An Early Look at the 116th Congress and What It Means for Health Care

Webinar hosted by the AAFP Family Medicine Action Network

FEATURING
Clay Alspach, JD – Leavitt Partners
Charlene MacDonald – FTI Consulting

November 27, 2018
Charlene MacDonald – FTI Consulting
Charlene MacDonald is Managing Director of the Strategic Communications Healthcare & Life Sciences sector team in Washington, DC. Prior to joining FTI Consulting, Charlene served nearly eight years on Capitol Hill, most recently as Senior Policy Advisor to House Democratic Whip Steny Hoyer of Maryland, where she played a key role in the development and execution of congressional Democrats' strategy related to health policy issues. Charlene was instrumental in the drafting, negotiation, and enactment of numerous bipartisan health bills ranging from the 21st Century Cures Act to the Medicare Access and CHIP Reauthorization Act (MACRA).

Clay Alspach, JD – Leavitt Partners
Clay specializes in federal health care policy and advocacy related to the Food and Drug Administration, health information technology, Medicare, Medicaid, private health insurance, and the Affordable Care Act. Prior to joining Leavitt Partners, Clay served as Chief Health Counsel for Republican Chairman Fred Upton of the U.S. House of Representatives Energy and Commerce Committee. During seven years with the committee, he served as the principal representative on all its health care-related work. Clay spearheaded legislative initiatives that successfully reformed the SGR (MACRA), and most recently, led the committee's work on the 21st Century Cures Act.
Historic First Midterm Performance

Donald Trump
2018
(as of 11/19)
House: +36 Democratic gains
Senate: +3 Republican gains

Bill Clinton
1994
House: +54 Republican gains
Senate: +8 Republican gains

Barack Obama
2010
House: +63 Republican gains
Senate: +6 Republican gains

George H.W. Bush
1990
House: +9 Democratic gains
Senate: +1 Democratic gains

*George W. Bush and the Republican Party gained seats in the 2002 midterm election, the first after the attacks of September 11, 2001*
Democrats took back suburban seats lost in the Tea Party revolt of 2010.

President Trump held off a complete “Blue Tsunami.”

Women won races for Democrats.

The country continues to be significantly divided.

Many of the candidates who ran unabashedly progressive statewide campaigns fell short of victory.
EXIT POLLS, BY THE NUMBERS

Who Would Best Protect Coverage for Pre-Existing Conditions

- 8% Other
- 58% Democrats
- 34% Republicans

Top Election Issue

- 41% Health Care
- 23% Economy
- 21% Immigration
- 14% Gun policy
- 11% Other

Nearly 6 in 10 voters said it should be the responsibility of the federal government to make sure that all Americans have health care coverage.

Trump Effect

- 45 percent of voters approve of Trump’s job performance — a finding that is largely consistent with recent polling
- Nearly two-thirds of voters said Trump was a reason for their vote, while about a third said he was not.
- Nearly 4 in 10 voters said they cast their ballots to express opposition to the president, while a quarter of voters said they voted to express support for Trump.

SOURCE: NBC exit polls, Nov 6, 2018

Mark Murray
@mmurraypolitics
In the end, Dem candidates focusing on health care -- more than Trump -- paid off for them.

SOURCE: AP VoteCast
https://apnews.com/222fd1571d744aecc903604542eb11b70
The Blue Wave (?)

**House of Representatives**
- Democrats take advantage Trump’s low approval numbers in moderate, swing suburban congressional districts
- Democrats take control of the House of Representatives at margins consistent with historical midterm gains.
- Democratic Party won among 18-49 years-old voters, college educated men and women, and bested the Republicans among independents – 54% to 42%.

**In the Senate**
- President Trump and the Republicans thwarted the surge of Democratic party enthusiasm and expanded their majority by winning four seats (Indiana, Florida, Missouri, and North Dakota) in states that Trump carried in the 2016 election.
- President Trump’s personal support in tight Senate races helped propel Republican victories in Tennessee and Texas.

**U.S. House Election Results 2018**
Results last updated Nov. 20, 12:55 p.m.

**DEMOCRATS WIN THE HOUSE ✓**

For Democrats to flip the House, they needed to gain 23 seats. Any fewer and Republicans would maintain control.

**U.S. Senate Election Results 2018**
Results last updated Nov. 20, 12:54 p.m.

**REPUBLICANS WIN THE SENATE ✓**

*Democratic total includes Bernard Sanders, an independent from Vermont and Angus King, an independent from Maine, who caucus with the Democrats.*
The Work Continues: The Race for Speaker

Speaker’s Race

- Rep. Nancy Pelosi (D-CA) only declared candidate
- Caucus election requires simple majority
- Floor vote requires 218 (or majority of members voting)
Next in Line…

Majority Leader
Rep. Steny Hoyer (D-MD)

Majority Whip
Rep. Jim Clyburn (D-SC)

FTI Consulting Strategic Communications – A Look at the 2018 U.S. Midterm Elections
# Possible Committee Changes: House and Senate

## House Committees

<table>
<thead>
<tr>
<th>Committee</th>
<th>Possible New D Chair</th>
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<tbody>
<tr>
<td>Energy &amp; Commerce</td>
<td>Pallone (NJ)</td>
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<td>Ways &amp; Means</td>
<td>Neal (MA)</td>
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<td>Government Reform</td>
<td>Cummings (MD)</td>
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<td>Appropriations</td>
<td>Lowey (NY)</td>
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<tr>
<td>Education &amp; Workforce</td>
<td>Scott (VA)</td>
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<td>Budget</td>
<td>Yarmuth (KY)</td>
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## Senate Committees

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<th>Committee</th>
<th>Leadership</th>
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<tbody>
<tr>
<td>Finance Committee</td>
<td>Hatch (UT) is retiring as Chair; Grassley (IA) will replace</td>
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POLICY ISSUES
Prices

• Drug pricing a top priority, hospital pricing not off the table

Access / Pre-Ex

• Is it Medicare for All or Medicare for Some?
• Defend Medicaid expansion
• Defend ACA protections for pre-ex
• Defend against efforts to “undermine ACA” (Short term plans, work requirements)

“Corruption”

• Oversight of HHS and Trump Administration will be priority
• “Cozy relationships” – drug pricing, health plans, device regulatory standards
HEALTH POLICY AGENDA 2019 – 2020: REPUBLICANS (SENATE)

Cost & Transparency

- Drug pricing
- Health system costs
- Transparency (including surprise billing and more)

Stabilization, Pre-Ex

- Short term stabilization
- Defense on pre-ex
- Improve consumer choice
- Abortion issues remain big challenge to getting bi-partisan agreement
- A lot of this arguably can be done more effectively at HHS
**Drug Pricing**
- Blueprint
- NPRM
- Part B focus
- Importation

**IM Stabilization**
- AHPs
- Short-term plans
- Rule making around HRAs, 1332 waivers

**Value Agenda**
- Expansion of CMMI, including mandatory programs in Medicare and Medicaid
- SDOH initiatives
- Cost/negotiated price transparency

**Opioids**
- Implementation of new funding
- CMMI demos
- Smaller, less controversial issues (FDA, opioids, etc)
<table>
<thead>
<tr>
<th>Drug Pricing</th>
<th>Pre-Ex</th>
<th>Value Agenda</th>
<th>Spending</th>
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<tbody>
<tr>
<td>• Transparency</td>
<td>• The new third rail of politics</td>
<td>• Cost &amp; transparency efforts</td>
<td>• Keep the trains running</td>
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<tr>
<td>• Surprise billing</td>
<td>• Action depends on lawsuit (protect ACA</td>
<td>• Support for MACRA, CMMI</td>
<td>• Reauthorizations</td>
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<td>• Use of REMS</td>
<td>vs proactive measures)</td>
<td>• Tech that enables transparency and data</td>
<td>• Opioids?</td>
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<td>• Cost sharing for LIS</td>
<td></td>
<td>sharing</td>
<td>• No entitlement reform, let states decide on</td>
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<tr>
<td>population (Medicare)</td>
<td></td>
<td></td>
<td>Medicaid</td>
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<tr>
<td>• Importation (?)</td>
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<tr>
<td>• DTC restrictions/rules</td>
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<tr>
<td>• Patent settlements</td>
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TOP 10 HEALTH POLICY ACTIONS TO WATCH

1. Touching **pre-existing condition** protections is a new third rail for Republicans & winner for Democrats

2. Both sides will consider “**Medicare for All**” as a winning political issue for 2020; 116th Congress will set the stage for presidential election

3. Significant **drug pricing** activity in 2019 - Administration will move forward on Blueprint; House Dems will conduct oversight and move legislation

4. With more certainty around **Medicaid expansion** at the federal level, more States have and will move forward

5. Administration will face significant oversight from House Dems on **ACA implementation**, including short-term health plans; major bipartisan ACA legislation unlikely

6. Administration will rush to finalize current drug price and Medicare **regulations**, but new regulations will slow significantly because of House Dem oversight

7. **CMMI** will regain its place as a leading driver of **value** through the release of a number of new models; Value will remain a bipartisan place where parties can come together

8. **2020 campaign** started November 7 2018, and will be a major consideration in every policy decision made by both parties

9. Success or failure of policies will turn (in part) on the Senators (Rs and Ds) facing “**tough**” races in 2020

10. **Tendency to over-reach** on one side, to resist from the other side – where can they work together?
<table>
<thead>
<tr>
<th>Date</th>
<th>Event</th>
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<tr>
<td>Nov 14-15</td>
<td>House Republican Leadership elections</td>
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<tr>
<td>Nov 28</td>
<td>House Democratic Leadership elections</td>
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<td>Dec 7 – 14</td>
<td>Expiration of CR for remaining appropriations bills and conclusion of the Lame Duck session (anticipated)</td>
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<td>Dec 15</td>
<td>End of marketplace open enrollment</td>
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<td>Jan 3</td>
<td>New Congress begins; Election for Speaker of the House</td>
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<td>Jan TBD</td>
<td>Trump State of the Union – sets his 2019/2020 agenda</td>
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<td>Jan – Feb</td>
<td>State legislatures convene; new CMMI demo projects released</td>
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<td>Feb 4</td>
<td>Trump FY 2020 budget (anticipated)</td>
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<td>Mar 1</td>
<td>Expiration of the debt limit (anticipated) – potential train for entitlement/spending reforms?</td>
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<td>Apr 16</td>
<td>100 Days in ... did Dems pass drug pricing bills? ACA revitalization? Anti-corruption reforms?</td>
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<td>July 1</td>
<td>July recess; beginning of many state fiscal years; Governors/legislators finalize Medicaid and CHIP budgets</td>
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<td>Summer</td>
<td>Democratic oversight and investigations teams hired and in full force <em>(impeachment hearings?)</em></td>
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<td>Sep 30</td>
<td>Expiration of FY 2019 funding and various health care extenders (CHCs, THCs)</td>
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