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Election outcomes & post-Dobbs activism: Where healthcare legislation is starting in 2023

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The Buzz This Week

There was much anticipation in the 2022 midterm elections. Numerous election results took weeks to finalize, and Georgia required a runoff for its Senate race. With all results decided, Congress is split—the U.S. House of Representatives has a smaller Republican majority than projected, and the U.S. Senate has a slight Democratic majority. While partisan issues will likely see deadlock because of this divided Congress, we could see congressional action on bipartisan healthcare issues like inflation and healthcare costs, drug pricing, data privacy, and the fentanyl crisis.

With the federal government likely at an impasse on numerous key healthcare issues, more changes are expected at the state level, and voters noted abortion and reproductive health were key issues on the ballot in the midterms. Voters in Kansas and Kentucky rejected constitutional amendments that would have declared there is no right to abortion, while Michigan voters approved an amendment to make the right to abortion part of the state constitution. In Michigan, Democrats took control of both chambers of the state legislatures and maintained control of the governorship. In Georgia, the Republican majority in its House narrowed, now holding 101 of 180 seats. Arizona and Nevada saw gubernatorial flips to Democrats, meaning restrictive abortion bills that pass the legislatures in those states are likely to be vetoed.

Abortion remains a pressing issue for many Americans. For the first time since the Dobbs decision, the Women's March and the March for Life took place last weekend. The Women's March, on the 50th Anniversary of Roe v. Wade, was held in Madison, Wisconsin, a swing state capital that has been operating since the Dobbs decision under an abortion ban written in the 1800s. Objectives of the Women's March include reversing abortion bans, eliminating the criminalization of receiving and administering reproductive healthcare, and expanding reproductive healthcare access. At the same time, anti-abortion advocates

gathered in the nation's capital for the annual March for Life. The group called this year's march a celebration of the decades-long fight to overturn Roe v. Wade and a demonstration that their mission has not yet been actualized. The ultimate goal for both groups is a constitutional amendment (though on opposite sides of the issue), preventing ongoing uncertainty surrounding the issue with future elections.

Why It Matters

Since the Dobbs decision, the abortion conversation has grown murky. Democrats are looking to shore up abortion protections, while Republicans are looking to legislate abortion limitations. Some Republicans want to legislate a total abortion ban at the federal level. But according to a July AP-NORC poll, 56% of Republicans believe states should “generally allow abortion 6 weeks into pregnancy.” As of January 4, 34 cases have been filed in 19 states in which providers, clinics, and other groups are challenging state bans and restrictions, primarily as violations of the state constitutions. State courts have the ability to preserve, restore, or eliminate access by interpreting their state constitution. Nearly every state has drafted bills on both sides of the issue for state legislature to review.

The ongoing efforts toward restrictions and expansions of abortion access at the state level continue to change the reproductive health landscape of this country. Clinics in states where abortion protocols are unclear or are facing a total ban are reprioritizing services. Some are focusing on providing gender-affirming care, offering family planning, or becoming birth centers. Others are relocating to bring abortion care as close as possible to patients in states with abortion bans, while still staying within the boundaries of states where abortion remains legal. This trend is likely to continue as border towns are expected to be a key element in maintaining abortion access across the country as some states work toward greater restrictions on abortion care.

Federally, few sweeping policy changes are expected this year. More incremental shifts are expected, with legislation having a better chance if it's bipartisan. At the state level, we can expect to see more drastic legislative changes. Looking ahead, COVID-19 response and the public health emergency, trans-health and gender-affirming care, gun control, and Medicaid expansion across the remaining 11 states are conversations to be closely watched in the coming months.

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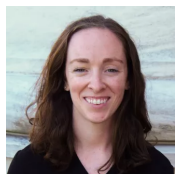
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