

AHCA Update

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AMERICAN HEALTH CARE ASSOCIATION

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NATIONAL CENTER FOR ASSISTED LIVING

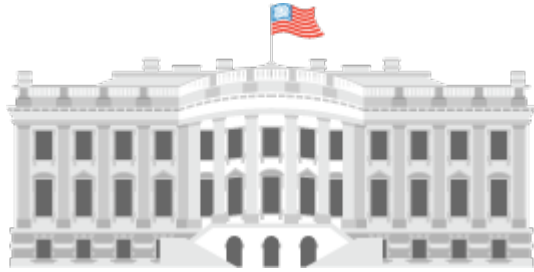


Objectives

- Provide guidance as we transition to a new Administration and Congress
- Give insight into the risks and opportunities within the Biden Administration
- Present an outlook on the new demographics of both the House and Senate, and how we will successfully navigate through the new changes
- Discuss AHCA's top priorities for 2021



New President, New Congress



Biden Administration

- **Risks:**
 - Arbitration
 - Increased Regulations
 - Requirements of Participation (version 2)
 - Stricter Department of Labor regulations
 - Survey enforcement implications
- **Opportunities**
 - More Funding
 - Medicaid
 - Less restrictive use of Provider Relief Funds
- **Polling Question #1**



New Congress

- New Breakdown
 - House
 - 222 Democrat, 211 Republican, 2 Vacancies
 - Democrats hold a narrow majority
 - Senate
 - 50 Democrat, 50 Republican
 - Democrats hold majority (VP Harris is the tie breaker)
- **Polling Question #2**



Senate

- Because the breakdown is 50-50 by party line, committees could be evenly distributed
- Key members for our sector
 - Sen. Ron Wyden (OR) will be the Senate Finance Committee Chair
 - Sen. Bob Casey (PA) will be the Aging Committee Chair
- Now more than ever, the Moderates in the Senate matter!
 - Sen. Susan Collins (ME)
 - Sen. Lisa Murkowski (AK)
 - Sen. Joe Manchin (WV)
 - Sen. Mitt Romney (UT)
 - Mark Warner (VA)



Congress

- Now that Democrats control both the House and Senate, below are possibilities within reach legislatively speaking:
 - New COVID package back on the table
 - Health reform legislation back on the table
 - Reconciliation is a reality
 - Nominations looking much better for Biden
 - The Congressional Review Act is in play



House

- Key Committees:
 - Ways & Means – Chairman Richard Neal (MA-1)
 - Energy & Commerce – Chairman Frank Pallone (NJ-6)
- **Polling Question #3**



AHCA's Agenda



AHCA's Agenda

- Increased funding through the stimulus bill
- Liability reform
- Preparation for increased oversight
- **Polling Question #4**



Increased Funding through Stimulus Bills

- Goal is to increase funding into the Provider Relief Fund
- Additional funding for testing and PPE



Liability Reform

- The original McConnell liability reform legislative language is very likely off the table
- In the case there is any language, the approach will be very diluted, if there is even language
- “Gang of 8” from the Senate, led by Sen. Manchin (WV) provided language that could likely be used



“Gang of 8” Proposed Liability Protections

- The application of protections would be retroactive to December 1, 2019 through the latter of 12 months after the end of the Public Health Emergency of COVID-19 by the HHS Secretary
- Liability protection applies to employers that: (1) rely on and substantially follow government standards and guidance, (2) knew of the obligation under the relevant provision, and (3) attempt to satisfy such obligation
- Would preempt state laws that would allow exposure and medical liability actions to proceed under a standard that is less rigorous than gross negligence (as defined by this legislation). It would instead preserve the state defenses to protect defendants alleging gross negligence (as defined by this legislation)



Oversight

- Be prepared for increased oversight
- Potential venues for hearing
 - Senate Finance
 - Senate Aging
 - House Ways & Means
 - House Energy & Commerce
 - House Oversight & Government Reform



Provider Health Fund & Reporting

- **Timeline:**
 - **January 15, 2021:** reporting system opens for providers
 - **February 15, 2021:** first reporting deadline for all providers on use of funds
 - **July 31, 2021:** final reporting deadline for providers who did not fully expend Provider Relief Funds prior to December 31, 2020
- **Polling Question #5**



Questions?

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