



## Health Policy Briefing

February 29, 2016

### No Hearings to be Held on Supreme Court Nominee

Last week, Republicans conferred to strategize on sending a united message about what to do with the Supreme Court vacancy following the death of Justice Antonin Scalia. While some conservatives seem willing to risk their majority in the Senate for the chance to nominate a conservative to the Supreme Court, pressure from their Democratic colleagues sparked an internal debate about whether to even hold hearings on President Obama's nominee. The Judiciary Committee went on to release a letter to Senate Majority Leader Mitch McConnell (R-Ky.) signed by every Republican committee member recommending that no hearings be held on a Supreme Court nominee until the next president takes office on January 20, 2017. The letter was signed by Chairman Chuck Grassley (R-Iowa) and the other judiciary Republicans: Orrin G. Hatch (Utah), Jeff Sessions (Ala.), Lindsey Graham (S.C.), John Cornyn (Texas), Mike Lee (Utah), Ted Cruz (Texas), Jeff Flake (Ariz.), David Vitter (La.), David Perdue (Ga.) and Thom Tillis (N.C.).

### Multipronged Approach to Opioid Epidemic Continues

The National Governors Association (NGA) has voted to create standard guidelines for prescribing opioids. The vote is a part of a nationwide effort to combat the prescription drug abuse epidemic. The NGA health committee is expected to draft the opioid prescribing guidance before it is voted upon by the full NGA at their summer meeting. This week, the Senate will begin consideration of the bipartisan Comprehensive Addiction and Recovery Act (CARA), introduced by Sen. Sheldon Whitehouse (D-R.I.) and Sen. Rob Portman (R-Ohio). S. 524 would redirect existing federal resources toward opioid abuse treatment and prevention programs, as well as increase the availability of naloxone. It was recently advanced by the Judiciary Committee by voice vote. While the legislation is widely supported by anti-addiction groups, a number of congressional Democrats have threatened to withdraw their support if it does not include an amendment from Sen. Jeanne Shaheen (D-N.H.) to add \$600 million in supplemental emergency funding to counter the epidemic. There have also been reports that the Senate Health, Education, Labor and Pensions (HELP) Committee will mark up a broad bipartisan mental health and substance abuse bill on March 16. The bill, which has not yet been introduced, was written by Committee Chairman

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Lamar Alexander (R-Tenn.) and Ranking Member Patty Murray (D-Wash.). It will likely include provisions on issues such as the mental health workforce, abuse of prescription painkillers, and behavioral health in the Medicaid program. Sen. Kirsten Gillibrand (D-N.Y.) and Sen. Shelley Moore Capito (R-W.V.) also introduced a bill last week (S. 2567) that would require the Centers for Disease Control and Prevention (CDC) to develop a voluntary opioid prescribing guideline for acute pain.

### ***Precision Medicine Initiative Celebrates One Year Anniversary***

**O**n the anniversary of the launch of the Precision Medicine Initiative, the National Institutes of Health (NIH) announced that the Initiative's first award will be granted to Vanderbilt and Verily to start the initial phase of a personal medicine databank. The Administration's goal is to have 79,000 volunteers by the end of the year, with 1 million participants by 2019. During the precision medicine summit last week, the President named siloed data and a lack of data sharing as the biggest obstacles facing precision medicine and interoperability. We expect to see legislative language on a Precision Medicine initiative from Chairman Alexander and Ranking Member Murray in the coming weeks.

### ***Budget Resolution Expected Mid-March***

**R**epublicans on the House Budget Committee have reached an agreement on a fiscal year (FY) 2017 budget framework. The House Budget Committee plans to put forward a plan next month that would adhere to the spending levels determined by last year's budget deal, while giving members the chance to vote on other bills that would cut government spending. The budget resolution would use spending bills to cut \$30 billion from mandatory spending on programs like Medicare and Social Security in order to offset the \$30 billion in additional discretionary spending passed by Congress last year. The plan would lay out a path to eliminate the deficit over the next decade. House appropriations leaders from both sides of the aisle are approaching the proposal with caution, due to concerns about attaching mandatory spending cuts to appropriations bills, doing away with the customary separation between appropriations bills and other types of legislation. Many Republicans have long criticized the spending levels set last fall by President Obama and then Speaker of the House John Boehner. Chairman of the Budget Committee Tom Price (R-Ga.) indicated that a markup of the FY 2017 blueprint would take place on a delayed budgetary schedule, during the third week of March instead of the last week of February.

### ***White House Continues Push for Emergency Zika Funding***

**T**he White House has reiterated its request for nearly \$2 billion in emergency funding to fight the Zika virus. Republicans had previously replied to the request calling for the administration to use leftover funds allocated for the Ebola outbreak before any new money was appropriated. But last week, Director of the Office of Management and Budget (OMB) Shaun Donovan **responded** to House Republicans on the Appropriations Committee explaining that agencies already have plans for this money to continue strengthening public health infrastructure in order to prevent the spread of future outbreaks like Ebola. "Despite progress, our work to combat Ebola and establish capacity to prevent future public health crises is not complete," Donovan wrote. He also notes that the Ebola fund was always intended to be spent over the period of multiple years. The White House announced last week that it will partner with the National Governors Association (NGA) in responding to the Zika virus. Each state will designate a point person to convene a summit meeting with health experts at the Centers for Disease Control and Prevention (CDC). Meanwhile, the CDC has launched a large-scale study to examine whether the Zika virus is the cause of the significant increase in birth defects occurring in Brazil. The CDC will work with Brazilian health officials for four months to study the link between the virus and microcephaly. The results of the study are expected in May. The CDC has also disclosed new data suggesting the sexual transmission of the virus may be more likely than previously considered. The agency is currently investigating whether 14 Zika cases in the United States are linked to sexual transmission.

### ***Grassley to Block Wakefield Nomination***

Senate Judiciary Committee Chairman Chuck Grassley (R-Iowa) has promised to block the nomination of Mary Wakefield as U.S. Department of Health and Human Services (HHS) deputy secretary due to outstanding questions about how the department is investigating Planned Parenthood's fetal tissue program. Sen. Grassley wrote to HHS last summer regarding fetal tissue harvesting practices, and has said that the response he received did not fully answer the questions he raised.

## **FDA News**

### ***Senate Confirms Califf to Head FDA***

The Senate voted this week to confirm Robert Califf to lead the Food and Drug Administration (FDA). Although there was opposition to the nomination from several members on both sides of the aisle due to the FDA's response to the opioid epidemic and Califf's ties to the pharmaceutical industry, Califf was ultimately approved by a vote of 89-4. Sen. Kelly Ayotte (R-N.H.), Sen. Richard Blumenthal (D-Conn.), Sen. Ed Markey (D-Mass.) and Sen. Joe Manchin (D-W.Va.) were the only senators to vote in opposition to the nomination. Those not voting were Sen. Bob Corker (R-Tenn.), Sen. Ted Cruz (R-Texas), Sen. Ron Johnson (R-Wis.), Sen. Claire McCaskill (D-Mo.), Sen. Marco Rubio (R-Fla.), Sen. Bernie Sanders (I-Vt.), and Sen. Mark Warner (D-Va.). This year, the FDA is expected to release a number of important regulations pertaining to e-cigarettes, biosimilars, and biologic drugs.

## **Affordable Care Act News**

### ***ACA Replacement Task Force Holds First Meeting***

The Congressional Task Force on Health Care Reform held their first ideas forum last week, following [release](#) of their mission statement: to modernize American health care with patient-centered solutions that improve access, choice, and quality, lower costs, promote innovation, and strengthen the safety net for the most vulnerable. The task force is comprised of Budget Committee Chairman Tom Price (R-Ga.), Education and the Workforce Committee Chairman John Kline (R-Minn.), Energy and Commerce Committee Chairman Fred Upton (R-Mich.), and Ways and Means Committee Chairman Kevin Brady (R-Texas). The Task Force intends to hold hearings on advancing reforms in line with their mission statement, including innovations in employer-provided health care coverage, health tax expenditures, reforming broken insurance markets, increasing state flexibility and sustainability in the Medicaid program, and saving and strengthening Medicare. The group met last week to discuss ways to replace the Affordable Care Act (ACA). A plan is not expected until after the November election.

## **Upcoming Congressional Meetings and Hearings**

***House Energy and Commerce Health Subcommittee hearing on "Financing and Delivery of Long-Term Care in the U.S.;" 10:15 a.m., 2322 Rayburn Bldg.; March 1***

***Senate Foreign Relations Committee State Department and USAID Management, International Operations, and Bilateral International Development Subcommittee hearing on "A Review of the FY2017 State and USAID Budget Request;" 2:30 p.m., 419 Dirksen Bldg.; March 1***

***House Rules Committee meets to formulate a rule on H.R.3716, the "Ensuring Terminated Providers are Removed from Medicaid and CHIP Act;" 3:00 p.m., H-313, U.S. Capitol; March 1***

***House Appropriations Committee Military Construction, Veterans Affairs, and Related Agencies Subcommittee hearing on the budget for the Veterans Affairs Department; 9:30 a.m., 2359 Rayburn Bldg.; March 2***

*House Appropriations Labor, Health and Human Services, Education and Related Agencies Subcommittee hearing on the budget for the Substance Abuse and Mental Health Services Administration; 10:00 a.m., 2358-C Rayburn Bldg.; March 2*

*House Energy and Commerce Select Investigative Panel on Infant Lives Subcommittee hearing on “Bioethics and Fetal Tissue;” 10:00 a.m., 2123 Rayburn Bldg.; March 2*

*House Appropriations Committee Labor, Health and Human Services, Education and Related Agencies Subcommittee hearing on the budget for the Substance Abuse and Mental Health Services Administration; 10:00 a.m., 2358-C Rayburn Bldg.; March 2*

*House Science, Space and Technology Committee Research and Technology Subcommittee hearing on “Smart Health: Empowering the Future of Mobile Apps;” 10:00 a.m., 2318 Rayburn Bldg.; March 2*

*House Energy and Commerce Committee Oversight and Investigations Subcommittee hearing on “Examining the U.S. Public Health Response to the Zika Virus;” 10:15 a.m., 2322 Rayburn Bldg.; March 2*

*House Foreign Affairs Committee Africa, Global Health, Global Human Rights and International Organizations Subcommittee hearing on “The Growing Threat of Cholera and Other Diseases in the Middle East;” 2:00 p.m., 2172 Rayburn Bldg.; March 2*

*Senate Appropriations Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Subcommittee hearing on the FY2017 budget for the Food and Drug Administration; 2:00 p.m., 124 Dirksen Bldg.; March 2*

*House Energy and Commerce Committee Commerce, Manufacturing, and Trade Subcommittee hearing on “Disrupter Series: Wearable Devices;” 10:00 a.m., 2123 Rayburn Bldg.; March 3*

*Senate Appropriations Committee Labor, Health and Human Services, Education and Related Agencies Subcommittee hearing on the FY2017 budget for the Health and Human Services Department; 10:00 a.m., 138 Dirksen Bldg.; March 3*

*Senate Appropriations Committee Military Construction, Veterans Affairs, and Related Agencies hearing on the FY2017 and FY2018 budget for the Veterans Health Administration and Veterans Benefits Administration; 11:00 a.m., 124 Dirksen Bldg.; March 3*

*House Veterans’ Affairs Committee Oversight and Investigations Subcommittee field hearing on “Addressing VA Opioid Prescription and Pain Management Practices;” 10:30 a.m., National Guard Headquarters, 1 Minuteman Way, Concord, N.H.; March 4*

*Senate Health, Education, Labor and Pensions Committee executive session on the innovation agenda; time and place TBA; March 9*

*House Energy and Commerce Committee Broad Review of Concussions: Initial Roundtable; 2:00 p.m., 2123 Rayburn Bldg.; March 14*

*Senate Health, Education, Labor and Pensions Committee final markup on innovation agenda; time and place TBA; April 6*

**H.R.4586 (introduced by Rep. Robert J. Dold):** A bill to amend the Public Health Service Act to authorize grants to States for developing standing orders and educating health care professionals regarding the dispensing of opioid overdose reversal medication without person-specific prescriptions, and for other purposes; to the House Committee on Energy and Commerce; February 23

**H.R.4588 (introduced by Rep. Gene Green):** A bill to amend title XIX of the Social Security Act to provide the same level of Federal matching assistance for every State that chooses to expand Medicaid coverage to newly eligible individuals, regardless of when such expansion takes place; to the House Committee on Energy and Commerce; February 23

**H.R.4589 (introduced by Rep. Thomas MacArthur):** A bill to amend title XVIII of the Social Security Act to repeal the cap on the Medicare Advantage star rating bonuses, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Energy and Commerce and the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned; February 23

**H.R.4591 (introduced by Rep. Jeff Miller):** A bill to amend title 38, United States Code, to authorize the Secretary of Veterans Affairs to enter into agreements with certain health care providers to furnish hospital care, medical services, and extended care to veterans; to the House Committee on Veterans' Affairs; February 23

**H.R. 4599 (introduced by Rep. Clark of Massachusetts):** A bill to amend the Controlled Substances Act to permit certain partial fillings of prescriptions; to the Committee on Energy and Commerce; February 24

**H.R. 4614 (introduced by Rep. Olson):** A bill to amend title XVIII of the Social Security Act to align physician supervision requirements under the Medicare program for radiology services performed by advanced level radiographers with State requirements; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned; February 25

**H.R. 4616 (introduced by Rep. Nadler):** A bill to promote and protect from discrimination living organ donors; to the Committee on Energy and Commerce, and in addition to the Committees on Oversight and Government Reform, House Administration, Education and the Workforce, and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned; February 25

**H.R. 4621 (introduced by Rep. Capps):** A bill to amend title XXI of the Social Security Act to improve access to, and the delivery of, children's health services through school-based health centers, and for other purposes; to the Committee on Energy and Commerce; February 25

**H.R. 4625 (introduced by Rep. Hanna):** A bill to require the Secretary of Health and Human Service to develop a voluntary patient registry to collect data on cancer incidence among firefighters; to the Committee on Energy and Commerce; February 25

**H.R. 4627 (introduced by Rep. Lewis):** A bill to amend title XIX of the Social Security Act to provide parity among States in the timing of the application of higher Federal Medicaid matching rates for the ACA-expansion population; to the Committee on Energy and Commerce; February 25

**H.R. 4632 (introduced by Rep. Wenstrup):** A bill to amend title XVIII of the Social Security Act to cover screening computed tomography colonography as a colorectal cancer screening test under the Medicare program; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently

determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned; February 25

H. Res. 625 (introduced by Rep. Fitzpatrick): A resolution expressing support for the designation of February 28, 2016, as “National Rare Eye Disease Awareness Day”; to the Committee on Energy and Commerce, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned; February 25

H.R. 4635 (introduced by Rep. Cartwright): A bill to provide for a prescription drug take-back program for members of the Armed Forces and veterans, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committees on Armed Services, the Judiciary, and Veterans’ Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned; February 26

H.R. 4641 (introduced by Rep. Brooks of Indiana): A bill to provide for the establishment of an inter-agency task force to review, modify, and update best practices for pain management and prescribing pain medication, and for other purposes; to the Committee on Energy and Commerce; February 26

H.R. 4642 (introduced by Rep. Collins of New York): A bill to amend title XVIII of the Social Security Act to establish a Medicare diabetic eye disease prevention and early treatment demonstration project; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned; February 26

S. 2562 (introduced by Sen. Brown): A bill to support a comprehensive public health response to the heroin and prescription drug abuse crisis; to the Committee on Health, Education, Labor, and Pensions; February 22

S.2565 (introduced by Sen. Chuck Grassley): A bill to amend part B of title IV of the Social Security Act to reauthorize grants to assist children affected by methamphetamine, opioid, or other substance abuse under the promoting safe and stable families program; to the Committee on Finance; February 23

S.2567 (introduced by Sen. Kirsten E. Gillibrand): A bill to require the Director of the Centers for Disease Control and Prevention to issue guidelines relating to the prescription of opioids for acute pain; to the Committee on Health, Education, Labor, and Pensions; February 23

S. 2578 (introduced by Sen. Warren): A bill to amend the Controlled Substances Act to permit certain partial fillings of prescriptions; to the Committee on Health, Education, Labor, and Pensions; February 24

S. 2584 (introduced by Sen. Kirk): A bill to promote and protect from discrimination living organ donors; to the Committee on Health, Education, Labor, and Pensions; February 25

S. 2590 (introduced by Sen. Stabenow): A bill to amend title XXI of the Social Security Act to improve access to, and the delivery of, children’s health services through school-based health centers, and for other purposes; to the Committee on Finance; February 25

S. 2597 (introduced by Sen. Brown): A bill to amend title XVIII of the Social Security Act to provide for treatment of clinical psychologists as physicians for purposes of furnishing clinical psychologist services under the Medicare program; to the Committee on Finance; February 25

S. 2601 (introduced by Sen. Kirk): A bill to direct the Secretary of Veterans Affairs to disclose certain information to State controlled substance monitoring programs; to the Committee on Veterans’ Affairs; February 25