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Elections' Impact on State Legislative Chambers

Before the November elections, Republicans controlled 59 state legislative chambers, including both houses in 26 states, and Democrats controlled 36 chambers, including both houses in 15 states—with the Alaska Senate, Oregon House, and Virginia Senate all tied. But with the elections, Democrats now control both chambers in Maine and Minnesota, along with the New York Senate and the houses of Oregon, Colorado, and New Hampshire. Republicans took control of both chambers in Arkansas, as well as the Alaska and Wisconsin senates, the latter of which had briefly switched to Democratic control after the recall election in June. Therefore, eight chambers shifted to the Democrats and four to the Republicans. This election cycle leaves the Republicans with control of 56 chambers, the Democrats with control of 41, and only the Virginia Senate split between the two parties.

Implementation of the Affordable Care Act After the Elections

With the re-election of President Barack Obama, implementation of the *Affordable Care Act* (ACA) will continue to move forward, and various federal agencies will begin issuing additional guidance and rules to assist states in implementing the ACA. State governors have until November 16 to declare whether or not their state will elect to run a state-based health insurance exchange, and an extended deadline of December 14 to submit a state-based exchange blueprint. Several state governors were waiting until after the presidential election to determine whether or not to move forward with a state-based exchange.

The Department of Health and Human Services (HHS) has continued to state that there will be no deadline for states to decide whether to participate in the major Medicaid expansion scheduled to begin in 2014. Many state governors are still struggling with the decision about whether to expand Medicaid under the ACA due to potential long-term costs. Gov. Robert Bentley (R-AL), who previously was undecided, [announced](#) he will not operate a state-based exchange, nor will he expand Medicaid in Alabama due to the cost.

Additionally, there are several governors-elect who will have a direct impact on the implementation of the ACA once sworn into office. For example, Gov. John Lynch (D-NH) will be replaced by Maggie Hassan, a Democrat that has been vocal in her support of the ACA and Medicaid expansion. Gov. Beverly Perdue (D-NC), who did not take a firm position on Medicaid expansion, has been replaced by Pat McCrory, a Republican who has not determined whether or not the state will expand Medicaid under the ACA. For now, we must wait and see what the state governors will decide, monitor HHS as the agency issues new rules, and watch closely as both the state and federal governments grapple with implementation issues.

Results of State Ballot Measures Prohibiting Health Insurance Mandates

Several states placed measures on the general election ballot intended to prohibit mandatory participation in the provisions of the *Affordable Care Act*. The measures proposed to prohibit participation in an insurance exchange or laws that compel a person to purchase health care coverage. Specifically, the following state ballot measures were voted on November 6:

- **Alabama:** proposed measure [Amendment 6](#) prohibits any person, employer, or health care provider from being compelled to participate in any health care system. The measure was approved by 59% of voters.
- **Florida:** proposed measure [Amendment 1](#) prohibits laws or rules from compelling any person or employer to purchase, obtain, or otherwise provide for health care coverage. The measure failed with 51.4% voting against the amendment.

- **Missouri:** proposed measure [Proposition E](#) prohibits the Governor or any state agency, from establishing or operating state-based health insurance exchanges, unless authorized by a vote of the people or by the legislature. The measure was approved by 61.8% of voters.
- **Montana:** proposed measure [Legislative Referendum 122](#) prohibits state and federal governments from requiring the purchase of health insurance or imposing any penalty, tax, fee, or fine on those who do not purchase health insurance. The prohibition does not apply to the Montana University System as a requirement for students. The measure was approved by 66.8% of voters.
- **Wyoming:** proposed measure [Constitutional Amendment A](#) provides that the right to make health care decisions is reserved to the citizens of the state of Wyoming. The amendment also provides that the state shall act to preserve these rights from undue governmental infringement. The measure was approved by 76.9% of voters.

Results of State Ballot Measures Affecting Higher Education

Several states placed measures on the general election ballot that directly impact higher education policy.

- **California:** proposed measure [Proposition 30](#) provides for temporary increases in sales and personal income taxes to generate an estimated \$6 billion in revenue to prevent significant funding cuts to universities and community colleges. The measure was approved by 53.9% of voters.
- **Maryland:** proposed measure [Question 4](#) allows children of undocumented immigrants to pay in-state tuition rates at community colleges in Maryland. The measure was approved by 58.3% of voters.
- **Missouri:** proposed measure [Proposition B](#) creates the Health and Education Trust Fund with proceeds generated from increases in cigarette and tobacco taxes. Estimated additional revenue to state government is \$283 million to \$423 million annually. Under the measure, the Department of Higher Education must ensure that at least 25% of the allocated funds are used for programs and initiatives related to the education, training, and development of future caregivers including physicians, dentists, optometrists, pharmacists, nurses, and other health care providers. The measure failed with 50.8% voting against the proposition.
- **Montana:** proposed measure [Legislative Referendum 121](#) prohibits providing state services to people who are not U.S. citizens and who have unlawfully entered or unlawfully remained in the U.S., including aid to university students. The measure was approved by 79.6% of voters.
- **New Jersey:** proposed measure [Public Question 1](#) allows the state to issue bonds totaling \$750 million to pay for new buildings and equipment at public and private colleges and universities to increase academic capacity. The measure was approved by 62.8% of voters.
- **New Mexico:** proposed measure [Question 3](#) would authorize a \$120-million bond sale for repairs and improvements of higher education buildings in the state. The measure was approved by 61% of voters.
- **Rhode Island:** proposed measure [Question 3](#) would allow for the issuance of general obligation bonds, refunding bonds, and temporary notes in an amount not to exceed \$50 million for renovations and modernization of academic buildings at Rhode Island College, including the renovation, upgrade, and expansion of health and nursing facilities on the campus of Rhode Island College. The measure was approved by 66.2% of voters.
- **Washington:** proposed measure [1185](#) would re-state existing statutory requirements that legislative actions raising taxes must be approved by two-thirds of legislative majorities or receive voter approval, and that new or increased fees require majority legislative approval. This measure is essentially raising the bar for approving additional revenue for state government, including higher education institutions. The measure was approved by 64.5% of voters.

U.S. Department of Health and Human Services Extends the Deadline for State-based Exchange Blueprints

Previously, the U.S. Department of Health and Human Services (HHS) announced that the Declaration Letter and Exchange Blueprint Application for states electing to operate a state-based health insurance exchange would be due to HHS by November 16. However, on November 9, in a [letter](#) to state governors, HHS announced an extension for the Exchange Blueprint Application, but indicated it will continue to enforce the November 16 deadline for the Declaration Letter. As a result, states now have until December 14 to submit their blueprint application to HHS. HHS will approve or conditionally approve the state-based exchanges for 2014 by the statutory deadline of January 1, 2013.

Furthermore, in the same letter dated November 9, HHS noted that for states pursuing a state partnership exchange effective for 2014, Declaration Letters and Blueprint Applications will be accepted on a rolling basis through February 15, 2013.

Oklahoma Amends Suit Regarding the Affordable Care Act

Attorney General Scott Pruitt (R-OK) filed an [amended complaint](#) in Oklahoma federal court, challenging the implementation of certain provisions of the *Affordable Care Act* (ACA). The [original lawsuit](#), filed in January 2011 in the U.S. District Court for the Eastern District of Oklahoma, challenged the ACA's constitutionality under the Commerce Clause, specifically whether the federal government had the power to mandate individuals to buy health insurance. Oklahoma's lawsuit was stayed (postponed) by U.S. District Judge Ronald White until the U.S. Supreme Court issued a ruling in *National Federation of Independent Business, et al. v. Sebelius, et al.*

In June, the U.S. Supreme Court sided with the states, agreeing that the health care law had exceeded its power under the Commerce Clause, but the Court gave authority to implement the individual mandate as a tax under Congress' Taxing Power. Following the decision, Attorney General Pruitt filed a [request](#) with Judge White to lift the stay on the Oklahoma case, so new issues related to implementation of the ACA could be addressed. The judge granted the request, lifting the stay. With Oklahoma's lawsuit still at the district level, the state can amend the complaint, which would not be allowed with cases on appeal.

Among the issues raised in the complaint is a new U.S. Internal Revenue Service (IRS) rule that allegedly violates the Administrative Procedures Act and conflicts with the ACA. Specifically, Oklahoma is arguing that if a state elects to establish its own health insurance exchange, the federal government will make advance payments of tax credits to insurance companies on behalf of some of the state's residents to subsidize health insurance enrollment through the state-created insurance exchange, but the payment of the subsidy for even one employee triggers financial obligations on the part of the employer that would not be triggered in a non-electing state, placing the electing state at a competitive disadvantage for jobs and job growth. The IRS argues that it sees a federally imposed exchange as essentially the same as a state exchange and that it intends to enforce the tax in all states.

Oklahoma also is asking the Court to recognize that because the Supreme Court deemed ACA's individual mandate a tax, it no longer conflicts with Oklahoma's constitutional provision that no law or rule can "compel any person, employer or health care provider to participate in any health care system."

States Focus on State Health Policy

The National Governors Association (NGA), unveiled a new website, [State Health Policy Options](#). The website is a virtual resource center developed by NGA that will make it easier to explore potential solutions to health policy problems that state policymakers face. The website focuses on various topics, including:

- **Planning for 2014:** Provides information and analysis relevant to health insurance exchanges, Medicaid, and insurance subsidy and tax credit policies that increase health insurance coverage once the Affordable Care Act changes required by 2014 come into effect;
- **Cost Containment:** Examines state initiatives to reduce Medicaid costs and maintain access to quality care for beneficiaries;
- **Improving System Performance:** Explores ways to lower health care costs, improve the quality of care, and provide access to as many people as possible;
- **Prevention and Health Promotion:** Considers how states can use their various roles to promote better health among state residents;
- **Workforce:** Focuses on how states can develop effective workforce planning and development strategies to respond to the growing demand on health care; and
- **Health Information Technology:** Shares ways to improve system performance, support patient self-management, support widespread adoption of electronic health records, and design effective health information exchanges.

Each of the topic areas includes policy options for states; case studies of state-led efforts; federal regulations, guidance, and grant opportunities for states; and expert sources with subject matter expertise.

Kansas Votes Against Community Water Fluoridation

During the summer of 2012, the Wichita, Kansas City Council unanimously passed a [measure](#) to allow voters to decide whether fluoride should be added to the drinking water. The City Council voted to place the issue of community water fluoridation on the November election ballot. On November 6 the citizens of Wichita, Kansas voted against adding fluoride to its community drinking water. Specifically, 59% of Wichitans voted against fluoridation, while 40% voted for the measure.

U.S. Department of Health and Human Services Invests \$229.4 Million in the National Health Service Corps

The U.S. Department of Health and Human Services (HHS) Secretary Kathleen Sebelius announced that \$229.4 million was invested in the National Health Service Corps (NHSC) in 2012 to support more physicians, dentists, and nurses, and increase access to primary care. These investments included nearly 4,600 loan repayment and scholarship awards to clinicians and students, and grants to 32 states to support state loan repayment programs. According to Secretary Sebelius, “National Health Service Corps clinicians are providing care to approximately 10.4 million patients across the country.”

The NHSC provides financial, professional and educational resources to medical, dental, and mental and behavioral health care providers who bring their skills to areas of the United States with limited access to health care. In addition to NHSC clinicians providing care, nearly 1,000 students, residents, and health providers receive scholarships or participate in the loan repayment program. To learn more about the NHSC or its state loan repayment programs, please visit the following [link](#).

“Docs vs. Glocks” Law Back in Court

Gov. Rick Scott (R-FL) signed the [Firearm Owner's Privacy Act](#) into law in 2011. The Florida law prohibits licensed health care practitioners from questioning patients or a family member of the patient about gun ownership unless the practitioner in good faith believes the information is relevant to the patient’s medical care or safety or to the safety of others. Health care groups later sued the state in federal district court, arguing that the law prevents physicians, dentists, dental hygienists, and other health professionals from communicating with their patients so they can provide care under the accepted standards of the medical profession. A U.S. district judge issued a [preliminary injunction](#) in

September 2011, and a [permanent injunction](#) in June 2012, ruling that the law violated practitioners' rights to free speech. As a result, the governor is leading an effort to appeal that decision and restore the law. The [American Medical Association](#), the [American Public Health Association](#), and other groups filed amicus briefs in November 2012 supporting the lower court's ruling.

New York City Bans Sugary Drinks

A New York City [regulation](#), to take effect March 12, 2013, limits the size of sugar-sweetened drinks available for purchase at restaurants, street carts, movie theaters and sporting events to 16 ounces. The regulation applies to any food service establishment that is regulated by the Department of Health and Mental Hygiene; as a result, convenience stores, vending machines, and some newsstands are exempt. The American Beverage Association, joined by several New York restaurant and business groups, filed [a lawsuit](#) which aims to overturn the restriction, arguing in part, that the Board of Health did not have the authority to ratify the new rules unilaterally.

State Policy Updates

- **Arizona**

The Arizona Legislature passed, and Gov. Jan Brewer (R-AZ) signed into law, [SB 1004](#). The law allows a dental hygienist to administer local anesthetics under general supervision if certain requirements are met.

- **Florida**

The Florida Legislature passed [SB 1040](#), and Gov. Rick Scott (R-FL) signed the bill into law. The bill does the following:

- The bill specifies the entity by which 2-year dental education programs for foreign-trained dentists wishing to be licensed in Florida must be accredited.
- The bill allows dental hygienist licensure applicants to have taken certain examinations any time prior to licensure application, rather than within 10 years of application, and adds certain criteria to licensure requirements relating to prior disciplinary action or to criminal convictions related to the practice of a health care profession.
- The bill designates the Dental Hygiene Examination produced by the American Board of Dental Examiners (ADEX) as the official practical examination for licensure of dental hygienists in Florida and specifies certain conditions related to Florida representation on ADEX governing boards as well as other conditions.
- The bill provides for licensure of dental hygienists who took the ADEX in another state.
- The bill also allows dental hygienists to administer local anesthesia under the direct supervision of a dentist if the hygienist completes an educational course in anesthesia administration, maintains cardiopulmonary resuscitation (CPR) certification, and is certified by the Board of Dentistry (a \$35 fee is required).

- **Louisiana**

The Louisiana Legislature passed [HB 172](#), and Gov. Bobby Jindal (R-LA) signed the bill into law. The law defines minimal and moderate sedation, and removes all references to conscious sedation. Additionally, the law provides additional regulations relative to administration of minimal sedation, and moderate or greater sedation.

Dental Schools in the News

- Virginia

Tazewell County and Bluefield College are collaborating to build and open a [new dental school](#) in the fall of 2015. The new dental school will be housed at Bluestone Technology Park, located alongside U.S. Route 460 between Bluefield, Virginia, and Tazewell, Virginia. A memorandum of understanding between Bluefield College and Tazewell County will make the dental school the first tenant in the 680-acre park, which the county purchased and began developing in 2004. County leaders modeled the park along the lines of a college campus with plans for high-tech companies, shopping centers and housing.

According to Bluefield College officials, the unnamed school will address the growing shortage of dentists and dental care professionals in Southwest Virginia and central Appalachia. In addition to offering the doctor of dental medicine degree, the college will have the potential to offer programs in dental hygiene and therapy. The Tazewell County Board of Supervisors has committed to fund any shortfall in the operating budget for the dental school in the initial startup years from general funds bonds, or both. Once the dental school begins generating a surplus, it will no longer receive County funds for operations. The County, through the Industrial Development Authority (IDA), has committed to construct a facility through grants and donations that are suitable for housing the dental school program. The County, IDA, or both will initially equip the facility and its outreach clinics with Commission on Dental Accreditation (CODA) approved and acceptable dental equipment.

- Texas

On June 8, a dedication ceremony was held for a new, 300,000-square-foot, six-story, \$155 million building for The University of Texas School of Dentistry at Houston ([UTSD](#)). The facility is located on the southern edge of the Texas Medical Center. The School of Dentistry is part of The University of Texas Health Science Center at Houston (UTHealth). This is the first new location for UTSD since 1955. Major funding for the new building came from state sources (\$60 million in tuition revenue bonds and \$18 million from the Permanent University Fund) as well as philanthropic gifts, primarily from alumni (\$7 million in donations). The remainder of the funding for the new building came from UTHealth. To its north, the new facility is attached to a 14,000 square foot conference center, the Denton A. Cooley, M.D., and Ralph C. Cooley, D.D.S., University Life Center. To its west, the new facility is attached to a new, 153,000-square-foot, six-story, UTHealth Behavioral and Biomedical Research Building, where dental researchers maintain lab and office space.

- Utah

University of Utah officials have announced its new [School of Dentistry](#) building will be located in Research Park and named after Ray and Tye Noorda, in recognition of a \$30 million donation. The school was approved by the Utah State Board of Regents in July 2012 and will enroll its first four-year class of 20 students in the fall of 2013. The new 70,000 square foot building, currently in the design phase, will feature a dental clinic, classrooms, research laboratories, and administrative offices for faculty. The new dental school will train top Utah students and offer affordable tuition, it will provide underserved citizens from across the region with better access to dental care, and it will spark innovative dental research that will benefit patients around the world.

Reports of Interest

The Institute of Medicine (IOM) released a [report](#) which recommends schools prohibit access to sugar-sweetened beverages, and instead make water available. The report also encourages decision

makers in the business community/private sector, non-governmental organizations, and at all levels of government, to adopt comprehensive strategies to reduce overconsumption of sugar-sweetened beverages.

The Centers for Disease Control and Prevention released a [report](#), using data from the National Health and Nutrition Examination Survey, which finds that about 20% of the U.S. population aged 2 years and over consumed diet drinks on a given day during 2009–2010.

State Legislatures in Session

The following states are scheduled to be in session during the month of October:

- Massachusetts (intermittent),
- Michigan,
- New Jersey (intermittent),
- Ohio, and
- Pennsylvania.

ADEA/Sunstar Americas, Inc./Jack Bresch Student Legislative Internship

The ***ADEA/Sunstar Americas, Inc./Jack Bresch Student Legislative Internship*** is a six-week, stipend-supported internship in the Advocacy and Governmental Relations portfolio of the ADEA Policy Center (ADEA AGR) in Washington, D.C. This student legislative internship provides a unique learning experience for **predoctoral, allied, and advanced dental students, residents, and fellows**. It is designed to encourage students to learn about and eventually—as dental professionals—to become involved in, the federal legislative process and the formulation of public policy as it relates to academic dentistry. It is open to any predoctoral, allied, or advanced dental student resident, or fellow who is interested in learning about, and contributing to, the formulation of federal public policy with regard to dental education, dental research, and the oral health of the nation. Funded through the generous support of Sunstar Americas, Inc., the student intern will be a member of the ADEA AGR staff and will participate in congressional meetings on Capitol Hill, coalition meetings, and policy discussions among the ADEA Legislative Advisory Committee (ADEA LAC) and ADEA AGR staff.

An applicant must be a full-time predoctoral, allied, or advanced dental student resident, or fellow whose institution is willing to work with the student to identify an appropriate time, consisting of six weeks, during the school year to pursue the internship. **For additional information, please email Yvonne Knight, J.D., ADEA Senior Vice President for Advocacy and Governmental Relations, at KnightY@ADEA.org.** *Applications are accepted on a year-round basis.*

ADEA/Sunstar Americas, Inc./Harry W. Bruce, Jr. Legislative Fellowship

Dental school faculty members or administrators who want to interface with members of Congress on issues of importance to oral health are encouraged to apply for the ***ADEA/Sunstar Americas, Inc./Harry W. Bruce, Jr. Legislative Fellowship***. The fellow selected spends three months in Washington, D.C., working on issues and policies that could make a difference in the lives of every American.

This public policy fellowship coincides with congressional consideration of the federal budget and other legislative and regulatory activities important to dental education and research. The fellow functions as an ADEA Policy Center staff member who works within the AGR portfolio on ADEA's specific legislative priorities. The fellow's responsibilities may include drafting policy, legislative language, position papers, and testimony; educating members of Congress and other decision makers on matters of importance to dental education; and participating in gatherings of various national coalitions. The fellow receives a

taxable stipend of \$15,000 to cover travel and expenses for approximately three months (cumulative) in Washington, DC. (ADEA is flexible in the arrangement of time away from the fellow's institution). The fellow's institution continues to provide salary support for the duration of the experience. Since its inception in 1985, the ADEA/Sunstar Americas, Inc./Harry W. Bruce, Jr. Legislative Fellowship has been generously underwritten by Sunstar Americas, Inc. **Interested candidates should [apply](#) as soon as possible.**

The ADEA Policy Center publishes the *ADEA State Update* monthly. Its purpose is to keep ADEA members abreast of state issues and events of interest to the academic dental and research communities.

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