Republicans and 50 Democrats (2 of whom are Independents but caucus with the Democrats). Control of a 50-50 Senate is determined by the party of the Vice President, who presides as the president of the Senate and breaks ties when necessary. With Democrats controlling both chambers of Congress, there will be changes in leadership, committee leadership and committee membership.
As a part of the patient and disability communities, the Foundation sent memos to the incoming Biden Administration and new Congress to educate them about legislative and administrative policy priorities and enable them to hit the ground running on issues that need to be addressed quickly. The patient and consumer community memo and the disability community memos to the incoming administration and new Congress highlight key recommendations. As with any new Administration, the Foundation’s Advocacy team has also joined a series of meetings with various members of the Biden transition team.

President Biden has begun nominating people to serve in key Cabinet positions and top roles in his Administration. Many Cabinet roles manage programs and policy that have an impact on the epilepsy community. One of those is the U.S. Department of Health and Human Services (HHS) which houses federal agencies and offices, including: the Centers for Disease Control and Prevention (CDC), the Centers for Medicare & Medicaid Services (CMS), the Food and Drug Administration (FDA), and the National Institutes of Health (NIH). Xavier Becerra, currently California’s Attorney General and formerly a California congressman, has been nominated to serve as Secretary of Health and Human Services. Becerra will need to be confirmed by the Senate. The new CDC Director, Rochelle Walensky, has already begun her new role, as the position does not require a Senate confirmation. Some other HHS agencies are under acting leadership, with official permanent positions yet to be announced.

Prior to his swearing in, President Biden called on Congress to pass another COVID-19 relief package and released his own comprehensive proposal – the American Rescue Plan. The proposal would include several key priorities the patient and disability communities have continued to advocate for such as additional direct payments to Americans and for the first time, recognizing that adult dependents can receive an Economic Impact Payment; extending emergency paid leave; extending and expanding unemployment benefits; and providing additional relief to state and tribal governments. President Biden has described this proposal as a “rescue” package, with a “recovery” package to come later. The Biden Administration will work with Congress as they draft the next COVID-19 relief bill. However, with processes for the new Congress to iron out and a pending impeachment trial in the Senate, it is unclear exactly when Congress will be able to move on a COVID-19 relief package.

**New Medicare Part D Demonstration Would Restrict Access to Vital Treatments for Beneficiaries**

On January 19, the Centers for Medicare & Medicaid Services (CMS) released a new proposal for Medicare Part D plans that could restrict access to vital treatments for the 1.1 million Medicare beneficiaries living with the epilepsies.
Anticonvulsants (anti-seizure medications) are a part of Medicare’s Six Protected Classes policy. This policy was established to ensure that Medicare Part D beneficiaries living with serious and complex health care needs — such as the epilepsies, HIV, mental illness, cancer, and organ transplants — have meaningful and timely access to all or substantially all of the approved medications necessary to manage their conditions and maintain their quality of life.

The new demonstration would allow Medicare Part D plans that participate in the third year of the Center for Medicare and Medicaid Innovation’s (CMMI) Part D Payment Modernization (PDM) Model to limit the drugs they cover beginning in plan year 2022. Under this demonstration, plans could choose to no longer cover all or substantially all anticonvulsants and instead, cover only one drug per therapeutic class—which is even less than Part D’s standard for non-Protected Class medications of two drugs per class. These changes could be harmful as epilepsy medications are not interchangeable.

The protected classes have broad bipartisan support from Congress and through great advocacy, previous attempts to weaken the Six Protected Classes have been pulled back. Working in coalition, the Foundation and partners will strongly urge the new Administration to reverse this effort and protect this critical policy. We will need your help, so stay tuned for related action opportunities!

Epilepsy Foundation Statement on Violence at the U.S. Capitol

The Epilepsy Foundation issued a statement in response to the violent attack on the U.S. Capitol on January 6. While peaceful protest is a fundamental right and hallmark of robust democracy, the forceful actions claimed lives, threatened the health and well-being of many more and sought to undermine the very foundations of our democratic system. The Foundation called on accountability so that we can learn from this unfortunate, tragic moment and begin to heal.

U.S. Department of Transportation Releases Final Service Animal Rule

The U.S. Department of Transportation (DOT) has revised the Air Carrier Access Act rule which governs the circumstances under which service animals may travel by air. The new rule, which takes effect this month, defines a service animal as a dog that is individually trained to do work or perform tasks for the benefit of a person with a disability (the former rule allowed species other than dogs) and no longer considers an emotional support animal to be a service animal (the former rule allowed emotional support animals to be considered, and fly, as service animals). Amongst its many changes, the rule:
• Requires airlines to treat psychiatric service animals the same as other service animals (the former rule did not recognize psychiatric service animals);
• Allows airlines to require individuals traveling with a service animal to provide the DOT service animal form(s) up to 48 hours in advance of the date of travel if the passenger’s reservation was made prior to that time;
• Prohibits airlines from requiring passengers with a disability who are traveling with a service animal to physically check-in at the airport instead of using the online check-in process;
• Allows airlines to require a person with a disability seeking to travel with a service animal to provide the DOT service animal form(s) at the passenger’s departure gate on the date of travel; and
• Allows airlines to limit the number of service animals traveling with a single passenger with a disability to two service animals.

To learn about the rule and its additional changes, visit the DOT’s website. Questions should be directed to the DOT Disability Hotline at 1-800-778-4838.

Meet the Epilepsy Policy Advisory Committee Members

The Foundation has formed an Epilepsy Policy Advisory Committee (EPAC) which will provide input on our annual federal- and state-level policy agenda, as well as the Foundation’s position on new and/or complex policy issues. We are thrilled to have this diverse cross-section of the community in place to provide guidance to our advocacy work moving forward! In addition to headquarters staff advisors, the inaugural EPAC membership consists of: Scott Badzik (OH), Jenvon Cherry (GA), David Doyle (KY), Sara Franklin (AL), JayEtta Hecker (Washington, D.C.), Erika Kottenmeier (Washington, D.C.), Cindy Leino-Handford (MI), Lisa Lightner (PA), Archana Pasupuleti, MD (Washington, D.C.), Sonia Raheja (MI), Lauren Shillinger (MD), Jerzy Szaflarski, MD (AL), Laureen Vassill (KY), Karen Wilcox, PhD (UT). The committee met earlier in January and provided input on the Foundation’s federal- and state-level 2021 policy agenda.

State Advocacy

Seizure Safe Schools Legislation Introduced Across the Country

The onset of the COVID-19 pandemic halted the progress of all Seizure Safe Schools legislation across the country in 2020. With the start of the 2021 state legislative session, various states across the U.S. have begun to introduce this critical bill. Thus far, Seizure Safe Schools legislation has been introduced in
Alabama, Arizona, Iowa, Michigan, Maryland, Nebraska, Oklahoma, Pennsylvania, South Carolina, Virginia, and Washington. Grassroots advocates and their bill sponsors continue to forge ahead to make this legislation a reality. Visit our Action Alert Center to see if you can take action to support the bill in your state!

Email us at publicpolicy@efa.org

Follow us on Twitter at @EpilepsyFdn

Follow us on Instagram @epilepsyfdn

Like us on Facebook at Epilepsy Foundation of America

Learn more at epilepsy.com/advocacy