Ohio Association of Health Underwriters
Legislative Update

November 19, 2008
Prepared by John T. McGough

2008 Election Summary

OHIO STATEWIDE ELECTIONS

The unofficial November 4th election results show that both incumbent Republican Justices of the Ohio Supreme Court were easily re-elected receiving over 60% of the vote. Justice Maureen O'Connor defeated Cuyahoga County Common Pleas Court Judge Joseph Russo and Justice Evelyn Stratton defeated Cuyahoga County Common Pleas Court Juvenile Division Judge Peter Sikora. This means that the Republicans retain their 7-0 majority.

In the race for Attorney General to fill the unexpired term of Democrat Marc Dann who resigned, current Democrat State Treasurer Richard Cordray won easily over Republican Michael Crites with 57% of the vote. Governor Strickland will now be able to appoint a successor to Cordray as State Treasurer.

U.S. HOUSE OF REPRESENTATIVES

In the U.S. House of Representatives there will be five new Ohio members. They are:

District 1 (Cincinnati area) – Democrat State Representative Steve Driehaus narrowly defeated incumbent Republican Congressman Steve Chabot.
District 7 (Springfield & surrounding counties) – Republican State Senator Steve Austria was elected to this seat which became open as a result of the retirement of Republican Congressman David Hobson.
District 11 (Cleveland) – Democrat Marcia Fudge easily won this seat that became open due to the recent death of Congresswoman Stephanie Tubbs Jones.
District 15 (Columbus area) – The unofficial results have Republican State Senator Steve Stivers narrowly defeating Democrat Franklin County Commissioner Mary Jo Kilroy by about 200 votes in this open seat. However, there are potentially thousands of provisional ballots yet to be counted. An automatic recount is likely.
District 16 (Canton area) – Democrat State Senator John Boccieri defeated Republican State Senator Kirk Schuring with 54% of the vote. This seat became open as a result of the retirement of Republican Congressman Ralph Regula.

OHIO STATE SENATE

Republicans retained their 21-12 majority. There are 6 current Republican State Representatives who were elected to the Senate: They are: House Speaker Jon Husted, Chris Widener, Jim Hughes, Jimmy Stewart, Bob Gibbs, and Tom Patton. The other new Senator is Republican Karen Gillmor who previously served in the State Senate. A couple of months ago, Democrat Nina Turner was appointed to the 25th Senate District in Cleveland to replace Lance Mason who was appointed a Cuyahoga County Common Pleas Judge by Governor Strickland.

OHIO HOUSE OF REPRESENTATIVES

Democrats appear to have picked up 7 seats in the Ohio House to take a 53-46 majority. This paves the way for Representative Armond Budish (D-Beachwood) to become the next Speaker of the House. Of the 99 seats, 35 will be filled by a new member of the House. The unofficial results show that Democrats picked up 9 seats currently held by Republicans and Republicans picked up 2 seats currently held by Democrats. The winners of these key races are:

District 16 (Cleveland area)
Republican Nan Baker narrowly defeated incumbent Democrat Jennifer Brady.

District 18 (Cleveland area)
Democrat Matt Patten won this seat which was vacated by Republican Tom Patton who was elected to the Senate.

District 19 (north & eastern Franklin County)
In this open seat previously held by a Republican, Democrat Marian Harris defeated Republican Dr. Brad Lewis by 12 votes, so this race will be subject to an automatic recount.

District 20 (eastern Franklin County)
Democrat Nancy Garland defeated incumbent Republican Jim McGregor.

District 22 (northwestern Franklin County)
In this open seat previously held by a Republican, Democrat John Carney defeated Republican Mike Keenan.

District 28 (Cincinnati/Hamilton County)
Democrat Connie Pillich won this seat vacated by former Republican Representative Jim Raussen.

District 42 (Summit County)
Newly appointed Republican Richard Nero was defeated by Democrat Mike Moran.

District 58 (Huron & parts of Seneca & Lorain Counties)
In the open seat previously held by a Democrat, Republican Terry Boose was elected.

District 63 (Lake County)
Democrat Mark Schneider defeated incumbent Republican Carol-Ann Schindel.

District 85 (Fayette, Pickaway & Ross Counties)

Democrat Ray Prior defeated incumbent Republican John Schlichter.

District 92 (Morgan, Athens, Meigs & part of Washington Counties)
In this open seat previously held by a Republican, Democrat Debbie Phillips defeated Republican Jill Thompson, however, an automatic recount is likely.

NEW HOUSE AND SENATE LEADERSHIP TEAMS ELECTED

Now that the November election is over, the Democrats have won the majority in the House and the Republicans have retained their 21-12 majority in the Senate. There are still two races in the House that will likely be subject to recounts, so the Democrat majority will be as high as 53-46 or as low as 51-48. While the Legislature is currently in its lame-duck session, much of the focus is on who will lead the House and Senate next session which begins in January. The new leadership teams are as follows:

House Democrat Caucus
Armond Budish (D-Beachwood) Speaker
Matt Szollosi (D-Toledo) Speaker Pro Tempore
Jennifer Garrison (D-Marietta) Majority Floor Leader
Tracy Heard (D-Columbus) Assistant Majority Floor Leader
Jay Goyal (D-Mansfield) Majority Whip
Allan Sayre (D-Dover) Assistant Majority Whip

House Republican Caucus
Bill Batchelder (R-Medina) Minority Leader
Louis Blessing (R-Cincinnati) Assistant Minority Leader
John Adams (R-Sidney) Minority Whip
Kris Jordan (R-Powell) Assistant Minority Whip

Senate Republican Caucus
Bill Harris (R-Ashland) President
Tom Niehaus (R-New Richmond) President Pro Tempore
Keith Faber (R-Celina) Majority Floor Leader
Mark Wagoner (R-Toledo) Majority Whip

Senate Democrat Caucus – The Senate Democrat leadership team was elected this week. They are:
Capri Cafaro (D-Hubbard) Minority Leader
Shirley Smith (D-Cleveland) Assistant Minority Leader
Ray Miller (D-Columbus) Minority Whip
Jason Wilson (D-Columbiana) Assistant Minority Whip

SEHCB CONSIDERS 3 MORE BEST PRACTICES

At its October 22nd meeting, the School Employees Health Care Board (SEHCB) discussed its second set of proposed Best Practices standards. Further consideration of the proposed standards could occur at the December 3rd SEHCB meeting.

The three proposed Best Practices are:

1. Tobacco-Free Schools - This Best Practice would require each public school district to establish a tobacco-free school campus policy which provides at a minimum, that no student, staff member, volunteer, or school visitor is permitted to smoke, inhale, dip, chew or use tobacco at any time, including non-school hours, in any building, facility, or vehicle owned, leased, rented, or chartered by the district or on school grounds, athletic grounds, or parking lots and at school-sponsored events.
2. Nonpayment for Egregious Medical Errors – This Best Practice focuses on relieving health insurers from having to pay hospitals for certain specified preventable errors. The six preventable errors listed are: (1) surgery on the wrong body part, (2) surgery on the wrong patient, (3) the wrong surgical procedure, (4) unintended retention of a foreign object in the body after surgery, (5) a medication error which causes patient death or injury, and (6) administration of incompatible blood or blood products which causes patient death or injury.
3. Vendor Compensation Transparency - The standard applies "to any person or entity placing coverage or providing any other service to a health plan sponsor", i.e. a public school district. Such person or entity would be required to disclose to the health plan sponsor all sources of compensation arising out of that business relationship including but not limited to fees, commissions, rebates, or any other payments of any kind.

ENACTED LEGISLATION

H.B. 125 – Physician Contracting/Credentialing

On March 22, 2007, Representative Matt Huffman (R-Lima) introduced H.B. 125. The bill establishes certain uniform contract provisions between health care providers and third party payers, establishes standardized credentialing and requires binding arbitration concerning the contract rights conferred by certain provisions of the bill. The bill became effective on June 25, 2008.

H.B. 268 & S.B. 186 – Cancer Clinical Trials Coverage

On June 13, 2007 Senator Steve Stivers (R-Columbus) introduced S.B. 186. The bill prohibits insurers, public employee benefit plans, and multiple employer welfare arrangements from excluding coverage for routine patient care administered as part of a cancer clinical trial. The effective date of S.B. 186 was August 5, 2008 although certain provisions became effective on October 4, 2008.

ACTIVE PENDING LEGISLATION

H.B. 98, H.B. 137 & S.B. 99 – Diabetes Mandate

On March 6, 2007 Representative Michelle Schneider (R-Madeira) and Senator Randy Gardner (R-Bowling Green) introduced H.B. 98 & S.B. 99, respectively, to require health insurance policies and contracts to provide benefits for equipment, supplies and medication for the diagnosis, treatment, and management of diabetes and for diabetes self-management education. H.B. 98 received sponsor

testimony in the House Health Committee on March 21, 2007 and on March 28, 2007, Representative Schneider introduced H.B. 137 which is the same as H.B. 98 with the exception that it adds Representative Beatty as a co-lead sponsor with Representative Schneider. H.B. 137 has been referred to the House Health Committee. S.B. 99 received its third hearing in the Senate Insurance, Commerce & Labor Committee on November 19, 2008.

S.B. 355 & H.B. 622– Physician Designations Protections

On August 8, 2008 and October 1, 2008 former Senator Bob Spada (R-North Royalton) and Representative Tom Patton (R-Strongsville) introduced S.B. 355 and H.B. 622, respectively, which would establish various standards for the use of physician designation systems by health insurers. The standards include what must be considered in the evaluations, disclosure requirements, appeal rights and legal remedies against an insurer if a provider is adversely affected by a violation of the standards. S.B 355 has been referred to the Senate Insurance, Commerce & Labor Committee and H.B. 622 has been referred to the House Insurance Committee.

S.B. 301 & H.B. 493 - Direct Billing of Pathology Services

On March 4 and March 5, 2008 Senator Bill Seitz and Representative Dave Daniels introduced S.B. 301 and H.B. 493, respectively, regarding billing for anatomic pathology services. The bill would prohibit a physician from billing for anatomic pathology services unless the services are personally rendered by the physician or rendered under the direct supervision of the physician. S.B. 301 has received three hearings in the Senate Health, Human Services & Aging Committee and H.B. 493 passed the House on May 29, 2008. H.B. 493 received its first hearing in the Senate Health Human Services and Aging Committee on November 19, 2008.

S.B. 278 & H.B. 556– Colorectal Cancer

On January 23, 2008, Senator Kevin Coughlin (R-Cuyahoga Falls) introduced S.B. 278 to require health insurers, including the state's Medicaid program, to provide benefits for colorectal examinations. The bill passed out of the Senate Health, Human Services & Aging Committee on May 27, 2008. Amendments were added to the bill which attempt to codify the American Cancer Society's current screening standards and which would only require a health insurer to cover the mandated screenings if provided by a contracted provider or facility. On May 28th the bill passed the Senate and has been referred to the House Insurance Committee. On May 13, 2008 Representative Jon Peterson (R-Delaware) introduced a companion bill that has also been referred to the House Insurance Committee.

H.B. 456 – Omnibus Health Care Reform

On January 29, 2008 former Representative Jim Raussen (R-Cincinnati), Chair of the House Healthcare Access & Affordability Committee, introduced H.B. 456 which is the House Republicans' plan to increase the number of insured Ohioans. At his press conference, Representative Raussen stated that roughly 600,000 adults could be covered within five to six years. After numerous hearings on the bill, Representative Raussen prepared a substitute version of the bill on May 8, 2008. The House Healthcare Access & Affordability Committee heard testimony on the substitute version of the bill on May 8, 15 and 22.

H.B. 99 & S.B. 114 – Epilepsy Drugs

On March 6, 2007, Representative Michelle Schneider (R-Madeira) introduced H.B. 99 and on March 13, 2007, Senator Kevin Coughlin (R-Cuyahoga Falls) introduced S.B. 114, respectively, regarding substitution of drugs intended to treat epilepsy. H.B. 99 is pending in the House Health Committee and S.B. 114 is pending in the Senate Health, Human Services & Aging Committee.

S.B. 115 – Dependent Age

On March 13, 2007, Senator Steve Stivers (R-Columbus) introduced S.B. 115 to require health insurers to provide coverage for unmarried dependent children until the age of thirty. To qualify, the child must be a resident of Ohio or a full-time student at a public or private institution of higher learning and cannot be employed by an employer that offers the child any health benefit plan. The bill passed out of the Senate Insurance, Commerce & Labor Committee on May 28, 2008. An amendment was added to the bill that states that employers are not required to offer coverage to the dependents of any employee and a requirement that health insurers separately identify any additional premium costs for coverage of those dependents who are either 19 or older or full-time students and 25 or older.

PENDING LEGISLATION

H.B. 355 & S.B. 169 – Medicaid Fraud

On October 18, 2007 Representative Jim Hughes (R-Columbus) introduced H.B. 355 and on October 15, 2007 Senator David Goodman (R-New Albany) introduced S.B. 169. The bills would authorize the recovery of damages and civil penalties for defrauding the state of money, property or services in relation to the Medicaid program, and to authorize private persons to bring civil actions to remedy the frauds. H.B. 355 has received nine hearings in the House Civil & Commercial Law Committee and S.B. 169 had sponsor testimony in the Senate Judiciary-Civil Justice Committee on May 20, 2008.

H.B. 170 – Autism Mandate

On April 24, 2007, Representatives Ted Celeste (D-Grandview Heights) and Jon Peterson (R-Delaware) introduced H.B. 170 to prohibit health insurers from excluding coverage for autism. The bill received its most recent hearing in the House Insurance Committee on April 8, 2008.

H. B. 495 – College Student Health Insurance

On March 5, 2008 Representative Diana Fessler (R-New Carlisle) introduced H.B. 495 to prohibit state institutions of higher education from requiring a student to purchase the institution's health insurance plan as long as the student provides written proof that the student is covered by another health insurance policy, regardless of the amount of coverage or the amount of deductible prescribed in the policy. The bill received its first hearing in the House Insurance Committee on May 20, 2008.

H.B. 571 – Restore Certificate of Need

On May 19, 2008 Representative Tyrone Yates (D-Cincinnati) introduced H.B. 571 to restore the Certificate of Need program for the construction of new hospitals and the conduct of other health-related activities. The bill has been referred to the House Finance & Appropriations Committee.

S.B. 251 – Pilot Accessing to Health Grant Program

On November 8, 2007, Senator Kevin Coughlin (R-Cuyahoga Falls) introduced S.B. 251 to create the Pilot Accessing to Health grant program. The Ohio Department of Health would award grants to regional programs operated for the purpose of providing access to health care coverage or health care services to persons who otherwise would not have access to the coverage or services. The bill authorizes $5 million per year for FY 2008-2009.

Two types of programs are eligible to apply for the grant. One is a program that makes health care coverage available to the employees of participating small employers by serving as a consumer of health care coverage and having the premiums or other costs for the coverage shared by the employers, employees and the program. The program may allow an employer to participate if the employer has not more than 100 employees on average in a 12 month period and has not made employer-sponsored health care coverage available to its employees for at least 12 months. The second is a voluntarily care network program that solicits, maintains, and makes available to participants a list of health care providers that agree to provide a percentage of their services according to a sliding fee scale or at no charge to persons who have low incomes and do not have health care coverage. The program may make the list available to any person who has an annual family income not exceeding 200% of the Federal Poverty Level. The bill specifically prohibits insurers and HICs from receiving grants. The bill is pending in the Senate Finance and Financial Institutions Committee.

H.B. 384 & S.B. 298 – Mental Health Parity (Including Substance Abuse and Drug Addiction)

On November 7, 2007 and February 26, 2008, Representative Ted Celeste (D-Columbus) and Senator Dale Miller (D-Cleveland) introduced H.B. 384 and S.B. 298, respectively, to prohibit discrimination in health care policies, contracts and agreements in the coverage provided for the diagnosis and treatment of mental illnesses and substance abuse and addiction conditions. This legislation would expand the current mental health parity law to include all mental illnesses, not just biologically-based mental illnesses, and add substance abuse and drug addiction. H.B. 384 has received three hearings in the House Insurance Committee and S.B. 298 has been referred to the Senate Insurance, Commerce & Labor Committee.

H. B. 335 – Prostate/Colorectal/Cervical/Ovarian Cancer Screening Exams

On October 2, 2007, Representative Michael DeBose (D-Cleveland) introduced H.B. 335 to require health insurers and plans, including the state's Medicaid program, to provide benefits for prostate, colorectal, cervical and ovarian cancer screening examinations. The bill had sponsor testimony in the House Insurance Committee on April 1, 2008.

H.B. 294 & S.B. 297 – Post-Traumatic Stress Disorder Mandate

On August 9, 2007 and February 26, 2008 Representative Ted Celeste (D- Grandview Heights) and Senator Dale Miller (D-Cleveland) introduced H.B. 294 and S.B. 297, respectively, to prohibit HICs and insurers from excluding coverage for the diagnosis and treatment of post-traumatic stress disorder. H.B. 294 received sponsor testimony in the House Insurance Committee on January 23, 2008 and S.B. 297 had sponsor testimony in the Senate Insurance, Commerce & Labor Committee on April 2, 2008.

H.B. 291 – Any Willing Pharmacy Mandate

Representative Tom Patton (R-Strongsville) introduced H.B. 291 on July 26, 2007. The bill states that no HIC or insurer contract that includes coverage for prescription drug services shall exclude a

nonparticipating pharmacy that is willing to meet the terms and conditions of the pharmacy program of the HIC or insurer. The bill has received three hearings in the House Insurance Committee.

H.B. 251 – Prescription Contraceptive Mandate

On May 30, 2007 Representatives Jon Peterson (R-Delaware) and Tyrone Yates (D-Cincinnati) introduced H.B.251 which prohibits HICs and insurers from: (1) limiting or excluding coverage for prescription contraceptive drugs or devices if the contract provides coverage for other prescription drugs or devices, and (2) limiting or excluding coverage for physician-directed outpatient services that are related to the provision of such drugs or devices, if the contract provides coverage for other outpatient services rendered by a provider. The bill has been referred to the House Health Committee.

H.B. 249 & S.B. 337– Increase Medicaid Reimbursement of Medical Transportation Services

Representative Ross McGregor (R- Springfield) introduced H.B. 249 on May 30, 2007 to establish a procedure to increase the Medicaid program's reimbursement rate for medical transportation services. The bill is pending in the House Finance & Appropriations Committee. On May 12, 2008 Senator Mark Wagoner (R-Toledo) introduced a companion bill that has been referred to the Senate Finance & Financial Institutions Committee.

H.B. 236 – Establish Family Health Plus Component of Medicaid Program

On May 29, 2007 Representative Sandra Williams (D-Cleveland) introduced H.B. 236 to require the Director of Job and Family Services to seek a federal Medicaid waiver to establish the Family Health Plus component of the Medicaid program, and imposes an assessment on hospitals to help fund the program. The program establishes criteria to allow individuals 18 – 64 whose income or resources exceed the Medicaid program's eligibility requirements to qualify for health care coverage under the Medicaid Family Plus component. The bill has been referred to the House Healthcare Access & Affordability Committee.

H.B. 186 & S.B. 168 – Single Payer Health Care

On April 25, 2007 and May 15, 2007, Representative Michael Skindell (D-Lakewood) and Senator Dale Miller (D-Cleveland) introduced H.B. 186 and S.B. 168, respectively, to provide universal health care coverage for all Ohioans. These companion bills are essentially the SPAN Ohio government run health care proposal. H.B. 186 has been referred to the House Healthcare Access & Affordability Committee and S.B. 168 has been referred to the Senate Health, Human Services & Aging Committee.

H.B. 6 – SCHIP Expansion

Representative Jimmy Stewart (R-Albany) introduced H.B. 6 on February 20, 2007. The bill increases the income eligibility limit for the Children's Health Insurance Program Part II to 300% of the federal poverty guidelines. The bill has been referred to the House Finance & Appropriations Committee. Provisions of this bill have been included in Governor Strickland's budget bill (H.B. 119).

S.B. 4 & H.B. 106 – Medicaid Buy In

On February 20, 2007, Senator Steve Stivers (R-Columbus) introduced S.B. 4. The bill establishes the Medicaid Buy-In for Workers with Disabilities Program which would allow eligible individuals with family income up to 250% of the federal poverty guideline to participate in the program. Provisions of this bill have been included in Governor Strickland's budget (H.B. 119). Also on March 13th

Representative Jon Peterson (R-Delaware) introduced H.B. 106 which is the House companion bill version of S.B. 4. H.B. 106 has been referred to the House Finance & Appropriations Committee.

S.B. 104 – Assignment of Benefits

Senator Larry Mumper (R-Marion) introduced S.B. 104 on March 8, 2007. The bill would require insurers and other third-party payers to accept and honor assignment-of-benefit agreements entered into between plan beneficiaries and treating health care providers. The bill has been referred to the Senate Insurance, Commerce & Labor Committee.

S.B. 54 – Coverage Exclusions

On February 20, 2007, Senator Patricia Clancy (R-Cincinnati) introduced S.B. 54 to prohibit a health insurer from limiting or excluding coverage for injuries occurring as a consequence of an insured's use of alcohol or other drugs or both. The bill has been referred to the Senate Insurance, Commerce & Labor Committee.

S.B. 138 – Medicaid Coverage of Services

On April 5, 2007, Senator Tim Schaffer (R-Lancaster) introduced S.B. 138 to require the Medicaid program to include coverage for occupational therapy services provided by a licensed occupational therapist. The bill has been referred to the House Finance & Appropriations Committee.

H.B. 164 – Federally Qualified Health Centers

On April 18, 2007, Representative Ross McGregor introduced H.B. 164 to promote the establishment of federal health centers, to include federally qualified health center look-alikes in the medical malpractice premium assistance program, and to create a pilot program to place federally qualified health centers in two hospital emergency departments. The bill was scheduled for a possible vote in the House Health Committee on June 20, 2007.

S.B. 120 – Hospital ERs

On March 20, 2007, Senator David Goodman (R-Columbus) introduced S.B. 120 to require hospitals to operate emergency departments and maintain Medicaid and Medicare agreements subject to certain exemptions from those requirements. The bill received its fourth hearing in the Senate Health, Human Services & Aging Committee on June 20, 2007 and was scheduled for a possible vote.

H.B. 24 – Municipal Tax Deductions

On February 20, 2007, Representative Jeff Wagner (R-Sycamore) introduced H.B. 24 to authorize municipalities to allow self-employed taxpayers to take a municipal income tax deduction for amounts paid for medical care insurance and to authorize municipalities to allow individuals to deduct amounts paid into health savings accounts. The bill passed out of the House on April 17, 2007 and is pending in the Senate Ways & Means & Economic Development Committee.

H.B. 75 – Minimum Employer Coverage

On February 27, 2007, Representative Bob Hagan (D-Youngstown) introduced H.B. 75. The bill would require employers that employ 1,000 or more employees in the state and who in the preceding calendar year did not incur total health insurance costs of at least 8% of the total amount of wages paid to employees, shall remit 8% of the total amount of wages paid by the employer to employees in the

state to the Director of Job and Family Services. All monies received shall be used for the exclusive purpose of supplementing the State's share of Medicaid costs. The bill has been referred to the House Insurance Committee.

H.B. 86 – Prohibit Coverage of Nontherapuetic Abortions

Representative Lynn Wachtmann (R-Napoleon) introduced H.B. 86 on February 28, 2007 to prohibit the state offering, sponsoring, or endorsing a health insurance policy that covers nontherapeutic abortion. The bill received its first hearing in the House Health Committee on March 14, 2007.

S.B. 13 – Placeholder on Healthcare

Senator Shirley Smith (D-Cleveland) introduced S.B. 13 on February 20, 2007. The bill formally states the intention of the 127th General Assembly to deliberate on how to improve the provision of, and payment for, health care services in Ohio in a manner that promotes Ohio's economic development and to revise the laws of the state to achieve improvements in these matters. The bill has been referred to the Senate Health, Human Services & Aging Committee.

S.B. 47 – Ohio Income Tax Deductions

On February 20, 2007, Senator Tim Schaffer (R-Lancaster) introduced S.B. 47 to authorize the deduction for unreimbursed medical expenses that exceed 3% of the taxpayer's federal adjusted gross income in computing Ohio income tax. The bill received its first hearing in the Senate Ways, Means & Economic Development Committee on March 14, 2007.

H.B. 116 – HSAs to Public Employees

On March 20, 2007, Representative Lou Blessing (R-Cincinnati) introduced H.B. 116 to require employers to make health savings accounts available to public employees. The bill has received two hearings in the House State Government Committee.