



# BOS Washington Update



Wednesday, November 5<sup>th</sup>, 2014

Happy Day After Election Day! While votes in some key races are still being tabulated, a clear result is that it was a big night for Republicans and the senior senator from the Commonwealth of Kentucky, Mitch McConnell (R), will be the Senate Majority Leader in January. What this means for the country's legislative agenda in general, and for health care in specific will likely become clearer in the weeks following the lame duck Congressional session due to begin November 12<sup>th</sup> and end on December 12<sup>th</sup>.

## Election Day

**McConnell Re-Elected, Likely to Be Majority Leader.** Though his challenger, Allison Lundergan Grimes (D) put forth a credible challenge to the Republican leader in the Senate, national headwinds, Kentucky political trends, and the sheer might of Senator Mitch McConnell's political operation were too much to overcome. Grimes conceded last night before a jubilant McConnell addressed supporters. ([Courier-Journal](#))

**Red States Get Redder.** Senator Mark Pryor (D-Ark.), once thought to be in a strong position for re-election conceded defeat to Republican Congressman Tom Cotton shortly after polls close, as Cotton claimed a large victory. Pryor, whose family was an institution in Arkansas politics, was unable to shake Arkansans' antipathy toward President Obama's policies, including Pryor's vote for the Affordable Care Act ([CNN](#)). Though the race has not yet been called in Alaska, it appears that Republican Dan Sullivan has unseated incumbent Senator Mark Begich (D) ([Alaska Dispatch](#)).

**Purple State Democrats Face Difficult Night.** Also losing was Senator Kay Hagan (D-NC), believed to have run one of the best campaigns of a vulnerable Democrat. Her early leads dissipated throughout the course of the night and wound up losing to state House Speaker Thom Tillis (R) ([Charlotte Observer](#)). Rep. Cory Gardner (R-Colo.), who for months resisted entreaties to run for US Senate, won by a comfortable seven points over incumbent Senator Mark Udall ([Denver Post](#)). Even Senator Mark Warner (D-Va.), who never led by less than seven points in public polls, barely held on to win last night by about 12,000 votes, a race that could go to a recount ([WaPo](#)).

**Shaheen Holds On.** One of the few purple-state bright spots yesterday for Democrats was Senator Jeanne Shaheen's (D) re-election in New Hampshire. Shaheen held off former Massachusetts Senator Scott Brown (R) to keep a competitive Senate race in the Democratic column. ([Union Leader](#))

**We're Not Done Yet.** Last night, no candidate received a majority in the Louisiana Senate race. As of this writing, with all precincts reporting, Senator Mary Landrieu (D) had 42% of the vote, Rep. Bill Cassidy, MD (R) 41%, and combat veteran Rob Maness (R) 14%. This would send Senator Landrieu and Rep. Cassidy to a December 6<sup>th</sup> runoff. ([Times-Picayune](#))

**Don't Forget the House.** With several races still too close to call, it looks like Republicans will wind up gaining a net of about thirteen seats, well more than the range of five-to-ten seats anticipated by most. This would give Republicans their largest majority since 1949. Longtime Democratic survivors in Republican seats John Barrow (D-Ga.) and Nick Rahall (D-WV) went down to defeat, as did several other Democrats in marginal districts like Bill Enyart (D-Ill.) and Dan Maffei (D-NY). Even Rep. Michael Grimm (R-NY), who is staring down a federal indictment won re-election. Two rare bright spots for Democrats were Gwen Graham's defeat of Rep. Steve Southerland (R-Fla.), and what appears to be a victory for state Sen. Brad Ashford (D) over Rep. Lee Terry (R-Neb.). ([Roll Call](#))

**MICRA Survives in California.** Golden State voters rejected Proposition 46, which would have raised the

cap on pain and suffering awards in medical malpractice suits from \$250,000 to \$1,000,000. This would have marked a substantial change to the state's landmark Medical Injury Compensation Reform Act (MICRA). ([LA Times](#))

## Non-Election News

**CME Funding Survives Sunshine Act.** On Friday, CMS [issued a final rule](#) that technically eliminates a reporting exemption it had earlier created under the Physician Payments Sunshine Act for indirect financial ties between industry and physicians. However, it also expanded the definition of non-reportable indirect payments to include most CME payments, so long as commercial supporters of CME do "not require, instruct, direct, or otherwise cause the continuing education event provider to provide the payment ... to a covered recipient." This limitation mirrors the limitations already proscribed by the ACCME and the American Medical Association, meaning that the Sunshine Act reporting mandate will not impact CME.

**New Monies to Improve Care and Efficiency.** On October 23<sup>rd</sup>, [HHS announced](#) that it will provide up to \$840 million over four years to improve care quality and efficiency and share best practices among providers. The bulk of the funding will be provided by the Center for Medicare and Medicaid Innovation (CMMI), while \$40 million of the funds will come from the Quality Improvement Organization program. Per the HHS release, "This effort will help clinicians develop strategies to share, adapt and further improve the quality of care they provide, while holding down costs. Strategies could include:

- "Giving doctors better access to patient information, such as information on prescription drug use to help patients take their medications properly;
- "Expanding the number of ways patients are able communicate with the team of clinicians taking care of them;
- "Improving the coordination of patient care by primary care providers, specialists, and the broader medical community; and
- "Using electronic health records on a daily basis to examine data on quality and efficiency."

**Push for Lame Duck CHIP Funding.** Some 1,200 organizations ranging from the American Dental Association to the Union of Sisters of the Presentation of the Blessed Virgin Mary signed a letter urging Congress "to take action in the upcoming lame duck session to provide continued funding for the Children's Health Insurance Program (CHIP)." The Affordable Care Act extended CHIP through 2019 but allocated funding only through September 2015, which is problematic for states that will be budgeting for next fiscal year. ([Link to the letter](#))

**Become a Washington Health Policy Fellow!** If you're reading this, you care about health policy, and there's an opportunity to do even more to advance the interests of orthopaedics by becoming a Washington Health Policy Fellow. The Washington Health Policy Fellows program (residents and non-residents) is now accepting applications. The Fellowship is an excellent way to become involved in shaping the political landscape for the betterment of our patients. Exciting things are happening in Washington, DC and the nation for orthopaedists in every community. Many of these things are the direct result of orthopaedists getting involved and making their voices heard. We invite you to join us in this effort. For more information on WHPF [click here](#). The application can be [found here](#) (PDF link).

## More Fun with ICD-10

Keeping up with election results is difficult in an even-numbered year. *BOS Washington Update* was glued to our laptop and smartphone last night to keep track of all the night's big races, even as we were on the move. While it is never a good idea to stare at your phone while walking outside, had we walked right into a lamppost, we rest assured knowing that [there's a code for that](#).