

A photograph of a female doctor in a white lab coat and red tie, wearing a stethoscope, looking down at a clipboard she is holding. She is interacting with a patient whose back and shoulder are visible, wearing a blue shirt. The doctor has long brown hair and red lipstick.

# 2018 ELECTION OUTLOOK

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HEALTH



**Waxman**

## WHAT TO WATCH

## IN THE NEXT TWO WEEKS

With polls predicting a possible “blue wave,” the 2018 midterm elections could dramatically reshape the Federal legislative landscape. This change means an opportunity to advance policies that improve access to and affordability of prescription drugs, to investigate the Administration’s implementation of the Affordable Care Act and other policies that impact vulnerable populations, to renew prevention and wellness as a public health imperative, and to work toward a new course for our healthcare system, such as continuing to expand access to care, improving the Medicare and Medicaid programs, and addressing unsustainable healthcare costs.

At Waxman Strategies, we are preparing and planning for the many possible outcomes of these elections. Given the importance of this year’s elections, we wanted to share some of our insights on the bellwether races to watch, what we are expecting could happen in the 116th Congress, and the health policy issues we are following.



# THE RACES WE'RE FOLLOWING

We've selected five House races and five Senate races that we see as election night bellwethers. If the Democrats win the races lower on the lists, it may indicate a "blue wave."

## REPUBLICAN HOLD

### HOUSE RACES TO WATCH

#### **IA-1: Rod Blum (R) v. Abby Finkenauer (D)**

- Abby Finkenauer is an Iowa State Representative
- 2016 Presidential: Trump +3.5%
- 2016 House: Blum +7.7%
- Cook: Lean Dem • FiveThirtyEight: Solid Dem

#### **CO-6: Mike Coffman (R) v. Jason Crow (D)**

- Jason Crow is an attorney and former Army Ranger
- 2016 Presidential: Clinton +9%
- 2016 House: Coffman +8.3%
- Cook: Lean Dem • FiveThirtyEight: Likely Dem

#### **NJ-7: Leonard Lance (R) v. Tom Malinowski (D)**

- Tom Malinowski is a former State Department official
- 2016 Presidential: Clinton +1.1%
- 2016 House: Lance +11%
- Cook: Toss-Up • FiveThirtyEight: Lean Dem

#### **FL-26: Carlos Curbelo (R)**

#### **v. Debbie Mucarsel-Powell (D)**

- Debbie Mucarsel-Powell is a non-profit organizer
- 2016 Presidential: Clinton +16.3%
- 2016 House: Curbelo +10.8%
- Cook: Toss-Up • FiveThirtyEight: Toss Up

#### **TX-7: John Culberson (R)**

#### **v. Lizzie Pannill Fletcher (D)**

- Lizzie Pannill Fletcher is an attorney
- 2016 Presidential: Clinton +1.4%
- 2016 House: Culberson +12.4%
- Cook: Toss-Up • FiveThirtyEight: Toss-Up

### SENATE RACES TO WATCH

#### **NJ-Sen: Bob Menendez (D) v. Bob Hugin (R)**

- Bob Hugin is former CEO of Celgene
- 2016 Presidential: Clinton +14%
- 2012 Senate: Menendez +19.5%
- Cook: Lean Dem • FiveThirtyEight: Likely Dem

#### **FL-Sen: Bill Nelson (D) v. Rick Scott (R)**

- Rick Scott is the current Governor
- 2016 Presidential: Trump +1.2%
- 2012 Senate: Nelson +13%
- Cook: Toss-Up • FiveThirtyEight: Lean Dem

#### **MO-Sen: Claire McCaskill (D)**

#### **v. Josh Hawley (R)**

- Josh Hawley is the State Attorney General
- 2016 Presidential: Trump +18.5%
- 2012 Senate: McCaskill +15.7%
- Cook: Toss-Up • FiveThirtyEight: Lean Dem

#### **TN-Sen: Marsha Blackburn (R)**

#### **v. Phil Bredesen (D)**

- Blackburn represents TN in the House
- Bredesen is the former Governor
- 2016 Presidential: Trump +26%
- 2012 Senate: Corker +34.5%
- Cook: Toss-Up • FiveThirtyEight: Likely Rep

#### **TX-Sen: Ted Cruz (R) v. Beto O'Rourke (D)**

- Beto O'Rourke represents TX in the House
- 2016 Presidential: Trump +9%
- 2012 Senate: Cruz +16.1%
- Cook: Toss-Up • FiveThirtyEight: Likely Rep

## DEMOCRATIC WAVE

# WHAT WE MAY EXPECT

## FROM THE 116<sup>TH</sup> CONGRESS

**Three potential scenarios** could play out following the results on Election Day. This is our assessment of how the various scenarios could set the health policy agenda for the 116th Congress.

1

### REPUBLICANS RETAIN BOTH CHAMBERS

- In this scenario, Republicans may take on limited health issues such as high drug prices and additional measures to address the opioid crisis.
- Republicans will look towards market-friendly reforms and are likely to look at privatizing benefits of federal healthcare programs, such as Medicare and Medicaid, to reduce federal spending.
- If Republicans keep both chambers, efforts to limit or overturn key parts of the Affordable Care Act (ACA) may be revitalized.
- Republicans may also decide to make other issues their priority over health.

2

### DEMOCRATIC HOUSE, REPUBLICAN SENATE

- A Democrat-led House would be more likely to consider legislation related to health, including drug prices and healthcare costs, ACA and insurance market stabilization, opioids and substance abuse, and improvements to Medicare and Medicaid.
- With a split Congress, Democratic legislative ambitions might be limited as any health measures would need to garner bipartisan support to pass the Senate, or they could focus on setting up issues for the next election.
- In this scenario, the House would have the opportunity to hold oversight hearings and conduct investigations to set the stage for legislation.

3

### DEMOCRATIC HOUSE AND SENATE

- In this case, Congress would be almost certain to take up health issues like drug pricing, healthcare costs, and ACA stabilization, but in order to send legislation to the president, they would most likely need bipartisan support in at least the Senate.
- This is the most unpredictable scenario, with Democrats potentially working with the White House on compromise legislation or passing bold measures that face veto threats in order to set the stage for 2020.

# HEALTH POLICY ISSUES

## WE ARE WATCHING

Waxman Strategies' health team is closely monitoring a number of issues that are likely to come up in the 116th Congress, including:

### **DRUG PRICING**

Voters, stakeholders, and policymakers are taking notice of high prescription drug prices and are demanding action. The majority of the public agree that prices are too high and are urging Congress to tackle this issue. A recent poll conducted by the West Health Institute and NORC at the University of Chicago found that 65 percent of Americans are extremely concerned about the cost of prescription drugs, and 88 percent say that reducing drug prices should be a priority for congressional candidates this year. Bipartisan consensus among policymakers is emerging that action is needed to lower drug prices. There are a number of issues that Congress can tackle, including legislation that will address anticompetitive behaviors of brand-name manufacturers to block or delay generic drug competition, transparency on drug prices and costs, and invigorating the biosimilar market. Depending on who has control of Congress, we could see movement and momentum on broader drug pricing reforms.

### **HEALTHCARE COSTS**

The cost of healthcare in the U.S. is continuing to balloon, and policymakers on both sides of the aisle recognize the problem. Congress could use its oversight authority to continue investigations and inquiries into what is driving costs and the potential solutions, as committees in both chambers have in the last year. These hearings could continue in 2019 and set the stage for Congress to act in later years. This could focus the work of the Centers for Medicare and Medicaid Services (CMS) testing out alternative payment models.

Last year, Congress focused a significant amount of energy and time on repealing

and replacing the Affordable Care Act (ACA). Democrats are likely to try to stabilize the ACA and other insurance markets to address rising premiums. In the event of significant Democratic majorities, we may see some moderate Republicans join with Democrats on ACA stabilization efforts.

## **THE SAFETY NET & COVERAGE FOR VULNERABLE POPULATIONS**

In addition to the stabilization efforts described above, if Republicans retain the majority, they could continue to work to repeal and replace the ACA or weaken its protections. Democrats will seek to shore up its patient protections and look for policy options to make coverage more affordable through market stabilization efforts. Medicaid is likely to remain a hot button issue in the next Congress as well, with recent Administration and state activities around the program.

These elections could also have significant impact for women's health, the 340B drug pricing program, and community health centers. If Democrats control the House, we will likely see oversight in recent proposed regulatory changes to the Title X federal family planning program and efforts by the Administration to limit women's access to all FDA-approved contraceptive methods. Additionally, Republicans have increasingly promoted policies aimed at weakening the 340B drug pricing program which has undermined safety net hospitals - a trend we expect to continue should they maintain their majority.

In 2019, the community health centers will need to be refunded. Community health centers have bipartisan support, but other issues tied to community health center funding have generated opposition in the past.

## **PUBLIC HEALTH AND PREVENTION**

The major issues we are following in this category are tobacco control, nutrition and wellness, and maternal health. With the rise in the use of e-cigarettes among young people, many questions have bubbled up on how these products should be regulated, and there is a potential role for Congress to ensure that these products are not endangering youth, as Congress did with the Family Smoking Prevention and Tobacco Control Act. If the Democrats take the House, we could see renewed interest in stronger nutrition and food labeling requirements. Maternal health, specifically mortality, has gained a lot of attention this past year and there has been legislation introduced to improve reporting of maternal mortality data and review maternal deaths. It may be another public health issue to gain more prominence in 2019, and ripe for policies that could drastically improve the health of mothers and babies.

# DRUG PRICING

## IN THE LAME DUCK

Drug pricing is likely to be taken up in the lame duck. Brand-name drug manufacturers are pushing Congress to reverse an increase in their discounts for the Medicare Part D Coverage Gap Discount Program. These discounts were put in place during the ACA to “close the donut hole” in Medicare Part D plans. In February, the Bipartisan Budget Act of 2018 made a change to increase manufacturers’ mandatory discounts from 50 percent to 70 percent of the cost of the medication while the beneficiary is in the coverage gap. Since February, manufacturers have been applying pressure to Congress to reduce the amount they must cover to 63 percent, claiming the 70 percent was due to a scoring issue at the Congressional Budget Office.

Another issue that could come up is addressing the Medicare Part D true out-of-pocket (TrOOP) cliff. This is the measure of when seniors will have spent enough out-of-pocket to pass through the coverage gap and into the catastrophic phase. The TrOOP is set to increase significantly in 2020 unless Congress acts. If the TrOOP cliff is not taken up in 2018, then it will likely be addressed in the first half of 2019.

Congress may also pass the CREATES Act, which is legislation that could improve generic competition in the prescription drug market by allowing generic manufacturers to challenge anticompetitive behaviors by brand-name manufacturers that prevent generic manufacturers from obtaining the samples they need to develop a generic drug.

Republicans may also try to prohibit generic drug manufacturers from using the Inter Partes Review (IPR) process at the US Patent and Trademark Office to challenge weak patents administratively. This proposal could delay generic drug competition and lead to higher prescription drug prices and has met bipartisan resistance so far this Congress.

Waxman Strategies is following these issues closely and will be posting insights on our [Election Hub](#).

## KEY DATES

<b>NOVEMBER 6</b>	Election Day
<b>NOVEMBER 27</b>	Runoff date for Mississippi Senate Special Election (if needed)
<b>DECEMBER 5</b>	House Democratic Caucus Organizational Meetings Begin; Leadership elections; Possible committee leadership decisions.
<b>JANUARY 3</b>	New House and Senate Members are sworn in
<b>REST OF JANUARY</b>	Final committee assignments/ Subcommittee leadership decisions likely made.

# Waxman

| OUTCOMES THAT MATTER |

Waxman Strategies is a mission-driven consulting firm using policy, campaigns, and communications to address complex problems and achieve outcomes that matter. Our work is rooted in the next generation of global progress: ensuring health equity, securing a sustainable future, and fostering bold innovation. Building on a powerful legacy, we are driven by an uncompromising commitment to create and sustain change in the public interest. Our team develops and delivers successful strategies to protect the environment, improve health, and accelerate transformative technologies.

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- Policymaker Engagement
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- Media, Analyst & Investor Relations Message & Materials Development
- Thought Leadership Content
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