

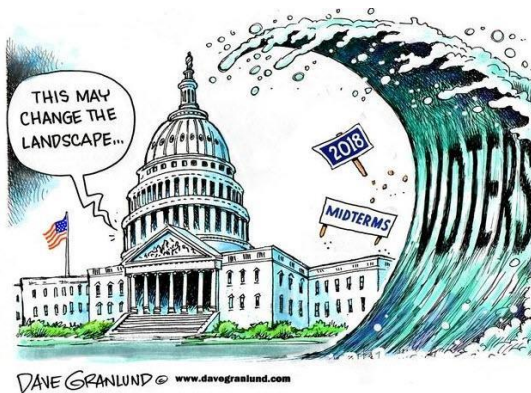
CALIFORNIA POLICY UPDATE

FEBRUARY 12, 2019
DAVID GONZALEZ



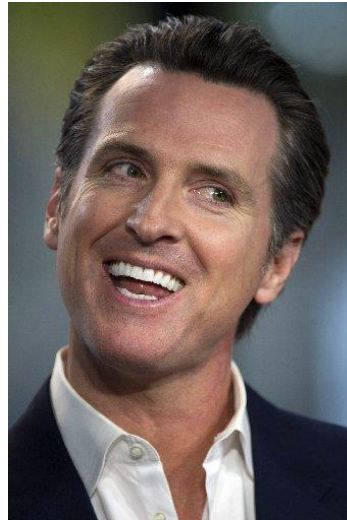
CALIFORNIA POLITICAL LANDSCAPE. NOV. 18 MID-TERMS

- Democrats, who already held strong majorities *increased* their numbers.
- After the election, the Legislature includes:
 - In the 80 member Assembly:
 - 60 Dems; 20 Reps.
 - In the 40 member Senate:
 - 29 Dems to 11 Rep
- In addition, recently one Assembly Republican switched parties NOW making the California Assembly 61 Dems to 19 Reps.



DEMOCRATS ADDITIONAL GAINS

- Democrats hold all statewide elected offices, including the Governor's Office.
- Democrats pick up 6 congressional seats.
- Mid-terms are traditionally the Republicans stronger year.



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RX PRICING: EXEC. ORD. N-01-19 PART I

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- **Findings:** "establishing a single-purchaser for the highest-cost prescription drugs will yield valuable insights into the design of a broader single-payer system, and move the State one stop closer to a comprehensive solution for affordable and accessible health care for all."
- **Orders:**
 - DHCS to take all necessary steps to transition all pharmacy services for Medi-Cal managed care to a fee-for-service benefit by 1/21.
 - DGS to develop a list of prescription drugs that can be prioritized for future bulk purchasing initiatives or reexamined for potential renegotiation with the manufacturer.
 - In developing the list, DGS must consider the 25 highest-cost prescription drugs, which collectively account for approximately half of the State's prescription drug expenditures.
 - Report of these prioritized drugs due to the Governor by 3-15-19.

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RX PRICING: EXEC. ORD. N-01-19 PART 2

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- DGS to develop and implement bulk purchasing arrangements for high-priority drugs based on the prioritized list by **4-12-19**.
- DGS to develop framework for enabling private purchasers to benefit from State bulk pharmaceutical purchasing;
 - The framework should incorporate the opportunity for private purchasers--including small businesses, health plans, and the self-insured--to opt in to a State purchasing program.

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GOVERNOR'S LETTER TO PRESIDENT AND CONGRESS. PART I.

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- 1/7/19, Governor Newsom sends letter to President Trump and Congressional leaders to request empowering "States like mine to design and implement truly transformative solutions for securing affordable health care for all."
- Letter requests: "amend federal law to enable State to apply for and receive Transformative Cost and Universal Coverage Waivers, empowering California to truly innovate and to begin transformative reforms that provide the path to a single-payer health care system."

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GOVERNOR'S LETTER TO PRESIDENT AND CONGRESS. PART 2.

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■ **TRANSFORMATION COST AND COVERAGE WAIVERS:**

- Assure competition by making public plan options available in areas with limited health carriers;
- Use tools such as all-payer pricing to address rising health care costs;
- Promote improvements to how care is delivered, supporting care coordination and payment systems that reward better quality;
- “Unlike the current standards tied to ‘budget neutrality,’ this new waiver would be fiscally aligned with the federal government’s goal of reducing the uninsured, lowering costs, and improving quality.”
- “The waivers would serve as the funding mechanism rewarding States that are relatively more successful in achieving these goals. For example, additional funding should be made available for States that are more effective at lowering the rate of the eligible uninsured, containing costs effectively, and promoting quality.”

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GOVERNOR'S LETTER TO PRESIDENT AND CONGRESS. PART 3.

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STUDY TIME

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STUDY TIME: LAO REPORT ON INDIVIDUAL MARKET AFFORDABILITY. PART I

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- Legislative Analysts Office (LAO) on 2/7/19 issues report "The Governor's Individual Health Insurance Market Affordability Proposals."
<https://lao.ca.gov/Publications/Report/3927>
- The LAO report analyzes Governor Newsom's 2 proposed policies relating to making the individual market more affordable:
 - "creation of a state individual state mandate with an associated financial penalty, to take the place of the federal individual mandate penalty that was effectively eliminated by Congress beginning in 2019; and
 - the use of revenues from the state individual mandate penalty to provide state subsidies to reduce the cost of individual market coverage."
- According to the LAO, currently over 2 million individuals obtain coverage in the individual market.

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STUDY TIME: LAO REPORT ON INDIVIDUAL MARKET AFFORDABILITY. PART 2

- The LAO findings:
 - “the individual mandate may be one of the state’s most effective policy options to increase enrollment in the individual market and reduce the cost of individual market coverage, particularly for households that currently do not receive federal subsidies.
 - The individual mandate does involve trade-offs. In particular, the individual mandate would generate revenue at the expense of individuals who would choose to pay the penalty rather than obtain coverage, perhaps because they do not view available coverage options as affordable.
 - However, on balance, ***we think the Governor’s proposal to create a state individual mandate warrants serious consideration.***

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STUDY TIME: LAO REPORT ON INDIVIDUAL MARKET AFFORDABILITY. PART 2

- Elements of the Governor’s Individual Mandate Proposal include:
 - Model the proposal based on the federal individual mandate BEFORE the penalty was reduced to zero (estimated to be \$500 million annual revenue to California);
 - Administered by the Franchise Tax Board;
 - Subsidies would be available for households between 200 and 600 percent FPL (details to be revealed later.)

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STUDY TIME: LAO REPORT ON INDIVIDUAL MARKET AFFORDABILITY. PART 3

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- Senator Pan introduced Senate Bill 175 which generally seeks to implement the Governor's individual mandate proposal.
- According to the fact sheet, SB 175 "would enforce the ACA penalty for not having health insurance beginning in 2020 based on the federal methodology that was in place as of December 15, 2017."

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CALIFORNIA FUTURE HEALTH WORKFORCE COMMISSION: FEBRUARY 2019 REPORT. PART I

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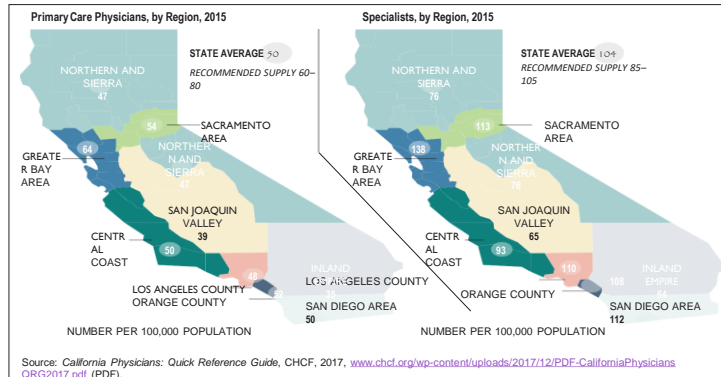
- California Future Health Workforce Commission issues report this February making a number of findings <https://futurehealthworkforce.org/wp-content/uploads/2019/02/MeetingDemandForHealthFinalReportCFHWC.pdf>
 - "California does not have enough of the right types of health workers in the right places to meet the needs of its growing, aging, and increasingly diverse population."
 - The Commission highlighted 10 priority actions including:
 - Recruit and support college students, including community college students, from underrepresented regions and backgrounds to pursue health careers;
 - Sustain and expand the programs in Medical Education (PRIME) across UC campuses;
 - Expand the number of primary care physician and psychiatry and residency positions; and
 - Maximize the role of nurse practitioners as part of the care team to help fill gaps in primary care.

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Figure 2. Supply of Primary Care Physicians and Specialists in California, by Region, 2015

CALIFORNIA FUTURE HEALTH WORKFORCE COMMISSION: FEBRUARY 2019 REPORT. PART 2



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CALIFORNIA FUTURE HEALTH WORKFORCE COMMISSION: FEBRUARY 2019 REPORT. PART 3

- Listing of "Priority Professions"

Primary care: primary care physicians, nurses, nurse practitioners (NPs), physician assistants (PAs), medical assistants (MAs)

Prevention and public health: community health workers/promotores, community health educators, public health nurses, data analysts, health administrators, state and local health department staff (e.g., epidemiologists, public health nutritionists, infectious disease experts, disaster preparedness specialists)

Behavioral health: psychiatrists, psychologists, psychiatric nurse practitioners, peer support specialists, primary care clinicians with pain management expertise, licensed clinical social workers, marriage and family therapists, licensed professional clinical counselors, substance use disorder and addiction counselors, college behavioral health counselors

Healthy aging and care for older adults: geriatricians, nurses, geriatric nurse practitioners, home care workers, home health aides, social workers.

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GOVERNOR NEWSOM RELEASES PROPOSED BUDGET FOR 2019-20

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- 1/9/19 Governor Newsom releases his proposed Budget for 2019-20.
<http://www.ebudget.ca.gov/budget/2019-20/#!/BudgetSummary>

This kicks-off the start of negotiations with the Legislature, and will be subject to a “May Revise” in... May.

- Some initial highlights include:
 - The MCO tax will expire on June 30, 2019 and the current tax revenue is not assumed in the 2019-2020 budget proposal. IHSS would be financed under the state's general fund instead of the MCO tax.
 - \$360 million from Prop 56 for Value Based Funding investment in Medi-Cal managed care to address high-cost Medi-Cal enrollees through case management of chronic disease and behavioral health integration

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NEW 2019 PENDING LEGISLATION

BILLS INTRODUCED FOR THIS SESSION

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SUPREME COURT'S DYNAMEX DECISION: INDEPENDENT CONTRACTORS. PART 1

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- California Supreme Court issued in *Dynamex Operations West v. Superior Court* a decision on 4/30/18 significantly changing the way individuals can be considered "**independent contractors**" under California law.
 - Prior to *Dynamex* "independent contractor" status was determined by the *Borello* test.
- Under *Dynamex* independent contractor status will be determined by the "ABC" test.
 - Under the ABC test, employer must prove ALL of the following in order for an individual to be considered an "independent contractor;"
 - The individual is **free from the control and direction of the hiring entity** in connection with the performance of the work, both under the contract for the performance and in fact;
 - The individual performs work that is **outside the usual course of the hiring entity's business**; and
 - The individual is **customarily engage in an independently established trade, occupation, or business** of the same nature as the work performed.
 - Prong 2 is particularly problematic.
 - APG is part of a large employer coalition being led by the Cal Chamber to look at potential solutions.

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SUPREME COURT'S DYNAMEX DECISION: INDEPENDENT CONTRACTORS. PART 2

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- AB 5 (Lorena Gonzalez) seeks to codify the recent California Supreme Court's *Dynamex* decision on **independent contractor** status.
- Still in "spot" form: but finds "misclassification of workers as independent contractors has been a significant factor in the erosion of the middle class and the rise in income inequality."

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AB 290 (WOOD) DIALYSIS TREATMENT CENTERS

- AB 290 establishes requirements for any financially interested entity making third-party premium payments for health plan enrollees or insureds.
- According to the author, the bill “addresses concerns that certain unscrupulous dialysis companies, through a third party, may be veering patients away from Medicare or Medi-Cal by indirectly paying a patient’s premiums, for the company’s own financial benefit.”
- AB 290 is a reintroduction of SB 1156 (Levy) of 2018. 2018 was vetoed by Governor Brown

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REGULATORY DEVELOPMENTS

ACTIVITY BY DMHC AND DHCS

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PENDING DMHC REGULATIONS

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- RBO Regulation
 - Problematic definitions
 - Multiple stakeholders expressing significant concerns.

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DHCS MEDI-CAL PROGRAM

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- APG's "Compliance Competency Checklist" project
 - Presentation at January 25 State Programs Mtg.
 - Presentation to CAHP on February 7th.
 - Responds to continued increase in DHCS and DMHC audit activity
 - Designed to provide a basic level of competency to operate in the Medi-Cal market

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California Policy Update sent weekly to APG members

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UPDATE

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