

## Cozen Currents: Is Harris the Answer?

### The Cozen Lens

- While it's becoming ever clearer Vice President Harris is likely to be the Democratic nominee following President Biden's decision to step aside, it's less clear what the impact will be on the presidential race's dynamics.
- Increasing voter frustration with the high cost of housing is leading both parties to elevate the issue of housing affordability in their 2024 policy platforms.
- Pressure is rising on the pharmaceuticals industry from Democrats and Republicans alike.

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### Now That Biden's Out, What's Next?

**The Electoral Process to Replace Biden.** The actual path to replace President Biden as the nominee is clear-cut, and all signs point to the same conclusion — Vice President Harris.

- Despite the theatricality of a late switch, Biden has truly only been the presumptive nominee up until now and the rules governing what happens next are straightforward. The eventual nominee still requires a majority of delegates to vote in their favor (whether at the convention itself or a roll call vote beforehand) and Biden's delegates are no longer bound to vote for him.
- There's many reasons all pointing to Harris as the candidate. First, she's receiving major endorsements from all over the party, from Biden himself, former President Bill Clinton and Hillary Clinton, Rep. Jim Clyburn (D-SC), the chairs of the Congressional Hispanic Caucus, the Congressional Black Caucus, and the Congressional Progressive Caucus, big Democratic donors, and many more elected officials on the way. While none of these are in any sense legally binding, they're certainly heavily persuasive to the overwhelming number of delegates the Biden campaign personally selected in the first place, and every indication is that they're following the tide.
- The convention will be open, and delegates are free to nominate other candidates but realistically the process will be guided by implicit guardrails. Harris has access to the list of delegates and the Biden campaign's cash reserves. For someone else to meaningfully contest the nomination, they would have to openly signal that they would be willing to be the candidate and begin a "For Your Consideration" operation behind the scenes. For most of the other top candidates being thrown around, the better option for them personally would be to look like a team player and wait to be the new nominee in 2028 or retain the ability to join her cabinet if she's elected. Additionally, there's very little appetite to descend into internal infighting at this time and the optics of passing over the sitting vice president, a woman of color, to pick someone else is anathema to many in the party.

**The Electoral Politics of Replacing Biden.** While it's increasingly clear the nominee will be Harris, it remains too early to definitively say how that will impact the race as a whole.

- At the moment, all we have to go off of is a handful of polls that asked voters what they thought of Harris while this prospect of a matchup of her against former President Trump was still a hypothetical. It's eminently reasonable that many people who picked up the phone in the past few weeks to answer that question will feel differently three months from now come November 5 when they're physically standing in the voting booth. We'll need a few weeks of data coming in before getting a sense of whether, and by how much, Harris improves Democrats' chances.
- There's certainly possible upside to swapping out Biden for Harris. The prior status quo



Howard Schweitzer

CEO, Cozen  
O'Connor  
Public  
Strategies

hschweitzer@cozen.com  
Phone: (202) 912-4855  
Fax: (202) 640-5932

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was that up to one-quarter of voters were “double-haters” who disapproved of both Biden and Trump. While Harris’ current approval ratings are underwater like Biden’s (and Trump’s), she’s not dogged by the same acuity issues that have hounded Biden’s campaign and made many reluctant to support him. Some preliminary data suggests she may poll better with younger voters and people of color, demographics of especial importance to hopes of meaningfully contesting Sun Belt swing states that have drifted away from the Biden campaign.

- That said, it’s not at all clear that the map expands very much as a result of the change. Additionally, there’s a risk that she might do worse in the three most important states of the election — the Rust Belt Trio of Wisconsin, Michigan, and Wisconsin — if she can’t replicate “Scranton Joe’s” current strengths (relative to the rest of his polling) with senior citizens, union members, and white workers without college degrees. We must simply wait and see.

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### **Bipartisan Embrace of Housing Affordability**

**Everyone’s Problem.** With only months left until the election, the number of available homes on the market is hovering around all-time lows while the majority of homeowners are frozen in place, unwilling to give up low mortgage rates secured before the pandemic.

- High rates and limited supply are exacerbating a housing affordability crisis that spans blue and red states. The bipartisan nature of the issue has led lawmakers in both parties to take note, particularly as voters increasingly cite housing costs as an issue central to their vote in November.
- The number of bills in Congress to address housing affordability has risen alongside the cost of housing itself. Members of the Senate have been particularly busy, introducing legislation that would encourage localities to enact pro-housing land-use reforms, incentivize transit-oriented development, expand rural housing programs, and increase awareness of the Department of Veterans Affairs’ Home Loan Program. A proposal to expand states’ Low Income Housing Tax Credit allocations by 12.5 percent made it into this year’s House-passed Wyden-Smith tax bill.
- Despite the bipartisan interest in housing policy reform, getting legislation over the finish line has proven challenging. With limited legislative days remaining until the election, most policy proposals have been cast aside in favor of a focus on “must-pass” legislation such as spending bills. As Senator Sheldon Whitehouse (D-RI) said in February, lawmakers are “a long way from finding the vehicle” for housing legislation, indicating significant reforms might have to wait until 2025.

**Biden Administration Goes It Alone.** With Congress moving slowly, the Biden administration is taking matters into its own hands. President Biden had been elevating housing policy on the campaign trail as part of a shift toward a more populist agenda before withdrawing this weekend, and we expect his successor will pick up the affordable housing mantle.

- In March, Biden unveiled a new plan to lower housing and rental costs as part of his State of the Union address. The central tenet of Biden’s plan is a series of proposals to subsidize the cost of homeownership, including tax credits for first-time homebuyers, for families who sell a starter home to an individual who will live in the home, and for first-generation homebuyers. The president followed-up those proposals with a more recent call for a nationwide cap on rent increases of greater than five percent annually. None of the proposals can become law without congressional action.
- Behind the scenes, the White House has also directed a number of federal agencies to tackle housing costs. The Consumer Financial Protection Bureau published a May 30 request for information seeking comment on mortgage closing costs and their impact on borrowers, the first step in the agency’s rulemaking process. The RFI highlights title insurance, the cost of credit reports, and mortgage discount points as areas the agency believes could require regulatory action to lower costs.
- The Department of Justice (DOJ) has also involved itself in the effort, bringing an antitrust angle to housing costs. Politico reports that the agency is planning to bring a civil suit against property pricing software developer RealPage, which is accused of aiding price-fixing schemes and anti-competitive behavior among large landlords through its software. The DOJ

is also monitoring the National Association of Realtors' \$418 million settlement with home sellers over commission costs. According to the *Wall Street Journal*, the agency is weighing whether to object to the settlement outright, forcing negotiators back to the table before a federal judge fully approves the agreement in November.

**Trump's Return to Home Building.** Former President Trump's own populist streak has led the GOP to prioritize a number of kitchen table economic issues, including policies to lower housing costs.

- The GOP elevated housing affordability to a top position on its recently published party platform. In the first section of its fourth chapter, GOP policy drafters included that the party will "...reduce mortgage rates by slashing Inflation, open limited portions of Federal Lands to allow for new home construction, promote homeownership through Tax Incentives and support for first-time buyers, and cut unnecessary Regulations that raise housing costs."
- In an interview earlier this summer, Trump's former director of the Federal Housing Finance Agency, Mark Calabria, went a step further than the party's platform and shared some specific priorities for a second Trump term. Per Calabria, a Trump administration would "strengthen community banks" to lower construction financing costs, work to boost the housing-related labor supply, and allow for the construction of housing on some federal land, similar to Biden's recent announcement.

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### Bipartisan Pressure on Pharma Rises

**Democrats and Drug Pricing.** The Biden administration aims to reduce the cost of prescription drugs.

- Democrats hope to expand on the Inflation Reduction Act's (IRA) drug price negotiation program. President Biden and Senator Bernie Sanders (I-VT) recently co-authored a USA Today op-ed calling for manufacturers of popular GLP-1 diabetes and weight-loss drugs to lower their prices. Biden and Sanders advocated for expanding the Inflation Reduction Act program to cover more than 50 drugs per year so that all Americans' yearly prescription drug spending is capped at \$2,000. This lays down a marker for Democrats and makes a populist case to voters.
- The Biden administration is making moves to lower drug prices. Late last month, the Centers for Medicare and Medicaid Services (CMS) announced inflation penalties for 64 prescription drugs under Medicare Part B. The next few weeks include major milestones for Medicare drug price negotiations. July 31 is drugmakers' deadline to accept or reject proposed maximum fair prices (MFPs). CMS is scheduled to publish the negotiated MFPs for the first 10 Medicare Part D drugs in the program by September 1.
- Scrutiny of drug pricing is more of a populist than a partisan issue. The industry is facing heat from both sides of the aisle. This month, the Senate unanimously passed a bill sponsored by Senators John Cornyn (R-TX) and Richard Blumenthal (D-CT) to limit biologic drug manufacturers' use of patents to prevent biosimilar competitors. It is extremely rare for anything to reach unanimous consent in the Senate in this polarized era. The fact that this bill did is a sign that suspicion of pharma has strong bipartisan roots.

**Republicans and Drug Pricing.** Pharma also faces heat from former President Trump.

- Trump has taken an interest in lowering drug costs. Late in his term, the Trump administration unveiled its most-favored nation plan, which would have tied prices paid by CMS for drugs under Medicare Parts B and D to those charged in other developed countries. Though Trump did not fully implement his policy before leaving office, his campaign highlighted the issue.
- Just because Trump's original plan didn't ultimately pan out doesn't mean that he won't try again. Trump has pledged as part of his campaign's Agenda47 to bring back the most-favored nation policy in a second term "on Day One." Traditional conservatives in the Republican Party won't like the idea of going to war against the pharmaceutical industry, but Trump has consolidated power within the GOP and would likely be able to push his agenda through.
- Trump's VP pick, Senator JD Vance (R-OH), said as a Senate candidate in 2022 that he

backed Medicare negotiations over drug prices. He has gone on the record in support of Medicare negotiating drug prices. While Vance is not likely to be calling the shots in a Trump White House, he may have the president's ear and would be well-placed to counter pressure from pharma's allies. While Republicans and Democrats may approach drug pricing differently, it's clear that scrutiny of pharma will not disappear no matter who wins in November.

**PBMs: A Bipartisan Target.** Pharmacy benefit managers (PBMs) are increasingly coming under fire.

- The House Oversight Committee, which doesn't typically have jurisdiction over healthcare, is scrutinizing PBMs. This is a sign of high congressional interest in the issue. The committee will hold a [hearing](#) today featuring the CEOs of the three largest PBMs: Optum, a subsidiary of UnitedHealth Group; CVS Caremark; and Cigna-owned Express Scripts. This hearing is the third in a series on PBMs. Previous installments occurred in [May](#) and [September 2023](#) and focused on anti-competitive conduct and drug pricing.
  - The Federal Trade Commission (FTC) is also probing PBMs. The agency [released](#) an interim report finding that they raise the price of prescription drugs. The Wall Street Journal has [reported](#) that the FTC plans to sue the three biggest PBMs.
  - If Trump returns to the White House, some degree of FTC scrutiny of PBMs will likely continue. Suspicion of PBMs has a bipartisan basis, so a Trump-appointed FTC chair may not junk the agency's effort but may not go about it the same way. The FTC's 2022 vote to look into PBMs was 5-0, though both Republican Commissioners Andrew Ferguson and Melissa Holyoak raised concerns about the methodology of the recently released interim report.
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