NACBH NEWS

National Association *for* Children's Behavioral Health

NOVEMBER 2018

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EXECUTIVE DIRECTOR NOTES

Pat Johnston, Executive Director

Dear NACBH Colleagues,

We'll get to the national elections a little later! First, the election results from NACBH's recent annual business meeting.

Congratulations to those newly elected or re-elected, and many thanks to both old and

new Board members for their commitment, counsel and leadership. Special thanks to Denis McCarville, who steps down after completing more than 25 years on the NACBH Board – in every position, and some more than once! We will miss Denis when he retires from AK Child & Family later this month, and hope to see him at some future forum with a microphone in his hand.

President
2017 - 2019
David Napier
Youth Home, Inc.
Little Rock, Arkansas

Vice President/President-Elect
2017 - 2019
Dick Wolleat
Northwood Children's Services
Duluth, Minnesota

Immediate Past President
2017 - 2019
Steve Girelli
Klingberg Family Centers
New Britain, Connecticut

Secretary
2018 - 2020
Tricia Delano
Jackson-Feild Behavioral Health Services
Jarratt, Virginia

Treasurer
2018 - 2020
Michele Madley
Gibault Children's Services
Terre Haute, Indiana

Directors 2018 - 2020
Gail Atkinson
Devereux Advanced Behavioral Health – National Network
League City, Texas

Charlene Hoobler
The Barry Robinson Center
Norfolk, Virginia

Randy Rider
Crossroad Child & Family Services, Inc.
Fort Wayne, Indiana

Directors 2017 - 2019
John Damon
Canopy Children's Solutions
Jackson, Mississippi

John Regitano
Family Centered Services of Alaska
Fairbanks, Alaska

Mary Stone-Smith
Family Behavioral Health System
Catholic Community Services of Western Washington
Tacoma, Washington

Directors At-Large 2018 - 2019
Kevin Keegan
Family Services Division
Catholic Charities
Timonium, Maryland

Sean Rose
Justice Resource Institute (JRI) – Connecticut
Thompson, Connecticut

The other big news from the annual business meeting I'll save for an announcement from President David Napier – coming soon to your email inbox, if you weren't with us in San Antonio to hear it. Exciting plans for 2019!

NACBH BEST PRACTICES COMMITTEE

Jan Carson, Catholic Charities, Timonium, Maryland, Co-Chair

Chrissy Lynch, Devereux Advanced Behavioral Healthcare, Villanova, Pennsylvania, Co-Chair

Standing Monthly Conference Call: 3rd Tuesday of each month, 1:00 – 2:00 p.m. (Eastern)

(866) 906-0123, participant code 6405051

The October call was canceled, since many of us were in San Antonio for NACBH's conference.

Please join the next Best Practices Committee call on Tuesday, November 20 @ 1:00 p.m. Eastern.

Joining us will be Leslie Ellis-Lang, Managing Director of Child and Youth Services, CARF, to update us on CARF's activities and plans. We'll also hear from Yvette Jackson, Assistant Executive Director at Devereux Arizona. Yvette was invited to participate in a recent International Standards Advisory Committee, convened to review CARF's standards for performance measurement, management and improvement. Selection for these ISACs can be pretty competitive, and we were delighted that our nomination of Yvette was accepted.

NACBH PUBLIC POLICY COMMITTEE

Denis McCarville, AK Child & Family, Anchorage, Chair
Libby Nealis, Advocacy and Communications Associate, NACBH

The October 26 Public Policy Committee call included an overview of the Family First Prevention Services Act implementation. We are watching developments, both as information emerges from the Administration for Children and Families (ACF) and as states begin to declare their intentions on whether to delay implementation for up to two years. Denis provided a very useful review of ACF's October 1 status update as well as ACF Associate Commissioner Jerry Milner's testimony during a July 24 House Ways & Means Committee hearing.

A second agenda item was Denis McCarville's announcement that this would be his last committee call. As he retires from AK Child & Family, we also lose him as committee chair. Many thanks for his tenacity and passion to keep moving the policy discussions forward.

Standing Monthly Conference Call: 4th Friday of each month, 2:00 – 3:00 (Eastern) – But on hiatus through the end of the year. Watch this space for 2019 plans!

ELECTION OUTCOMES AND OUTLOOK

At the time of this writing, a few races remain undecided, with too-close-to-call recounts underway.

In Congress

The current balance in the Senate is 47 in the Democratic caucus (including Independent Senators Angus King of Maine and Bernie Sanders of Vermont) and 51 Republicans, retaining their place in the majority.

In the Senate, party leadership will not change, but Senator Orrin Hatch's (R-UT) retirement leaves the Finance Committee in need of a new chair. Senator Chuck Grassley (R-IA) announced on Friday that he will step down as Chair of the Judiciary Committee in order to pick up the Finance gavel in January.

In the House, Democrats have gained 35 seats, passing the 218 needed for majority control and bringing the current balance of power tally to 231 Democratic-held seats to 198 Republican seats, with 6 races still undecided.

With majority control in the House, the Democrats will move Ranking Members into Committee Chairs and will gain Congressional aides. For example, Representative Frank Pallone Jr. of New Jersey, the top Democrat on the Energy and Commerce Committee, which includes jurisdiction over Medicaid policy, will take over as chairman next session. He will lead the Democrats' efforts on issues like health insurance coverage, prescription drug prices and increased oversight of the EPA's deregulatory efforts. The committee will also play a role in seeking to stabilize the individual health insurance market, now that efforts to limit the Affordable Care Act will be off the table in the House.

State Leadership

Across the state legislatures, Democrats made modest gains while Republicans held their robust lead in terms of legislative control. Democrats gained control of six chambers, although Republicans still have a sizable overall advantage in total legislative chambers: R: 61, D: 37.

As for state control, which includes the governor along with the legislature, Democrats went from controlling eight to 14. For a map of partisan control, see the National Conference of State Legislatures' StateVote 2018.

State Medicaid Expansion

The Medicaid program will be expanded next year in three GOP-led states — and possibly two more. Voters in Idaho, Utah and Nebraska approved ballot initiatives for Medicaid expansion. And Democrats won gubernatorial races in Kansas and Wisconsin, two other currently Republican-led states that had resisted expansion but now may be more open to it. Another state, Maine, which included the first Medicaid expansion via a ballot question in 2017 but was halted by then-Governor Paul LePage (R), will now carry out expansion efforts with new governor, Janet Mills (D).

The results highlight the divide between voters, even in conservative states, who generally support providing health benefits to lower income Americans, and conservative politicians who have rejected the expansion, which is a central part of the Affordable Care Act. According to @geoffgarin of Hart Research, "This was THE health care election. No other issue provided more votes, with 41% of voters stating that this was their top issue."

"This election proves that politicians who fought to repeal the Affordable Care Act got it wrong. Americans want to live in a country where everyone can go to the doctor without going bankrupt. Expanding access to health care isn't a blue state value or a red state value; it's an American value," stated Jonathan Schleifer, executive director of the Fairness Project.

NACBH has been working with our Medicaid Coalition partners through Families USA and The Fairness Project, which worked to get Medicaid on the ballots of the four states. The Fairness Project is funded by the SEIU United Healthcare Workers West, a California health care workers union.

According to the Kaiser Family Foundation, there are now 36 states and the District on board with expanded Medicaid. That number could very well climb to 38 states if Kansas and Wisconsin eventually follow suit. In total, about half a million more people could join the massive federal-state health insurance program, historically reserved mainly for pregnant women, children, low-income seniors and people with disabilities.

Voters in Montana, however, narrowly rejected a proposal to raise taxes on tobacco and e-cigarettes to continue funding the state's expansion of Medicaid, which is set to sunset next year, leaving 100,000 Montanans without coverage. The tobacco industry came out in force to defeat the initiative, contributing about $17 million according to the state's Campaign Electronic Reporting System.

CMS and Heath Care Deregulation

The Centers for Medicare and Medicaid Services (CMS) named a new Deputy Director, Mary Mayhew, former Commissioner, Maine Department of Health and Human Services, to oversee the Center for Medicaid and CHIP Services. A vocal Medicaid expansion opponent, Mayhew previously led efforts in Maine to tighten the state's Medicaid eligibility standards and add work requirements to the food stamp program.

The "unified agenda" published by the White House Office of Management and Budget last month included 188 Health and Human Services Department rules that are administration priorities. Most are in the early stages of rulemaking, which involves soliciting public comments on initial proposals, but some are in the final stages and should be released soon. A rule proposed earlier this year, soon to become final, would allow health providers to refuse to participate in abortions or other procedures they object to on moral or religious grounds.

Insurance exchanges run by the states, rather than the federal government, would face new scrutiny under a proposal that could come this fall. The administration also plans new policies to verify whether exchange enrollees received the correct amount in tax credits that help them afford their premiums. By next year, HHS and other agencies plan to propose greater flexibilities for grandfathered health plans on the exchanges, particularly relating to health reimbursement arrangements, health savings accounts and association health plans.

The administration is also planning a broad overhaul of HIPAA rules that keep a patient's history of mental health and substance use disorder treatment private. Doctors, insurers and many lawmakers say HIPAA regulations make it harder for health care providers to coordinate care for patients with substance use disorders. But some consumer groups fear that more information could lead to disclosures that could harm patients in job searches, legal proceedings or insurance applications.

HHS also plans to reduce barriers to value-based reimbursement, where providers are paid based on their ability to meet quality and financial metrics rather than for each individual medical service. The HHS Inspector General is examining how the close coordination required between multiple providers in value-based arrangements may rub against anti-kickback statutes or safe harbors as they're currently defined.

Building on the mantra of state flexibility, CMS has released revised guidance for Section 1332 waivers, which were known as state innovation waivers under the Affordable Care Act, and are now dubbed "state relief and empowerment waivers." CMS says the guidance will lower barriers to states seeking to implement waivers and encourage more coverage options by exempting them from ACA requirements for private health insurance and marketplace coverage. Families USA published a short analysis on the administration's recent guidance on 1332 waivers, explaining that it basically gives states permission to undermine core ACA protections and to allow federally-funded subsidies to be applied to non-ACA compliant plans.

The administration also wants to overhaul a sweeping set of Obama-era regulations that modernized federal oversight of Medicaid managed care, claiming it would alleviate regulatory burdens for health plans and providers, and give states more flexibility in operating their programs. Proposed changes to the Medicaid and CHIP managed care regulations were published in the Federal Register this week, and we are reviewing them now.

Meanwhile, open enrollment for real, comprehensive coverage in the marketplaces began November 1 and runs through December 15.

PRESIDENT SIGNS OPIOID LEGISLATION

President Donald Trump signed legislation on October 24th designed to address the opioid crisis, cementing one of the few bipartisan legislative victories for Congress this year. The opioid bill's enactment comes after a year of hearings held by eight House and five Senate committees to produce legislation that addresses prevention, treatment, research, recovery efforts and enforcement. As we reported last month, the law passed the House 393-8 in late September, and the Senate cleared it 98-1 in October.

Although the bill was overwhelmingly bipartisan, Senator Maggie Hassan of New Hampshire was the only Democratic member of Congress to attend the signing ceremony. Senate Health, Education, Labor and Pensions (HELP) Committee ranking member Patty Murray (D-WA), and Energy and Commerce ranking member Frank Pallone Jr. (D-NJ), who both played large roles in shaping the law, declined to attend.

Pallone, who is set to be the new Chair of the House Energy and Commerce Committee, issued a statement that “it is disingenuous at best to promise relief to people struggling with opioid addiction while also attempting to cut funding for Medicaid and eliminate protections for people with pre-existing conditions, which include opioid use disorder.”

Please see the report in last month’s NACBH News, outlining key provisions in the SUPPORT for Patients and Communities Act, and watch this space for updates on implementation.

JUVENILE JUSTICE UPDATE

Both the House and Senate have passed bills with overwhelming bipartisan support (H.R. 1809/S. 860) to reauthorize the Juvenile Justice and Delinquency Prevention Act (JJDPA). There are seemingly no significant obstacles to reconciling the bills and yet we await final action by a House-Senate conference committee to get this bill over the finish line. First enacted in 1974, the JJDPA has been due for reauthorization since 2007.

A recent report by the Sunlight Foundation highlights significant changes in language and content on the Office of Juvenile Justice and Delinquency Prevention (OJJDP) website, for example, replacing the term “justice-involved youth” with “offenders,” eliminating “healthy and educated” from its vision for America’s youth, and deleting information and guidance in areas such as eliminating solitary confinement and engaging families and youth in policy development.

The changes illuminate a disturbingly punitive approach to juvenile justice, which the reauthorization of JJDPA would soundly reject.

An online Take Action for Juvenile Justice action alert is available at http://act4jj.org, to send messages directly to your Members of Congress.

PUBLIC CHARGE AGAINST PUBLIC HEALTH

On October 10, the Department of Homeland Security published a proposed rule on Inadmissibility on Public Charge Grounds, the “public charge” rule that would allow the U.S. to keep out people who may become a “public charge,” or someone who might depend on government services. It would fundamentally alter longstanding federal immigration policy for legal/documented immigrants, people seeking to enter the country legally under visas or seeking to stay here under lawful permanent residence status (i.e. green card). For the first time in our nation’s history, these changes would make receiving public safety net health, nutrition, and housing benefits – including Medicaid – grounds for denying immigrants a visa or lawful permanent residency.

The U.S. already has a public charge rule, but this goes further in discriminating against individuals with disabilities or other chronic health needs, including mental illness. Under the existing rule, someone is considered a public charge only if they use cash benefits, like social security or TANF, or if they live in an institution. The new rule uses a much longer list of programs and benefits (Medicaid, food stamps, Medicare Part D, Section 8

housing assistance, possibly even CHIP) and says someone would only have to use a small amount of benefits to count as a public charge.

More information and resources are available here. The deadline for public comments is December 10. NACBH will be signing onto comments prepared by several national coalitions. Please email pat.johnston@nacbh.org with any input or questions.

UPCOMING CONFERENCE

HOLD THE DATES - WHEN WE NAIL THEM DOWN!

Two conferences are in the works for 2019: a Public Policy Conference in July in Washington, D.C., including Hill time with the new Congress, and an Emerging Best Practice Conference in early December in Florida . . .

Details on dates and locations coming soon.