



ACEP 911 Network Weekly Update April 7, 2017

Members of Congress headed home on Friday for the Easter-Passover recess. The Senate returns on April 24, and the House returns on April 25, just in time to address how to continue to fund the government. The current continuing resolution (CR) expires at midnight on April 28.

The Week in Washington:

- **Senate Confirms Supreme Court Nominee**
- **Vice President Casts Tie-Breaking Vote on Family Planning Bill**
- **House GOP Eager to Keep ACA Repeal Alive**
- **Self-Insurance Bill Passes House**
- **Additional Cosponsors Added to EMTALA Liability Bill**
- **ACEP Advocacy Action Alert**
- **Senate HELP Hearings**

Senate Confirms Nomination of Judge Gorsuch to Supreme Court – Rule Change Ensured Advancement

Supreme Court nominee Judge Neil Gorsuch was confirmed today by a vote 54-45 in the Senate. Democratic Senators Joe Donnelly (D-IN), Heidi Heitkamp (D-ND) and Joe Manchin (D-WV) voted with Republicans. This week, Senate Republicans cleared the way for Judge Gorsuch's confirmation by changing the rules of the U.S. Senate. The "nuclear option" ensures that all presidential nominees for the executive branch positions and the federal courts need only a simple majority vote to be confirmed by the Senate, avoiding the 60-vote threshold (through use of a filibuster). Senate Majority Leader Mitch McConnell (R-KY) moved to change the Senate rules after Democrats blocked Judge Gorsuch's nomination on Thursday morning. In 2013, Democrats, who had majority control of the Senate, voted to change the rules to allow all executive branch nominees and lower court picks to be confirmed with a simple majority vote. At that time, Supreme Court nominees were not included as part of the changes.

VP Casts Tie-Breaking Vote to Overturn Title X Family Planning Regulation

Last week, Vice President Pence's vote was needed in the Senate to repeal an Obama regulation finalized in December, which prohibited states from restricting Title X family planning grants to Planned Parenthood and other abortion providers. All of the chamber's Democrats were joined by Sens. Susan Collins (R-ME) and Lisa Murkowski (R-AK) to achieve the 50-50 tie vote.

House GOP Eager to Keep ACA Repeal Alive

After pulling the ACA repeal bill from consideration two weeks ago, the White House and House leadership have been attempting to negotiate changes to the package in a desperate effort to corral enough votes to get it through the House. Negotiations between the Administration and House Republicans broke down last night in a reportedly tense exchange as Congress prepared to leave DC for the two-week recess and President Trump approaches the 100-day mark without a significant legislative achievement.

A couple of hours after the House had already adjourned for the recess, the Rules Committee held an emergency meeting to consider an amendment to the American Health Care Act (AHCA). The measure, offered by Reps. Gary Palmer (R-AL) and David Schweikert (R-AZ), would create a \$15 billion "Federal Invisible Risk Sharing Program" to help insurance companies cover the expenses of high-cost patients, essentially a reinsurance program modeled on a program established in Maine several years ago.

The amendment, approved 9 to 2 along party lines, will give Republicans a chance to tell their constituents they are making progress on their plan to dismantle the ACA during the current break. ACEP continues to advocate on behalf of our "[Emergency Medicine Health Care Reform Principles](#)" and has expressed concern about some of the revisions that would potentially weaken patients' access to emergency care.

Congress' use of the budget reconciliation process, represented by the AHCA, is the first phase of a three-part strategy created by Republicans to ultimately repeal and replace the ACA. Phase two is regulatory action taken by HHS Secretary Tom Price and the third phase would include all other legislative actions – such as medical liability reform, other insurance policy changes, etc. – that were not included in reconciliation. Recently, HHS launched a new [website](#) highlighting the phase two regulatory and administrative actions the department is taking or has taken to date.

Self-Insurance Bill Passes House

The House on Wednesday passed a bill intended to protect small and mid-sized self-insured employers. H.R. 1304, the "Self-Insurance Protection Act," introduced by Rep. Phil Roe (R-TN), was approved 400 to 16. The legislation would amend the Employee Retirement Income Security Act (ERISA), the Public Health Service Act and the Internal Revenue Code to clarify that federal regulators cannot redefine stop-loss insurance as traditional health insurance, ensuring that employers can continue to utilize the financial risk-management tool when offering employees healthcare coverage through a self-funded plan.

Additional Cosponsors Added to EMTALA Liability Bill

The "Health Care Safety Net Enhancement Act" (H.R. 548/S. 527), re-introduced in this Congress by Rep. Charlie Dent (R-PA) and Senator Roy Blunt (R-MO), has garnered additional support in the House since last reported. The ACEP-supported bill addresses the growing crisis in access to emergency care by providing emergency and on-call physicians who perform EMTALA-related services with temporary protections under the Federal Tort Claims Act. The most recent cosponsors include: Reps. Raul Ruiz (D-CA), James Sensenbrenner (R-WI), Elise Stefanik (R-NY), Rob Wittman (R-VA), Jeb Hensarling (R-

TX), Brian Fitzpatrick (R-PA), Bill Shuster (R-PA), Mark Sanford (R-SC), Evan Jenkins (R-WV), Michael Burgess (R-TX), Mike Bishop (R-MI), Tim Murphy (R-PA), Ted Poe (R-TX), Bruce Poliquin (R-ME), Scott Tipton (R-CO) and David McKinley (R-WV).

Please take a few minutes to send an email to your legislators through our [ACEP Advocacy](#) site urging their support of this important legislation. Click on **“Take Action”** on the home page to access an editable email - you will need your ACEP log in credentials. As mentioned above, medical liability reform could be included in phase three of Republican efforts to repeal and replace the ACA. It will be important to show widespread support of this bill to improve its chances of advancement.

Senate HELP Hearings

The Senate Health, Education, Labor and Pensions (HELP) Committee held a confirmation hearing for President Trump’s nominee, Dr. Scott Gottlieb, to be the next head of the Federal Drug Administration (FDA). Dr. Scott Gottlieb is a physician, entrepreneur and former FDA official from the George W. Bush Administration. During the hearing, Gottlieb told Senators that the nation’s opioid crisis is a “public health emergency” similar to Ebola and Zika and it requires dramatic action by both the Executive and Legislative branches. Democrats took issue with Gottlieb’s long-standing financial ties to the pharmaceutical industry but, with strong support from the committee’s Republicans, his confirmation seems all but assured. The committee vote is expected after Congress returns from the Easter recess. To view the hearing, [click here](#).

In addition, the HELP committee this week held another hearing entitled “FDA User Fee Agreements: Improving Medical Product Regulation and Innovation for Patients, Part II.” Tuesday’s hearing is part of a series of three hearings in the HELP committee to reauthorize the Prescription Drug User Fee Act. The Prescription Drug User Fee Act (PDUFA) was created by Congress in 1992 and authorizes FDA to collect fees from companies that produce certain human drug and biological products. Since the passage of PDUFA, user fees have played an important role in expediting the drug approval process. The Senate is expected to hold a committee mark-up of the legislation in early May with a hopeful bicameral conference before the end of July. More information on the hearing can be [found here](#).

Additional Hearings This Week

On Tuesday, the House Energy and Commerce Subcommittee on Oversight and Investigations held a hearing entitled “Cybersecurity in the Health Care Sector: Strengthening Public-Private Partnerships.” Additional information on the hearing can be [found here](#).

On Wednesday, the House Appropriations Committee held a hearing entitled “Federal Response to the Opioid Abuse Crisis.” More information on the hearing can be [found here](#).

The *Weekly Update* will be on spring recess as well and will resume publication the week of April 24 when Congress returns.



Connect with us on  [Facebook](#) and  [Twitter!](#)

To ensure delivery to your inbox, add ACEP@acep.org & JSlade@acep.org to your address book.

View the ACEP [privacy policy](#).

Copyright © 2017 American College of Emergency Physicians. All rights reserved.

ACEP Public Affairs | 2121 K Street, NW Suite 325 | Washington, DC 20037

[Click here to unsubscribe.](#)