

American Nephrology Nurses Association

Weekly Capitol Hill Update - Tuesday, October 16, 2018

Congressional Schedule

Senate

- Senate out until week after Nov. 6 elections

House

- House out until week after Nov. 6 elections

Legislative Update

- **Week in Review**
 - *Top Democrats express concern on FDA's effort to relax regulations on digital health apps, other software.* "The top ranking Democrat on the Senate health committee has 'a number of concerns' with how the Food and Drug Administration might regulate medical software such as smartphone apps. 'It is essential that changes to FDA's regulatory framework are done in compliance with the current statutory framework and do not compromise public safety,' the senators wrote in a letter to the FDA Wednesday. Over the past year, the FDA has been working with companies like Apple and Fitbit to set up a program that would enable companies to sell some medical software, without agency reviewing it. The software could include computer programs that look at medical images or lab results and diagnose a disease, for example."
 - Read more: <https://www.statnews.com/2018/10/10/democrats-letter-medical-apps/>
 - *Senate defeats measure to overturn Trump expansion of non-ObamaCare plans.* "The Senate on Wednesday defeated a Democratic measure to overrule President Trump's expansion of non-ObamaCare insurance plans as Democrats seek to highlight health care ahead of the midterm elections. The Democratic measure would have overruled Trump's expansion of short-term health insurance plans, which do not have to cover people with pre-existing conditions or cover a range of health services like mental health or prescription drugs. It was defeated on an extremely narrow, mostly party line 50-50 vote, with Sen. Susan Collins (R-Maine) voting with Democrats in favor of overturning the short-term

plans. Republicans argue the short-term plans simply provide a cheaper option alongside more comprehensive ObamaCare plans.”

- Read more: <https://thehill.com/policy/healthcare/410775-senate-defeats-measure-to-overturn-trump-expansion-of-non-obamacare-plans>
- ***Kavanaugh is confirmed: Senate Oks Supreme Court nominee.*** “The bitterly polarized U.S. Senate narrowly confirmed Brett Kavanaugh on Saturday to join the Supreme Court, delivering an election-season triumph to President Donald Trump that could swing the court rightward for a generation after a battle that rubbed raw the country's cultural, gender and political divides. The near party-line vote was 50-48, capping a fight that seized the national conversation after claims emerged that Kavanaugh had sexually assaulted women three decades ago – which he emphatically denied. Those allegations magnified the clash from a routine Supreme Court struggle over judicial ideology into an angrier, more complex jumble of questions about victims' rights, the presumption of innocence and personal attacks on nominees.”
 - Read more: <https://www.wtvy.com/content/news/Senate-near-Kavanaugh-approval-after-epic-struggle-495353541.html>
- ***Sen. Grassley asks FTC to probe hospitals' contracts with payers.*** “Senate Judiciary Committee Chairman Chuck Grassley, R-Iowa, sent a letter to the Federal Trade Commission Oct. 10 asking the agency to investigate contracts between hospital systems and insurers, according to *The Wall Street Journal*. He asked the FTC to examine whether contracts between health systems and payers are limiting competition and causing healthcare costs to rise. He cited a recent article in *The Wall Street Journal* that documented secret contract terms barring health insurers from excluding market-dominant providers from their network and prohibiting insurers from steering patients toward less-expensive rivals.”
 - Read more: <https://www.beckershospitalreview.com/hospital-management-administration/sen-grassley-asks-ftc-to-probe-hospitals-contracts-with-payers.html>
- **Week Ahead**
 - ***Dems line up to take on Collins after Kavanaugh vote.*** “Republican Sen. Susan Collins landed herself at the top of Democrats’ 2020 target list when she voted to confirm Brett Kavanaugh to the Supreme Court. Now, Democrats just have to find someone who can beat her in Maine. Whoever runs against Collins in the next election will be well-funded, thanks to a small-dollar rage-donating spree that put over \$4 million in escrow for Collins’ 2020 opponent since she supported Kavanaugh. A half-dozen Democrats are already considering runs against Collins, arguing that she has shifted right and that the political landscape has changed drastically since President Donald Trump’s inauguration.”
 - Read more: <https://www.politico.com/story/2018/10/09/collins-kavanaugh-2020-maine-885938>
 - ***Senate starting campaign recess two weeks early, gone through midterm election.*** “Senate leaders on Thursday reached an agreement to accelerate

consideration of several judicial nominations — a deal that will allow the chamber to depart two weeks early for its midterm campaign recess. The Senate will recess through the Nov. 6 election and is scheduled to return the following Tuesday. The chamber had been scheduled to be in session through October 26. Senate Majority Leader Mitch McConnell suggested he would keep senators in Washington as long as needed to confirm the list of nominees he wanted to get through before the campaign break.”

- Read more: <https://www.rollcall.com/news/politics/enate-reaches-agreement-nominations-will-start-campaign-recess-early>

Regulatory and Administration Update

- ***Trump administration plans to require drug companies to include prices in ads.*** “Drug companies would be required to list prices in advertisements under a Trump administration proposal released Monday. Under the new proposal, which was announced by Health and Human Services Secretary Alex Azar, drug manufacturers would need to state the list price of a 30-day supply of any drug that is covered through Medicare and Medicaid and costs at least \$35 a month. The plan is the boldest step the administration has taken to date as part of its efforts to bring down drug prices, and puts the administration squarely at odds with the powerful prescription drug lobby.”
 - Read more: <https://thehill.com/policy/healthcare/411505-trump-administration-to-require-drug-companies-include-prices-in-ads>
- ***Trump: Democrats seeking Venezuela-style socialism with Medicare for all.*** “President Donald Trump declared Wednesday that ‘the centrist Democratic Party is dead,’ writing in a USA Today op-ed that the party seeking to overtake Republicans and claim majorities in both houses of Congress will use its Medicare for all push to begin instituting a broader socialist agenda. The bulk of the president’s op-ed was directed specifically at attacking ‘Medicare for all,’ a single-payer government healthcare proposal endorsed by many, but not all, Democrats. Such legislation in the House of Representatives has more than 100 Democratic co-sponsors, while a Senate bill lists 16 Democrats as co-sponsors.”
 - Read more: <https://www.politico.com/story/2018/10/10/trump-democrats-dead-op-ed-886805>
- ***Trump signs bills banning drug pricing ‘gag clauses’*** “President Trump on Wednesday signed two bills banning “gag clauses” that keep patients in the dark about how to save money on prescription drugs. The clauses are sometimes included in the contracts insurers have with pharmacies — preventing pharmacies from telling customers they can save money on a drug if they pay with cash instead of using their health insurance.”
 - Read more: <https://thehill.com/policy/healthcare/410813-trump-signs-bills-banning-drug-pricing-gag-clauses>
- ***CMS to strengthen oversight of Medicare’s accreditation organizations.*** “Today, the Centers for Medicare & Medicaid Services (CMS) took action to improve quality and safety in healthcare facilities and empower patients with information to make decisions

about where to receive care. ‘Today we are taking action to improve our oversight of Accrediting Organizations, including by increasing transparency for patients on the organizations’ performance,’ said CMS Administrator Seema Verma. ‘The public trusts CMS to ensure the quality and safety of patient care, and we take this responsibility very seriously. Today’s changes will bolster the processes for overseeing how effective Accrediting Organizations, who work on CMS’ behalf, are in evaluating healthcare facilities.’”

- Read more: <https://www.cms.gov/newsroom/press-releases/cms-strengthen-oversight-medicare-accreditation-organizations>
- ***Doctors give Medicare’s proposal to pay for telemedicine a poor prognosis.*** “The Trump administration wants Medicare for the first time to embrace telemedicine across the country by paying doctors \$14 for a five-minute ‘check-in’ phone call with their patients. But many physicians say the proposed reimbursement will cover a service they already do for free. And the Medicare reimbursement – intended to motivate doctors to communicate with patients outside the office – could have a chilling effect on patients because they would be required to pay a 20 percent cost-sharing charge.”
 - Read more: <https://khn.org/news/doctors-give-medicare-proposal-to-pay-for-telemedicine-poor-prognosis/>

Articles of Interest

- ***Some ObamaCare premiums will drop next year for first time.*** “Average premiums for the most common “silver” level insurance plan sold under ObamaCare will fall 1.5 percent in 2019, according to the Trump administration, the first time rates have fallen since the law took effect. In contrast, average premiums for the same mid-level plans increased by 37 percent between 2017 and 2018 and by 25 percent between 2016 and 2017. The premium decreases are a sign that the insurance marketplace is stabilizing after two years of massive premium spikes, and the Trump administration is taking credit for it.”
 - Read more: <https://thehill.com/policy/healthcare/410932-obamacare-premiums-will-drop-next-year-for-first-time>
- ***Trump officials plan maintenance downtime for healthcare.gov during ObamaCare sign-ups.*** “The Trump administration is planning hours-long downtimes for maintenance on healthcare.gov during the coming ObamaCare sign-up period. The administration drew criticism for a similar move last year from advocates who said the downtime would hinder efforts to sign people up for coverage, but the administration counters that maintenance downtime happens every year and is designed to occur during the slowest periods on the site.”
 - Read more: <https://thehill.com/policy/healthcare/410574-trump-officials-plan-maintenance-downtime-for-healthcaregov-during>
- ***Schumer rips Trump ‘Medicare for all’ op-ed as ‘smears and sabotage.’*** “Senate Democratic Leader Charles Schumer (N.Y.) said President Trump USA Today op-ed ripping “Medicare for all” was full of misinformation meant to deliberately mislead the public. ‘The American people deserve better than smears and sabotage,’ Schumer said in

a statement. ‘All of the false and misleading words in the world can’t cover up the truth: President Trump and Republicans in Congress are forcing millions of Americans to pay more for health insurance and trying to rip away protections for people with pre-existing conditions.’”

- Read more: <https://thehill.com/policy/healthcare/410763-schumer-rips-trump-medicare-for-all-op-ed-as-smears-and-sabotage>
- ***CVS-Aetna merger secures DOJ approval, with strings attached.*** “Aetna's plan to sell its Medicare Part D business to WellCare Health Plans has satisfied federal regulators, who signed off on Aetna's planned megamerger with CVS Health. The Department of Justice announced Wednesday that it will allow the \$69 billion CVS-Aetna deal to proceed if the sale to WellCare is completed.”
 - Read more: <https://www.healthleadersmedia.com/strategy/cvs-aetna-merger-secures-doj-approval-strings-attached>
- ***California imposes more rules on homeless patient discharges.*** “A bill signed into law late last month by California Gov. Jerry Brown imposes new rules on hospitals discharging homeless patients. The measure, which the California Hospital Association (CHA) opposed, was motivated by a number of news stories about hospitals releasing poor patients onto the streets without ensuring their safety. A cancer patient released from UC Davis Medical Center after a double mastectomy, for example, was discharged from the hospital to a shelter that didn't have enough room for her, so she slept in a car for weeks on end, as *The Sacramento Bee* reported.”
 - Read more: <https://www.healthleadersmedia.com/california-imposes-more-rules-homeless-patient-discharges>
- ***‘Come and arrest me’: Former Pa. governor defies justice department on safe injection.*** “In Philadelphia, a battle between local officials and the Trump administration is heating up. In defiance of threats from the Justice Department, public health advocates in Philadelphia have launched a nonprofit to run a facility to allow people to use illegal drugs under medical supervision. It is the most concrete step yet the city has taken toward eventually opening a so-called supervised injection site. The non-profit, called Safehouse, was formed after a political heavyweight, former Pennsylvania governor, Ed Rendell, joined the board. In August deputy attorney general Rod Rosenstein, told NPR that the Justice Department will not tolerate the opening of a supervised injection site in Philadelphia.”
 - Read more: <https://www.npr.org/sections/health-shots/2018/10/10/656268815/come-and-arrest-me-former-pa-governor-defies-justice-department-on-safe-injectio>
- ***One of the world's largest drug makers is paying docs again - and patients are the worse off.*** “Seeking to recover from sensational marketing scandals, GlaxoSmithKline did something unexpected five years ago – the company promised it would no longer pay doctors to promote its medicines, which had been a long-standing industry practice. The move came not long after Glaxo paid \$3 billion in fines in the U.S. for illegal marketing and kickbacks, among other things, and also followed reports the company showered doctors and government officials in China with bribes. With its

announcement, Glaxo won praise for setting a new tone and raised hopes other drug makers would follow suit. They did not.”

- Read more:

<https://www.statnews.com/pharmalot/2018/10/10/glaxosmithkline-paying-doctors-patients/>

- **Questions about funding and purpose loom over a foundation Congress created to help the FDA.** “A little-known nonprofit established by Congress over 10 years ago to help the Food and Drug Administration work with the private sector is still struggling with a basic question: Where is the cash? The Reagan-Udall Foundation for the FDA is supposed to act as a liaison between the FDA itself and drug companies, researchers, nonprofits, or other businesses with regulated products who might want to support a project to make the agency’s job easier. It has raised just under \$15 million during its first decade, according to the foundation. That figure pales in comparison to the sums raised by similar congressionally chartered nonprofits that support the Centers for Disease Control and Prevention and the National Institutes of Health, each of which, just last year alone, raised more money than Reagan-Udall has over its entire lifetime. In the past five years, the CDC and NIH foundations together raised about half a billion dollars.”
 - Read more: <https://www.statnews.com/2018/10/09/reagan-udall-foundation-struggles/>
- **Study: Insurers returning to pre-ObamaCare profitability.** “Insurers in the individual market performed better financially in the first six months of 2018 than they have in all of the years of the Affordable Care Act, according to a brief released Friday. The brief from the Kaiser Family Foundation shows insurers returning to the levels of profitability seen before the passage of the ACA, but notes recent actions from the Trump administration ‘cloud expectations for the future.’”
 - Read more: <https://thehill.com/policy/healthcare/410133-study-insurers-returning-to-pre-obamacare-probability>
- **At the races: What does all the health care talk in campaign ads mean?** “With less than a month before the midterms, Democrats and Republicans are blanketing the airwaves with ads about one of the most heated topics in American politics – health care. Since health care can be confusing on its own, it gets even more confusing when roped into talking points for the two major parties. Roll Call sat down with CQ’s health care policy reporter Mary Ellen McIntire to understand what’s really going on with Democrats and Republicans’ latest fight over health care in the 2018 election.”
 - Read more: <http://www.rollcall.com/news/politics/races-health-care-talk-campaign-ads-mean>
- **In public, lawmakers scold drug distributors. Come campaign season, they accept their cash willingly.** “In this election season, lawmakers are taking on drug distributors with abandon, and many seem to relish the role. If blanketing Capitol Hill with cash counts as ‘doing more,’ the distributors are fulfilling their mandate. In the run-up to next month’s midterm elections, the country’s three largest distributors alone have given nearly \$3 million to congressional campaigns. Key lawmakers from both parties – including

many of the ones who publicly shamed the companies for their role in the crisis – have accepted the contributions eagerly.”

- Read more: <https://www.statnews.com/2018/10/12/drug-distributors-campaign-cash/>

- ***Politico-Harvard poll: Most Democratic voters driven by desire to ice GOP health agenda.*** “Fear and anger over the GOP’s health policies are driving a majority of Democratic voters to the polls in an effort to flip control of the House and put the brakes on the Trump administration’s agenda, according to POLITICO-Harvard polling gauging voter attitudes before the midterm elections. More than half of Democrats likely to vote in House races rank health care as ‘extremely important’ in determining their vote, the new survey found. That’s more than any other factor in an election cycle that Democratic candidates have cast as a referendum on Republican attempts to dismantle the Affordable Care Act.”

- Read more: <https://www.politico.com/story/2018/10/12/politico-harvard-poll-health-838938>

- ***Procuring Interoperability: Achieving high-quality, connected, and person-centered care.*** “Realizing the promise of digital technology will depend on the ability to share information across time and space from multiple devices, sources, systems, and organizations. The major barrier to progress is not technical; rather, it is in the failure of organizational demand and purchasing requirements. In contrast to many other industries, the purchasers of health care technologies have not marshaled their purchasing power to drive interoperability as a key requirement. Better procurement practices, supported by compatible interoperability platforms and architecture, will allow for better, safer patient care; reduced administrative workload for clinicians; protection from cybersecurity attacks; and significant financial savings across multiple markets.”

- Read more: <https://nam.edu/procuring-interoperability-achieving-high-quality-connected-and-person-centered-care/>