

January 4, 2010

Senate Passes Health Reform Bill: Updated Side by Side Comparison with House Bill

On Christmas Eve, the U.S. Senate passed its health care reform bill, the “Patient Protection and Affordable Care Act” (H.R. 3590). The bill incorporates the Majority Leader’s “manager’s amendment,” hammered out to ensure a filibuster-proof majority, as well as amendments adopted on the floor. Ropes & Gray has prepared a side-by-side comparison of the Senate-passed bill and the health care reform measure passed by the House in November, available by clicking [here](#).

Important differences remain between the Senate- and House-passed bills. The following issues are among those likely to figure prominently in the House and Senate efforts to reconcile the bills:

- **Public Plan.** Whether to include a public plan. Although the House Leadership has indicated a willingness to eliminate a public plan option, as the Senate did in its bill, it is unclear whether there is sufficient support in the House for a bill without such an option;
- **Financing.** Whether to impose an excise tax on high-cost health insurance plans, medical devices, and prescription drugs, and whether to impose a surcharge on high-income individuals and families;
- **Exchange.** The level of subsidies provided to individuals purchasing coverage through the Exchange and a state versus national structure for the Exchange;
- **Medicaid Expansion.** The amount of federal financial assistance to states to expand Medicaid and the extent of the expansion;
- **Medicare Payment Reform.** Whether to create an independent Medicare board to adopt fast-track payment reforms and whether to adopt Medicare payment reforms based on geographic payment disparities;
- **Medicare Part D.** The extent to which the Medicare Part D “donut hole” is eliminated. Notably, however, the Senate Leadership has expressed a willingness to follow the House and fill in the gap entirely; and
- **Abortion.** The level of restrictions on the availability and financing of abortion services offered by Exchange plans.

At this writing, it remains unclear how or when the differences between the two bills will be resolved. It seems likely that some form of negotiation, whether formal or informal, will occur when Congress reconvenes in mid-January. However, the traditional route of appointing a conference committee including members of both houses to iron out these differences faces potential procedural obstacles in the Senate that could delay possible enactment of a final bill. The House leadership could instead, after informal negotiation, decide to bring to the floor some modified version of the Senate-passed bill, which the Senate would consider, in turn. Such an approach would eliminate the need for a formal conference committee and considerably speed up possible enactment. Ropes & Gray will continue to update you on legislative developments through our Health Reform Resource Center and through alerts as events warrant.

For more information on the Senate-passed bill or on health reform generally, contact your regular Ropes & Gray lawyer. Please also visit our [Health Reform Resource Center](#), where, in addition to the Ropes & Gray side-by-side comparison, you can find copies of both bills, the Congressional Budget Office’s estimates of their respective costs, and other materials relevant to this historic debate.

This update should not be construed as legal advice or a legal opinion on any specific facts or circumstances.

This update is not intended to create, and receipt of it does not constitute, a lawyer-client relationship.

The contents are intended for general informational purposes only, and you are urged to consult your own lawyer concerning your own situation and any specific legal questions you may have.