

## THIS WEEK IN WASHINGTON - JUNE 29, 2018

### Senate Seeks Solutions on Reducing Health Care Costs

On June 27, the Senate Health, Education, Labor and Pensions Committee held a **hearing** on how to reduce health care costs, which will examine administrative costs and waste, how to improve transparency, private sector solutions and other issues. Both Chairman Lamar Alexander (R-TN) and Ranking Member Patty Murray (D-WA) expressed concerns with hospital billing practices, price transparency and lack of market competition.

The committee heard testimony from Melinda Buntin, Chair of the Department of Health Policy at Vanderbilt University School of Medicine; Ashish Jha, Director of the Harvard Global Health Institute; Niall Brennan, President of Health Care Cost Institute; and David Hyman of Georgetown University Law Center.

Lawmakers and experts both expressed concerns with patients receiving surprise medical bills from out-of-network physicians for services received in in-network hospitals, and especially emergency rooms. Dr. Jha urged that Medicare out-of-network expenses be capped at in-network rates.

The experts took aim at provider consolidation, advocating that mergers create less competitive markets that cause surges in health care costs and declines in quality. A possible solution advocated by Dr. Jha was increased scrutiny of proposed mergers by the Federal Trade Commission and the Department of Justice.

The hearing was the first in a series of hearings the committee is expected to hold. Future topics of discussion will include the federal hospital drug discount program and administrative burdens on physicians, among others.

### House Committee Advances Reauthorizations for PAHPA, Medical Education Appropriations

On June 28, Health Subcommittee of the House Energy and Commerce advanced legislation to reauthorize the Pandemic and All-Hazards Preparedness Act, Children's Hospitals Graduate Medical Education Program and several federal workforce development programs for nurses and health professionals.

Pandemic and All-Hazards Preparedness Reauthorization Act ("PAHPA") would authorize \$264.6 million in annual funding for the Hospital Preparedness Program, down from \$374.7 million currently.

The subcommittee also advanced a number of reauthorization bills promoting medical education, including education support; nursing workforce development; loan repayment programs in primary care, dentistry, rural and underserved areas; and support for health professionals training in palliative care.

- The Children's Hospital Graduate Medical Education Support ("CHGME") Reauthorization Act would reauthorize the CHGME program through 2023 at \$325 million a year. Administered by the Health Resources and Services Administration, CHGME compensates for the disparity in the level of federal graduate medical education funding for freestanding children's hospitals, which are hospitals that have their own Medicare Provider numbers issued by the Centers for Medicare & Medicaid Services.
- The Title VIII Nursing Workforce Reauthorization Act promotes nursing workforce development programs that support recruitment, retention, and advanced education through 2022.
- The Educating Medical Professionals and Optimizing Workforce Efficiency Readiness ("EMPOWER") Act reauthorizes health professions workforce programs that support loan repayment and provider training experiences in primary care, dentistry, rural and underserved areas.
- The Palliative Care and Hospice Education and Training ("PCHET") Act directs the Department of Health and Human Services to award grants to enhance health professionals training in palliative care.

## Justice Anthony Kennedy's Retirement Leaves Affordable Care Act, Abortion Laws in Limbo

On June 27, Associate Justice Anthony Kennedy announced his retirement from the Supreme Court of the United States, effective this summer. Justice Kennedy was the crucial fifth vote to uphold the Affordable Care Act (*NFIB v. Sebelius*) and was part of the three-justice plurality reaffirming the right to an abortion under *Roe v. Wade* and developing the "undue burden" standard (*Planned Parenthood v. Casey*). It is highly likely that abortion and health care will be key issues Democrats will raise during the confirmation.

Democrats, however, will be powerless to block a nomination without the help of other Senate Republicans. Holding 51 seats in the United States Senate, Republicans have the necessary simple majority to confirm Justice Kennedy's replacement without support from any Democrat. Senate Majority Leader Mitch McConnell has promised a vote on a nomination before the Court's term begins in October. Thus, the Trump administration has the opportunity to nominate and confirm a conservative justice in time to hear key challenges to the Affordable Care Act that is currently making its way through the United States District Court for the Northern District of Texas and the Fifth Circuit (*Texas v. United States*).

Among the candidates considered by the Trump administration are Raymond Kethledge, Joan Larsen and Amul Thapar (6th Circuit); Amy Coney Barrett and Diane Sykes (7th Circuit); Timothy Tymkovich (10th Circuit); Brett Kavanaugh (D.C. Circuit); Edward Mansfield (Supreme Court of Iowa); and Robert Young (Supreme Court of Michigan).

## Health-Related Bills Introduced This Week

Rep. Mimi Walters (R-CA) introduced **H.R. 6273** to amend the Public Health Service Act to ensure appropriate care by certain 340B covered entities for victims of sexual assault.

Rep. Darin LaHood (R-IL) introduced **H.R. 6269** to amend Title XVIII of the Social Security Act to restructure the payment adjustment for non-emergency ESRD ambulance transports under the Medicare program.

Sen. Susan Collins (R-ME) introduced **S.3160** to amend Title XVIII of the Social Security Act to improve access to, and utilization of, bone mass measurement benefits under Part B of the Medicare program by establishing a minimum payment amount under such part for bone mass measurement.

Rep. Chris Collins (R-NY) introduced **H.R. 6240** to amend the Public Health Service Act to provide for certain user fees under the 340B drug discount program.

## Next Week in Washington

Congress will be out next week. *This Week in Washington* will be back the following week with the return of Congress. Happy Fourth of July!

## This Week in Washington in History

**1972: 46 years ago this week**, President Nixon announces that no more draftees will be sent to Vietnam. Nixon also revealed that 10,000 more troops would be withdrawn by September 1, leaving a total of 39,000 military personnel in Vietnam, a major reduction from the 525,000 who were there when Nixon took office on January 20, 1969.

**1929: 89 years ago this week**, President Herbert Hoover authorizes building of what is now called the Hoover Dam.

For more information, please contact:

- **John Williams III** at (202) 370-9585 or [jwilliams@hallrender.com](mailto:jwilliams@hallrender.com);
- **Andrew Coats** at (202) 370-9587 or [acoats@hallrender.com](mailto:acoats@hallrender.com);
- **Abby Kaericher** at (202) 780-2989 or [akaericher@hallrender.com](mailto:akaericher@hallrender.com); or
- Your regular Hall Render attorney.