



# VITAL2015

*Connect. Inspire. Lead.*

## FEDERAL LEGISLATIVE UPDATE

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America's Essential Hospitals

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AMERICA'S  
ESSENTIAL  
HOSPITALS



# AGENDA

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- 2015: Mid-Year Review
- King v. Burwell
- 2016 Election (yes...already)
- Policy Advisory Committee
- Key Priorities for Essential Hospitals
- Our Advocacy Vision

# 2015: MID-YEAR REVIEW

# THE POLITICAL MATH

$$\left( \text{Chris Christie} + \text{Paul Ryan} + \text{Barack Obama} \right) = \left( \text{FOX NEWS Channel} + \text{MSNBC} \right)$$

# THE POLITICAL MATH

## = *BIPARTISANSHIP?!?*

114<sup>th</sup> Congress marks major bipartisan milestones:

- » SGR repeal passes by overwhelming bipartisan majority – including big wins for both parties
- » Medical innovation enjoys strong bipartisan spirit in 21<sup>st</sup> Century Cures proposals
- » Congressional committee leaders generally following regular order to move legislation to House and Senate floors



# SGR – MEDICAID DSH CUT DELAY

- SGR repeal signed into law on April 16
- **Included Medicaid DSH cut delay for one additional year—until FY 2018**
  - » **Cuts now delayed by 4 years (2014-2018)**
  - » **Deleted \$8 billion in cuts between 2014 and 2020**
- Extended CHIP funding and ACA funding for FQHCs for two years—through the end of FY 2017
- End of Annual SGR package means need for new DSH delay vehicle in the future



# 21<sup>ST</sup> CENTURY CURES

- Bipartisan support – passed unanimously through Committee
  - » 340B provisions considered and dropped
- One of the few health care vehicles this year
- House hoping to pass in July
  - » Senate still working on package
  - » Less enthusiasm in Upper Chamber



Source: [upton.house.gov](http://upton.house.gov)

## FY 2016 CONGRESSIONAL BUDGET PROCESS

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Final Budget Resolution Calls For:

- » Block Granting Medicaid
- » Use of Budget Reconciliation Procedures



# 50<sup>TH</sup> ANNIVERSARY OF MEDICARE & MEDICAID

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2015 marks the 50<sup>th</sup> anniversary of Medicare and Medicaid

- » Focus on federal health care programs of the past, present and future
- » Opportunity for lawmakers and stakeholders to highlight benefits of Medicare and Medicaid
- » Some lawmakers propose worrisome Medicaid reforms

# KING V. BURWELL



**KEEP  
CALM**  
because  
**the victory  
is ours**

### **Roberts Decision:**

“...the words of a statute must be read in their context and with a view to their place on the overall statutory scheme...”

“[The law] contains more than a few examples of inartful drafting.”

“Congress passed the Affordable Care Act to improve health insurance markets, not to destroy them.”

# KING V. BURWELL

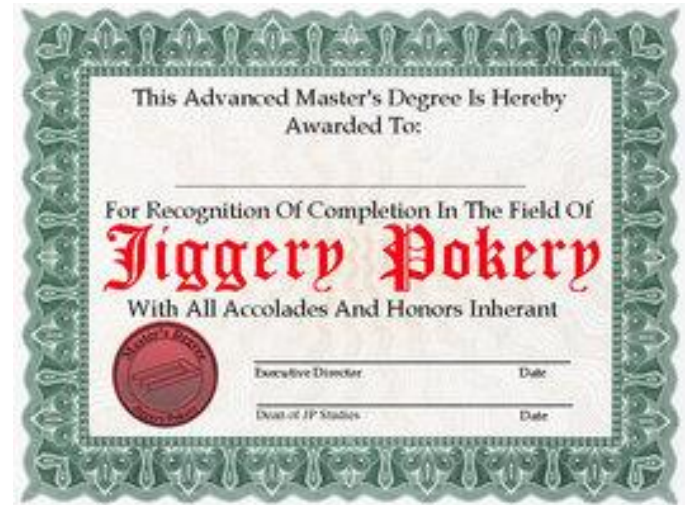
## Scalia Dissent:

“The Court holds that when the (ACA) says “Exchange established by the state’ it means “exchange established by the ‘state or the Federal Government’ That is, of course, quite absurd.”

“The Court’s next bit of interpretive jiggery-pokery...”

“Pure applesauce...”

“We should start calling this law ‘SCOTUSCare’”



## KING V. BURWELL

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The Court decided that the “Chevron Analysis” does not apply. Effectively, Congress clearly did not delegate the interpretation of a “question of deep economic and political significance” to the IRS.

**Upshot:** A future administration cannot ask the IRS to reinterpret the statute to strike federal subsidies.

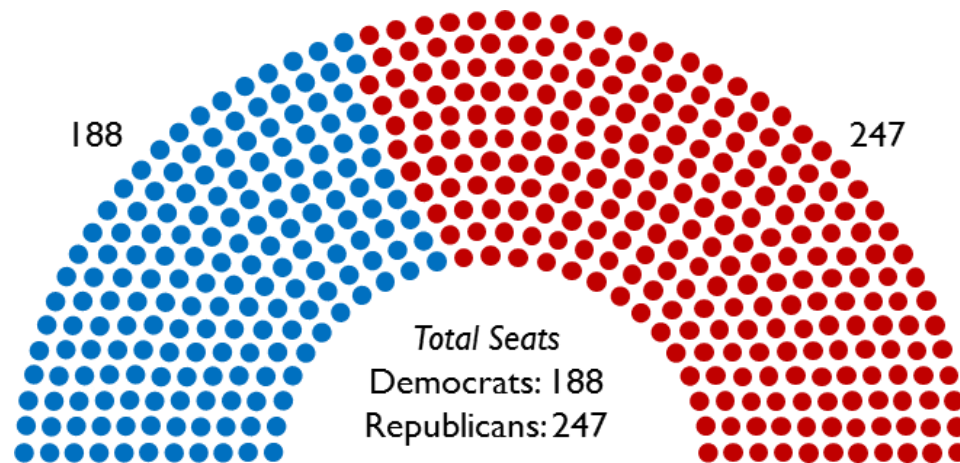


# ELECTION 2016

# THE 2016 OUTLOOK – HOUSE OF REPRESENTATIVES

- House likely to remain in hands of Republicans

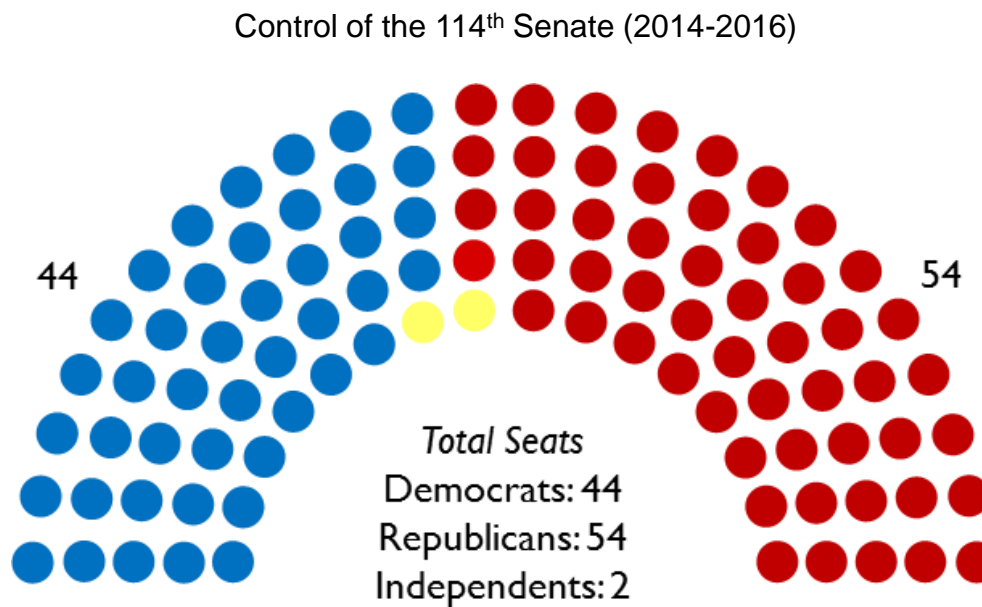
Control of the 114<sup>th</sup> House (2014-2016)



Source: National Journal Research; CNN Election Center; New York Times.

# THE 2016 OUTLOOK – SENATE

- Democrats could take back the Senate



Source: National Journal Research; CNN Election Center; Associated Press; NBC News



# THE 2016 OUTLOOK – SENATE

34 Senate seats up  
for grabs in 2016 –

10 Democrat-held

**24 Republican-held**

Source: Cook Political  
Report, June 11, 2015 -  
Senators in parentheses are  
retiring.

Democrats | 10 Held Seats

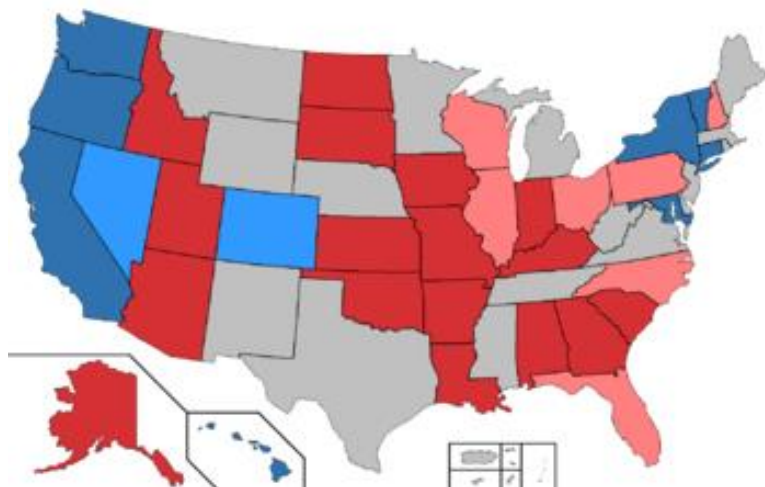
Solid D	Likely D	Lean D	Toss Up	Lean R	Likely R	Solid R
Blumenthal (CT) Schatz (HI) MD (Mikulski) Schumer (NY) Wyden (OR) Leahy (VT) Murray (WA)	CA (Boxer)	Bennet (CO)	NV (Reid)			

Republicans | 24 Held Seats

Solid D	Likely D	Lean D	Toss Up	Lean R	Likely R	Solid R
			FL (Rubio) Kirk (IL) Johnson (WI)	Ayotte (NH) Burr (NC) Portman (OH) Toomey (PA)	Murkowski (AK) McCain (AZ) Isakson (GA) IN (Coats) Blunt (MO)	Shelby (AL) Boozman (AR)* Crapo (ID) Grassley (IA) Moran (KS) Paul (KY) Vitter (LA) Hoeven (ND) Lankford (OK) Scott (SC) Thune (SD) Lee (UT)

\* = potential retirement

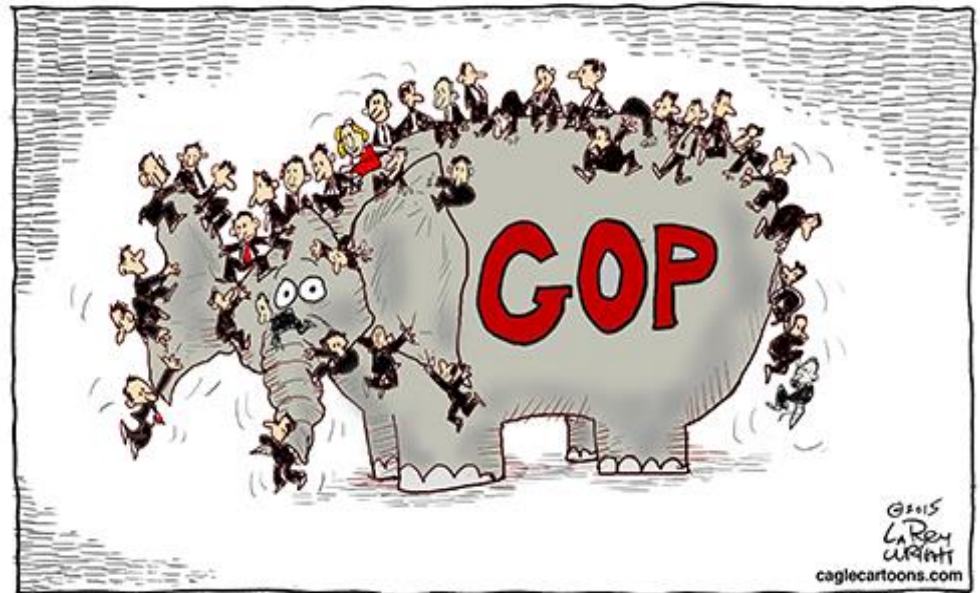
# THE 2016 OUTLOOK – SENATE



- A “bad map” for Republicans – all but one competitive seat in an “Obama state” (North Carolina)
- Opposite of 2014
- Still, Dems need to net +5 to win majority

Source: National Journal Research; CNN Election Center; Associated Press; NBC News

# THE 2016 OUTLOOK – THE RACE FOR THE WHITE HOUSE



Bob Englehart, The Hartford Courant

# THE 2016 OUTLOOK – THE RACE FOR THE WHITE HOUSE

## ***Shawn's Completely Subjective Ranking of the official Republican Field:***

### **Tier 1 – Serious Contenders**

- Bush – *Wishes he could change his last name*
- Rubio – *Wishes Bush was from Texas*

### **Tier 2 – Might Make It Interesting**

- Cruz – *Wishes Rubio wasn't Hispanic*
- Huckabee – *Wishes it was 1976*
- Paul – *Wishes foreign policy was not a thing*
- Perry – *Wishes people would forget 2012*
- Santorum – *Wishes people agreed with him on gay marriage*

### **Tier 3 – Will Not Make it Interesting**

- Carson – *Wishes his staff would stop quitting*
- Fiorina – *Wishes she was only female running*
- Graham – *Wishes domestic policy wasn't a thing*
- Jindal – *Wishes his state approval rating was better than 30%*
- Pataki – *Wishes he ran sooner*

### **Tier 4 – Will Definitely Make it “Interesting”**

- Trump – *Wishes he didn't have to hire people to attend his rallies*

# THE 2016 ELECTIONS AND OUR ADVOCACY STRATEGY

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- If it is going to happen this Congress, it has to happen in 2015
- Focus on vulnerable Members of Congress
  - » Blue State Republicans
- If he or she is running for president, forget about it...
  - » Current Senators running for President:
    - Cruz (R-TX)
    - Graham (R-SC)
    - Paul (R-KY)
    - Sanders (D-VT)

# POLICY ADVISORY COMMITTEE

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- 2015 committee focus
  - » Price transparency
  - » Cost comparison of essential hospitals to other hospitals
  - » Principles submitted to Board of Directors
- Looking ahead
  - » Telehealth policy

# POLICY ADVISORY COMMITTEE

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- Created in 2012, comprised of member hospital executives
- Committee annually holds one in-person meeting and quarterly teleconferences
- Committee guides development of association's policy positions
- Committee prepares principles, policy positions for approval by Board of Directors



# POLICY ADVISORY COMMITTEE

- Past committee focus
  - » Entitlement reform, 2012
  - » Mental health services and violence prevention, 2013
  - » Immigration reform, 2013
  - » Essential hospital designation, 2013
  - » Medicaid alternative payment models, 2014
  - » Equity of care, 2014



# KEY PRIORITIES FOR ESSENTIAL HOSPITALS

# 340B DRUG PRICING PROGRAM

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- 340B provisions nearly included in 21<sup>st</sup> Century Cures Mark-up
- Expect continued congressional interest in oversight and accountability
- Upcoming guidance from HRSA – scope remains unclear

# RISK ADJUSTMENT FOR SOCIO-ECONOMIC STATUS



Rep. Renacci (R-OH)



Rep. Engel (D-NY)



Sen. Manchin (D-WV)



Sen. Portman (R-OH)

- Unified legislation introduced March 10, 2015: **Establishing Beneficiary Equity in the Hospital Readmission Program Act**
  - H.R. 1343 / S. 688
- Bipartisan, bicameral support
- Little/no federal cost
- Seeking cosponsors and legislative vehicles

# ADDRESSING HEALTH CARE DISPARITIES

- As leaders in the field, investigating opportunities for federal support for disparities work at essential hospitals
- “Companion” to SES risk adjustment legislation



Source: UM, The New Jewish Home, CEPro, Healthcare Informatics

# MEDICARE DSH CUTS



Source: [healthcarefinancenews.com](http://healthcarefinancenews.com)

- Cuts enacted under the Affordable Care Act
- New payment formula redistributes Medicare DSH payments between hospitals
- Aggregate cuts in 2015 are **35 percent** below pre-ACA payments
- Seeking opportunities to stop or reduce overall cuts

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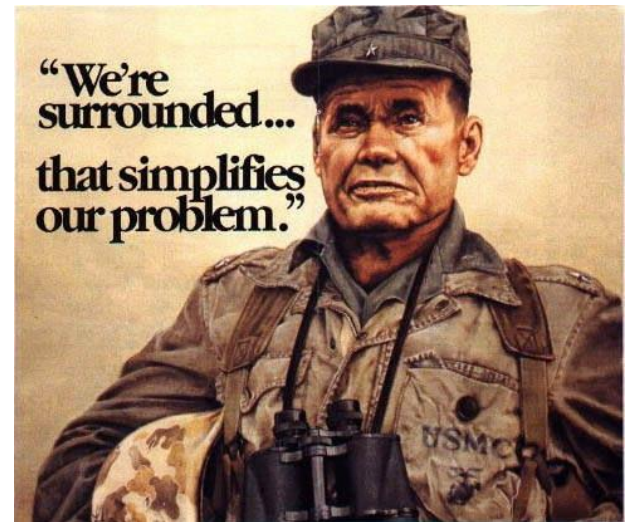
- Medicaid “reform”
- Medicare “site neutral” payments
- GME “reform”
- Enhanced interest in “non-DSH supplemental payments” (UPL)
  - *Major reforms may not be enacted this year, but could be starting point for next Congress*

# OUR ADVOCACY VISION



# OPERATIONALIZING THE 1+4

- With funding threats coming from all directions, we need a comprehensive strategy.
- Seeking a way to defend all essential funding sources ***based on our multiple missions***
- Operationalizing the 1+4 to allow us to stand apart from other providers
  - ✓ Step 1: Create essential hospital definition
  - ✓ Step 2: Insert definition into federal law.  
Continue to reference definition whenever possible.
  - ❑ Step 3: Defend defined set of hospitals from threats based on federal designation



# QUESTIONS