



Health Policy Briefing

November 12, 2018

Hart Health Strategies Inc. Prepares Post-Election Primers

Hart Health Strategies Inc. has prepared the following documents (starting on page four) to assist your post-election analysis:

- *Issues to be Addressed in Lame Duck Session*; and
- *Guide to the 116th Congress*, including a list of *Health Professionals Serving in the 116th Congress*, updated to include Lauren Underwood, RN (D-IL-14) and to confirm that Dr. Kim Schrier, a pediatrician, won the 8th Congressional District seat in Washington state.

2018 Midterm Elections: Dems Take the House, GOP Holds on to Senate

Last week’s midterm elections saw Democratic success in gaining a majority in the House of Representatives, while the GOP slightly strengthened its hold on the Senate. Polling indicated that health care was one of the most important policy issues for voters in this election, with Republicans warning against the Medicare-for-All policy being touted in liberal-leaning districts, and Democrats underscoring their promise to defend protections for pre-existing conditions.

Notable pickups for Democrats include the election of Donna Shalala in Florida’s 27th Congressional District following the retirement of GOP Rep. Ileana Ros-Lehtinen. Shalala is the former secretary of Health and Human Services under President Bill Clinton. Dem. Debbie Mucarsel-Powell defeated House Ways and Means Committee GOP member Carlos Curbelo for Florida’s 26th Congressional District. While Curbelo has broken with the President on divisive issues, Mucarsel-Powell attacked his vote to repeal the Affordable Care Act (ACA) and his support for the Republican tax cut package. Ways and Means Health Subcommittee Chairman Peter Roskam (R) was defeated by Democratic challenger Sean Casten in Illinois’ 6th District. Tom Malinowski (D) unseated Energy and Commerce Committee member Leonard Lance (R) in New Jersey’s 7th Congressional District. Dem. Rep. Jacky Rosen defeated GOP Sen. Dean Heller in the Nevada

Senate race to flip that seat for Senate Democrats. Republicans secured the Senate majority with wins in Indiana – businessman Mike Braun (R) defeated Sen. Joe Donnelly (D), Missouri – MO Attorney General Josh Hawley (R)

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defeated Sen. Claire McCaskill (D), and North Dakota – Rep. Kevin Cramer (R) defeated Sen. Heidi Heitkamp (D).

Thirty-six governor's races were also decided last Tuesday, in addition to hundreds of state ballot measures. Michigan voted to legalize adult recreational marijuana use, and Missouri approved a medical marijuana ballot measure. Voters in Idaho, Nebraska, and Idaho approved ballot referendums to expand their Medicaid program coverage under the ACA. In Kansas, Maine and Wisconsin, voters elected the Democratic candidates for governor who will be more likely to expand Medicaid.

There are several House races that remain undecided and in the Senate, Rep. Kyrsten Sinema (D) has a narrow lead over Rep. Martha McSally (R) for the Arizona Senate seat to replace Sen. Jeff Flake (R), with half a million votes left to count. In Florida, both the Senate and gubernatorial races in Florida are headed for a recount, with Republican Governor Rick Scott holding a narrow lead over incumbent Senator Bill Nelson (D) for the Senate seat. In Georgia, Democrat Stacey Abrams is down by 1.5 percentage points to Republican Brian Kemp, as of Sunday afternoon. While Kemp has declared victory, Abrams has not conceded. In Mississippi, there will be a special election for a Senate seat, requiring a run-off on November 27 between Republican Cindy Hyde-Smith, who was appointed to the position, and Democrat Mike Espy, who served in the cabinet of President Clinton.

House Democrats have already begun preparing their agenda for the 116th Congress. Stabilizing the Affordable Care Act (ACA) and addressing the price of prescription drugs are likely to be top priorities and Democrats are also expected to focus on oversight of federal agencies as well as investigations of the Trump administration. Lawmakers have begun discussing plans to hold a vote to defend protections for people with pre-existing conditions early next year. The measure to be taken up would authorize the House to intervene in the anti-ACA lawsuit brought by Texas and other GOP state attorneys seeking to overturn the 2010 health care law. It would not require approval by the Senate or President.

The House and Senate will return to Washington on Tuesday to resume work.

Lawmakers Announce Bids for Forthcoming Leadership Elections

Following the elections on Tuesday, lawmakers quickly moved to announce their intentions to seek leadership positions in the 116th Congress. Nancy Pelosi (D-Calif.) seeks to return as Speaker of the House despite a growing number of newly elected Democrats expressing their opposition to her. Steny Hoyer (D-Md.) plans to stay in the number two position of Majority Leader, while James Clyburn (D-S.C.) will have to overcome a challenge from seven-term Rep. Diana DeGette (D-CO) if he wishes to stay in the number three position of Majority Whip. Reps. Cheri Bustos (D-Ill.) is in a contest to lead the Democratic Congressional Campaign Committee (DCCC) along with Reps. Denny Heck (D-WA), Susan DelBene (D-WA) and Sean Patrick Maloney (D-NY). Current DCCC Chairman Ben Ray Lujan is running to be Assistant Democratic Leader against Rep. David Cicilline (D-R.I.) and Reps. Barbara Lee (D-Calif.) and Hakeem Jeffries are running for Democratic Caucus Chairman.

Kevin McCarthy (R-Calif.) has the endorsement of Speaker Paul Ryan (R-Wis.) to lead the Republican caucus, given Ryan's retirement at the conclusion of the 115th Congress. McCarthy circulated a Dear Colleague letter last week announcing his bid for Minority Leader. Rep. Jim Jordan (R-Ohio), a top voice of the conservative House Freedom Caucus, is also jockeying for the position. Jordan argues that the party needs fresh leadership to win back the House in 2020. House Republican Conference Chairwoman Cathy McMorris Rodgers (R-Wash.) announced that she will not seek another term in leadership next congress. She instead intends to focus on pursuing a ranking member position on an Energy and Commerce subcommittee. Rep. Liz Cheney (R-Wyo.) announced last week that she will run for McMorris Rodgers's current position. Rep. Mark Walker (R-N.C.), member of the Republican Study Committee, is expected to run for GOP Conference Vice Chairman. Rep. Steve Scalise (R-LA) plans to run for Minority Whip.

Closed-door GOP leadership elections will be held this week. Candidates will need to secure only a simple majority of votes in a secret ballot. House Democratic leadership elections are expected to occur during the last week of November.

AG Jeff Sessions Resigns at Request of President

Attorney General Jeff Sessions resigned at the request of President Trump last week. Sessions' departure calls into question the status of the probe led by Special Counsel Robert Mueller. The President had frequently criticized Sessions in recent months for recusing himself from the ongoing investigation into Russian interference in the 2016 presidential campaign. Matt Whitaker, Chief of Staff at the Department of Justice (DOJ), has been named Acting Attorney General and will take charge of overseeing the probe from Deputy Attorney General Rod Rosenstein. The President has said he will nominate a permanent successor for attorney general at a later date. Labor Secretary Alexander Acosta, former New Jersey Governor Chris Christie, and U.S. Appeals Court Judge Edith Jones are reportedly under consideration for the position.

Opioid-Related News Update

A multi-district litigation case in a Cleveland federal court is underway to determine whether government claims for billions of dollars in recovery for opioid-response costs will stand. Pharmacy defendants CVS, Walgreens, and Walmart, alongside opioid distributors and manufacturers, argue that the claims should be tossed because the municipalities are too far removed from any harm connected to dispensing. Local government plaintiffs have filed a brief with Judge Dan Polster arguing that the claims should stand.

CMS Plans New Rules for Medicaid MCOs, Bundled Payments

The Centers for Medicare and Medicaid Services (CMS) plans to overhaul the 2016 regulatory framework for the Medicaid managed care delivery system, according to a new Notice of Proposed Rule Making (NPRM). The administration aims to give state Medicaid programs and managed care organizations (MCOs) more flexibility and to increase transparency, reduce administrative burden, and promote innovation. The NPRM would ease network adequacy standards and relax the rules for plan marketing materials. CMS is also proposing to allow states flexibility in setting rate ranges for capitated payments.

In related news, Secretary of the U.S. Department of Health and Human Services (HHS) Alex Azar announced that the Administration plans to launch new payment and service delivery models for cardiac care and radiation oncology and will also look to expand such models to other clinical areas. The Secretary touted the importance of experimentation with episodic bundles through both mandatory and voluntary models during the Patient-Centered Primary Care Collaborative conference last week.

Upcoming Congressional Hearings and Meetings

House Veterans' Affairs Subcommittee on Technology Modernization hearing "180-Day Review of the Electronic Health Record Modernization Program;" 10:00 a.m., 334 Cannon Bldg.; November 14

Senate Health, Education, Labor, and Pensions (HELP) Committee hearing to examine reducing health care costs, focusing on improving affordability through innovation; 10:00 a.m., 430 Dirksen Bldg.; November 28