

**HFMA Region 9 Annual Conference**  
**Texas Medicaid Update:**  
**State & Federal Legislative Update**

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**OUTLINE**

- I. 2024 Election Cycle**
- II. Interim State Legislative Activity**
- III. 2025 Texas Legislative Session**
- IV. Federal Legislative Activity**
- V. Health Sector Advocacy: Fiscal Dynamics**

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## 2024 Texas Primary Election Results

- **Low aggregate and early voting turnout**
  - **5 most populous Texas counties represented 26% of Republican primary votes; and 50% of Democratic primary votes**
    - **More votes cast by Republicans than by Democrats in 3 of the 5 most populous Texas counties: Harris, Tarrant and Bexar**
  - **Early vote totals:**
    - **Democrats – 596,933 votes (3.3% statewide turnout)**
    - **Republicans – 1,222,390 votes (6.8% statewide turnout)**
  - **Aggregate Republican Party v. Democratic Party vote totals**
    - **3.2 M votes cast; down from 4.1 M in the 2020 presidential primary cycle**
    - **Republicans cast 2.3 M votes**
    - **Democrats cast 975,000 votes**

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## Presidential

- **Biden and Trump secured their parties' respective nominations shortly after Super Tuesday (March 5):**
  - **Biden held 1564 of the 1968 delegates needed following Super Tuesday.**
  - **Trump held 1057 of 1215 delegates needed following Super Tuesday.**
  - **Trump took 77.9% of the vote in the Texas primary.**
- **Biden's disastrous performance during the June 27 debate with Trump prompted Biden to drop out of the race July 21. Harris declared her candidacy the same day.**
- **Trump selected Ohio US Senator J.D. Vance as his running mate on July 15.**
- **Harris officially became the Democratic nominee August 5. Harris selected Minnesota Governor Tim Walz as her running mate on August 6.**
- **Virtually every major poll suggests a "dead heat," with both candidates within the margin of error.**

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## Presidential

- **Several “swing states” will likely determine the outcome: key states remain Pennsylvania, Ohio, Wisconsin, Michigan, North Carolina, Georgia, and Arizona.**
- **270 of 538 total electoral votes needed to win the US presidency (Electoral College).**
- **With such a slim margin, what happens in the event of a tie in the electoral vote count?**
  - **US House selects the president**
    - **Each state gets *one vote*. Republicans currently hold a congressional delegation majority in 26 states; Democrats hold a majority in 21 states; three states are evenly divided (Pennsylvania, Michigan and Minnesota)**
  - **US Senate selects the vice president. Each state gets *one vote*.**

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## US Senate and House

- **Current Senate breakdown: 51 Democrats (includes 3 Independents); 49 Republicans**
  - **2024 cycle Senate favors Republicans (best pick-up opportunities: WV, MT, and OH)**
- **Current House breakdown: 221 Republicans; 214 Democrats (Democrats need 4 pick-ups to take control)**
- **Texas US Senator Ted Cruz' race against CD 32 Congressman Colin Allred, who won the Democratic Senate primary, is one of the marquis US Senate races of the November general election cycle.**
- **Of 38 Texas US House seats, very few were legitimately in play, following the 2020 decennial redistricting:**
  - **CD 23 Tony Gonzales was forced into a Republican primary run-off, and ultimately held his seat.**
  - **In the CD 12 race to replace (retiring) Kay Granger, Texas State Representative Craig Goldman won his run-off and will succeed Granger.**
  - **Brandon Gill won the CD 26 seat being vacated by (retiring) Michael Burgess MD.**
  - **State Representative Julie Johnson won the CD 32 Democratic primary, in the congressional seat Colin Allred is vacating.**
  - **CD 18 veteran incumbent Sheila Jackson Lee died July 19; former Houston Mayor Sylvester Turner is expected to succeed her.**

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## Texas Legislature

- **Only two of 31 Texas Senate seats were in play:**

- **SD 16 incumbent State Senator Nathan Johnson easily defeated challenger, State Representative Victoria Neave Criado, in the primary.**
- **In the SD 15 race to replace John Whitmire, who was elected Houston mayor, Houston-area emergency room nurse, Molly Cook, defeated State Representative Jarvis Johnson, in the special election for the remainder of Whitmire's Senate term, as well as the run-off election for a full Senate term, beginning in January 2025.**
- **In targeted Texas House races, Governor Abbott, Lieutenant Governor Dan Patrick and Attorney General Ken Paxton focused on incumbent Texas House Republicans who opposed vouchers, voted to impeach Paxton.**
- **A record 9 incumbent Republican House members lost their primary races outright, the largest number of primary defeats most the 2012 and 2014 cycles. 8 incumbent Republicans were forced into run-offs, including incumbent House Speaker Dade Phelan; all but two lost their races. Note that the last Texas House Speaker to lose a re-election race was in 1972.**
- **Several incumbent House members previously announced their retirements.**
- **Anticipate the largest Texas House freshman class in years.**

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## Texas Legislature

- **Key Texas House departures:**

- **Jacey Jetton – House Appropriations and Public Health Committees; Article II (health and human services) Appropriations Subcommittee chairman; represents MH-Sugar Land hospital**
- **Ed Thompson – House Appropriations and Calendars Committees; represents MH-Pearland hospital**
- **Four Price – Public Health and House Select Committee on Health Care Reform; mental health champion; supports coverage expansion**
- **Travis Clardy – MHHS market; Higher Education Committee; hospital board member; supports coverage expansion**
- **Kyle Kacal – MHHS market; supports coverage expansion**
- **Steve Allison – House Appropriations Committee, Select Committee on Youth Health & Safety; supports coverage expansion**
- **“Doc” Anderson – historical supporter of expansion of rural health care services**
- **Ernest Bailes - MHHS market; supports coverage expansion and expansion of rural health care services**
- **Andy Murr – supports coverage expansion and expansion of rural health services**
- **Geanie Morrison – House Appropriations Committee; supports expansion of rural health services**
- **Tracy King – Select Committee on Youth Health & Safety; supports coverage expansion and expansion of rural health services**

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## Interim State Legislative Activity

- **Departures of key lawmakers will result in a huge loss of institutional knowledge and engagement in health and human services policy.**
- **The 2023 regular state legislative session and four special sessions consumed 2023 and delayed the beginning of interim legislative activity.**
- **Given that almost a third of the members of the Texas House were in competitive primaries, including House Speaker Dade Phelan, there was little interest among rank and file lawmakers in engaging in substantive interim legislative activity.**
- ***Health sector advocates should anticipate very little time to educate lawmakers, and should expect numerous, problematic legislative proposals to emerge in 2025.***
- **Governor Abbott issued Executive Order No. GA-46, requiring hospitals and healthcare providers to collect information regarding the cost of medical care provided to illegal immigrants, beginning November 1; directing providers to report data quarterly to the Texas HHSC, beginning March 1, 2025; and reporting costs annually to state leadership, Beginning January 1, 2026.**

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## Interim State Legislative Activity

- **In 2023, lawmakers added a budget rider to the biennial appropriations bill, directing the HHSC to contract with a third party (Myers & Stauffer) to study health system and community benefits policies, and to report its findings to the state legislature. Anticipate lawmakers to scrutinize and challenge the veracity of providers' policies and investments.**
- **Speaker Dade Phelan appointed the House Select Committee on Health Care Reform in 2022; many anti-provider proposals emanated from the committee, including several policy initiatives lawmakers will revisit in 2025, including:**
  - **Legislation prohibiting "facility fees"**
  - **Mandating government rate-setting for healthcare services provided to ERS, TRS, and the UT and Texas A&M systems**
  - **Mandating *lowest contracted rate* for hospital services**
  - **Prohibiting vaccine mandates (following prohibition of COVID vaccine mandates in 2023)**
- **Speaker Phelan recently announced the creation of "voluntary working groups," established to augment the work of standing and select House committees. One will focus on "healthcare infrastructure and access to care."**

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## Interim State Legislative Activity

- **Senate interim charges, directed by Lieutenant Governor Dan Patrick, include the following:**
  - Evaluating access to primary and mental health care services
  - Evaluating regulatory and licensing flexibilities that can improve access to care, particularly in medically underserved areas of the state
  - Improving access to mental health services, especially for children, and options available to children with behavioral health needs designed to keep them out of the state's child welfare system
  - Addressing the growing impact of cancer, and consider funding adequacy for cancer prevention strategies and the work of the Cancer Prevention and Research Institute of Texas (CPRIT)
  - Examining the Texas health insurance marketplace, and alternatives to employer-based insurance
  - Monitoring the impact of SB 7, passed during one of the 2023 special state legislative sessions, prohibiting private employers from adopting COVID vaccine mandates
  - Monitoring implementation of SB 25, passed during the 2023 regular legislative session, relating to support for nursing education (including scholarships, loan repayment, and grants), and strengthening the nursing workforce pipeline.
  - Monitoring implementation of SB 30, passed during the 2023 regular legislative session, relating to funding for expansion of mental health services and inpatient mental health facilities
  - Reporting on how Texas public schools spent federal (ARPA) funds, and impacts on student outcomes

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## 2025 State Legislative Session

### *Health and Human Services Priorities*

- **State Comptroller Glenn Hegar estimates a +/- \$20 Billion budget surplus, and \$14 – 15 Billion in the state *Rainy Day Fund*.**
- **Positive budget outlook likely to result in favorable consideration of budget riders**
- **Impact of a strong state budget cycle on the *biennial Medicaid shortfall***
- **Potential for a biennial Medicaid *cost containment* rider**
- ***Local Provider Participation Fund (LPPF)* renewals**
- **Renewal of Medicaid *add-ons* for safety net hospitals, trauma centers, children's and rural hospitals**
- **Stability of the funding methodology for the state's trauma infrastructure**
- **Health sector workforce issues; lingering post-COVID impacts**
- **Preservation of the 340 B discount drug program**
- **Mental health; note *emergency detention orders/warrants* proposals**

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## 2025 State Legislative Session

### *Health and Human Services Priorities*

- **Infrastructure, including electric grid, telecommunications networks, and water resources; disaster preparation, response and resilience.**
- **Health sector advocates will play a lot of *defense* in 2025:**
  - **Legislation targeting health systems' charity care and community benefit policies, resulting from a Texas House budget rider included in the 2024-25 biennial appropriations bill**
  - **Prohibiting "facility fees"**
  - **Government rate-setting for health care services provided to ERS, TRS, UT System, A&M System, etc.**
  - **Mandating *lowest contracted rate* for hospital services**
  - **Expanding the prohibition of vaccine mandates (COVID vaccine mandates prohibited in 2023)**
  - **Confronting criticism of *school-based* health services**
  - **Abortion**

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## Federal Legislative Update

- **The current session of Congress has been the *least productive* in almost a century.**
- **With Republicans maintaining such a slim majority in the US House, and Democrats maintaining an even slimmer majority in the Senate, and presidential election dynamics hardening stridently partisan positions, there has been considerable gridlock, and little incentive to actually solve problems. (ex., bipartisan "border security" bill; Senators Lankford & Murphy)**
- **Anticipate further gridlock following the 2024 election cycle, particularly if Republicans retake the Senate, and Democrats retake the House. Margins in both chambers will be close, and the Senate majority will be well short of a 60-vote, filibuster-proof threshold.**
- **Consider the impacts of congressional retirements, and election losses, on key committees of jurisdiction: There will be at least 10 new senators, and 65 new House members.**
- **Congress recessed September 30, after passing another temporary federal spending bill, ("continuing resolution") funding the government through December 20.**
- **Congress is scheduled to return November 12 for a "lame-duck" session.**

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## Federal Legislative Update

- **Lame-duck session options:**
  - Congress can pass an omnibus spending bill, funding the government through the end of the 2025 federal fiscal year (September 30, 2025); or
  - Congress can pass *another*, *short-term continuing resolution*, extending the FY '25 appropriations process into the new year, and jurisdiction of the next Congress.
- **Bottom Line:** Congress and the new Administration will have to devote considerable time and energy to budget, tax and entitlement reform negotiations.
- **Provisions of the Trump-era *Tax Cuts & Jobs Act of 2017*, Affordable Care Act (ACA) tax credits and the *Child Tax Credit* are scheduled to end in 2025, unless extended or reauthorized.**
- **Discretionary budget cap agreements are scheduled to expire September 30, 2025.**
- **Debt limit scheduled to be reinstated January 2, 2025.**
- **Expect the 119<sup>th</sup> Congress to reconsider the *Safety from Violence for Healthcare Employees Act* (SAVE Act).**

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## Federal Legislative Update

- **Expect a *Harris/Walz* Administration to focus on:**
  - Improving access to affordable health insurance coverage
  - Relieving “medical debt”
  - Prior authorization reform
  - Extending health sector provisions of the American Rescue Plan Act (ARPA) and Inflation Reduction Act (IRA), ex., enhanced ACA health insurance subsidies
  - Prescription drug prices
  - Health equity/disparity, especially maternal health
  - Enhanced access to reproductive health
  - Greater investment in behavioral health
  - Health sector consolidation, and impacts on competition and costs to consumers
  - Artificial intelligence

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## Federal Legislative Update

- **Expect a *Trump/Vance* Administration to focus on:**
  - **Improving consumer choice in healthcare**
  - **Physician payment reform**
  - **Banning public health mandates**
  - **Reining in the health sector regulatory overlay/administrative burden: narrowing agency jurisdiction: CDC, NIH, etc.**
  - **Reforming Medicaid: incorporating work requirements; other eligibility measures**
  - **Pricing transparency, insurance reforms, prescription drug policy reforms**
  - **Prior authorization reform**
  - **Telehealth/telemedicine**
  - **Behavioral health and substance abuse**
  - **Prohibiting gender-affirming care for minor patients; ensuring parental consent**
  - **Protecting entitlements (Medicare, Social Security)**
  - **Artificial intelligence**

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## Federal Legislative Update

- **Opportunities for bipartisanship in health sector policy:**
  - **Site-neutral payment reform**
  - **340 discount drug program reform**
  - **Non-profit providers' tax-exempt status**
  - **Medicare physician payment reform**
  - **Reducing administrative burden for patients and providers**
  - **Pharmacy Benefit Manager (PBM) reform**
  - **Home-based palliative care**
  - **Cybersecurity attacks on healthcare organizations**
  - **Behavioral health**
  - **Long-term costs of chronic conditions**

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## Dynamics Impacting Health Sector Advocates

- **Lawmakers and policy makers do not understand the *fundamentals* of our business:**
  - **Medicare v. Medicaid**
  - **How providers get paid: what is a provider's "payor mix"**
    - "Not a typical P&L statement"
    - Supplemental payment programs
  - **Who is a typical Medicare beneficiary; Medicaid beneficiary?**
  - **Relationship between hospitals, physicians and insurance companies**
  - **"In network" v. "out of network"**
  - **Nexus between federal, state and local jurisdictions**
  - **Impact of EMTALA**

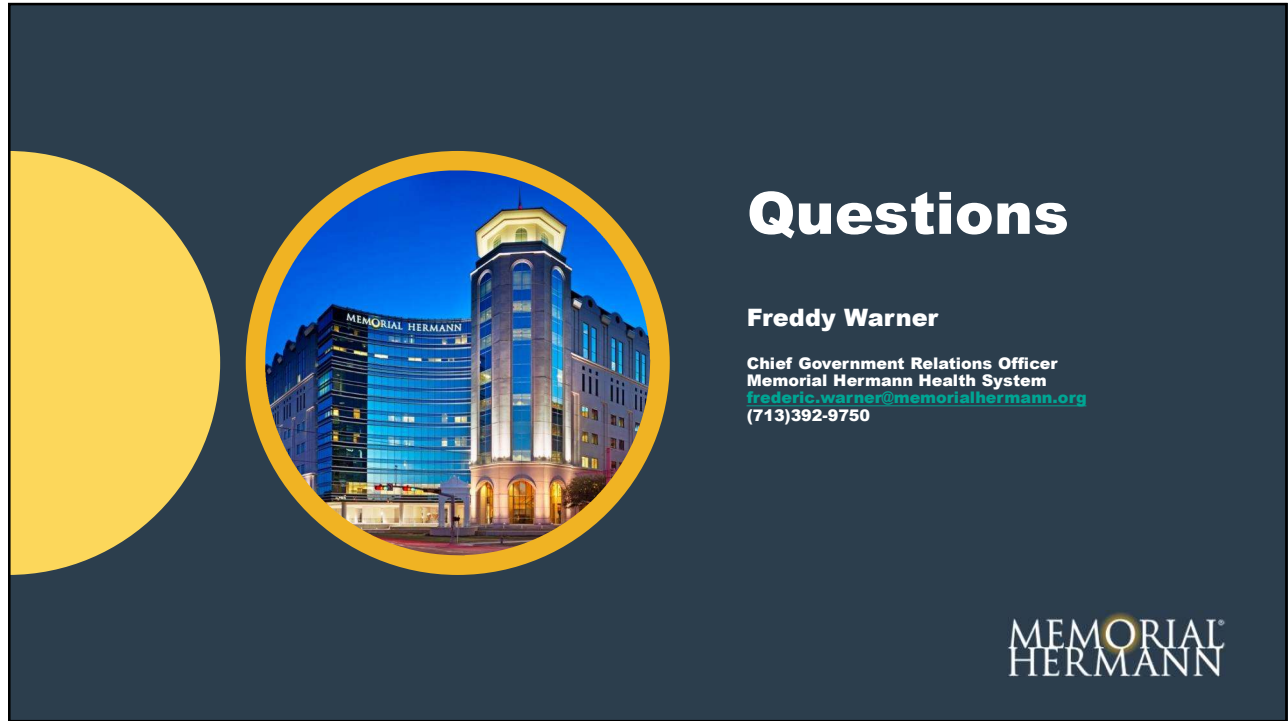
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## Dynamics Impacting Health Sector Advocates

### ***Dynamics impacting health care providers and those who represent them:***

- ***Perception* that health care providers became enriched by COVID funding (CARES Act and ARPA funding);**
- ***Perception* of poor health care provider compliance with federal and state price transparency mandates and COVID reporting requirements;**
- **Health care providers were *viewed negatively* for requiring COVID vaccines, masks, limiting visitors**
- ***Misperception* of health care providers' fiscal health, as characterized by recent reports originating from advocacy organizations, often funded by the insurance industry**

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# Questions

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