2016 Post-Election Analysis and Legislative Outlook for 2017

The recent elections have left many questions about the future of health care. As the national dialog about the Affordable Care Act progresses in the coming months, physicians will have myriad opportunities to support the development of systems that improve patient health and provide much-needed relief for doctors. Our role at the state level is more important than ever.

This report provides an analysis of the state and federal election results in North Carolina and the impact that the elections have on NCSEPS’ legislative priorities heading into the 2017-2018 biennial session of the North Carolina General Assembly, which is scheduled to convene on January 11, 2017.

Election Results

General Assembly

Predictions that Democrats would gain seats in the NC House and Senate and that the Republican veto-proof “supermajority” was in jeopardy didn’t pan out. The Republicans have preserved their supermajorities in both the House and Senate. House Republicans lost four races in Charlotte and Raleigh, but won three seats in more rural areas of the state. Senate Republicans picked up one seat.

Governor

Attorney General Roy Cooper is currently about 9,000 votes ahead of incumbent Governor Pat McCrory in the Governor’s race. Adding potential intrigue to this race, Cooper’s current majority resulted from some 90,000 votes from Durham County that were discovered in the days following the election. In addition, there are still provisional, mail and overseas ballots to count. Due to the current slim margin, this race has not been officially “called.” House Bill 2 (HB2) is touted as the reason Gov. McCrory fell short, but the I-77 toll road issue cost him tens of thousands of votes in an area where he ran strong in 2012. Rumors are surfacing on two potential legislative actions. First, there is speculation that the legislature will add two members to the Supreme Court to effectively reverse the election outcome in that body. Second, there are rumblings that the legislature will be called to decide the contested Governor’s race. There have not been strong denials from Republican leadership in either chamber, signaling that the issues may be on the table.

Attorney General

In another tight race, Democrat Josh Stein appears to have won the election for Attorney General over the Republican candidate, Buck Newton. This race seesawed back and forth as the results
were reported on Election Day, but Stein edged ahead in the final tally by some 21,000 votes.

**Council of State Races**

In other Council of State races, Democrat incumbents were defeated in the Insurance Commissioner and Superintendent of Public Instruction races, and – in a race for an open seat – the Republican candidate for State Treasurer was elected. Showing that voters are willing to split tickets down the ballot, Democratic incumbents were re-elected for State Auditor and Secretary of State.

**N.C. Supreme Court**

In the State Supreme Court race, incumbent Republican Justice Bob Edmunds was defeated by the Democratic candidate, Mike Morgan. This result changes the balance from a Republican majority to a Democratic majority. These are technically non-partisan races, but in recent years politically charged matters such as election challenges have tended to break down on partisan lines. Analysts suggest that voters may have thought Judge Mike Morgan was a Republican because the Republican Party had top billing in other partisan contests on the ballot.

**US Congress**

In the US Senate race, incumbent Republican Sen. Richard Burr defeated Democrat Deborah Ross. This race was much closer than expected at the outset of the election cycle, but in the end Burr won by some 270,000 votes. On the House side, the current Republican majority delegation (10-3) remains in place. All of the incumbent candidates “held serve” (some of them in new districts, however, due to the court-mandated redistricting) and the Republican candidate won in the new 13th Congressional District.

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*House supermajority is 72 votes.

**EyePAC Donation Recipients**

**NC House**

All but two of the House members who received donations from EyePAC won their races. In an upset, Health Committee Chair Rep. Marilyn Avila (R-Wake Co.) lost her highly contested seat by a mere 0.82%. Rep. Avila has been a champion for CON reform in the
Republican Caucus. Health Committee Chair Rep. Justin Burr (R-Stanly Co.) beat both of his opponents. Rep. David Lewis (R-Harnett Co.), the House Rules Chair, won his bid for re-election. Rep. Lewis has been deeply involved in health-related legislation in years past, particularly focusing on step therapy (or “fail first”) pharmaceutical coverage policies. EyePAC supported Dr. Frank Moretz (R) in his unsuccessful challenge to incumbent Rep. John Ager (D-Buncombe Co.). Also winning re-election were House Majority Leader Rep. John Bell (R-Wayne Co.), Rep. Beverly Earle (D-Mecklenburg Co.) and Rep. Bert Jones (R-Rockingham Co.).


Also noteworthy, though not an EyePAC contribution recipient, Rep. Nelson Dollar (R-Wake Co.) won reelection in a very heated race. As Chair of the House Health Care Committee and Senior Budget Writer, Rep. Dollar is a key player in any health-related legislation in the House.

NC Senate

All Senators who received EyePAC checks were successful in the election. One of our Senate CON reform Republican champions, Sen. Ralph Hise (R-Mitchell Co.), won his bid for re-election and will be returning to Senate leadership in 2017. Sen. David Curtis (R-Lincoln Co.), an optometrist, handily defeated his Libertarian challenger. Sen. Warren Daniel (R-Burke Co.) and Sen. Jim Davis (R-Macon Co.) defeated their Democratic opponents by comfortable margins. Sen. Jeff Tarte (R-Mecklenburg Co.) and Sen. Trudy Wade (R-Guilford Co.) both had tight races that many thought might turn blue this year, but both weathered the election unscathed and will be returning to Raleigh in January.

Sen. Don Davis (D-Greene Co.), Sen. Tommy Tucker (R-Union Co.) and Sen. Louis Pate (R-Wayne Co.) will all be returning to the legislature in 2017 after running unopposed.

Impact of Election Results on NCSEPS Legislative Priorities

The elections on November 8th did not significantly impact the level of support, nor opposition to, Certificate of Need (CON) reform in the North Carolina General Assembly. The NCSEPS did lose an ardent supporter in the state House—Rep. Marilyn Avila (R-Wake Co.). Rep. Avila worked behind the scenes to help keep our issue in play at the legislature and her support will be missed. The current House leadership, which includes the Speaker, the Rules Chair and the Senior Appropriations Chair, all of whom are opposed to CON reform, are expected to remain in place. Sen. Hise who will probably remain a key player on health issues in the Senate, is strongly committed to CON reform and will continue to push the issue. Though some committee reorganizing may occur, the House and Senate Health Committees are likely to remain mostly unchanged when the legislature reconvenes in January. It will be important for the NCSEPS to focus its efforts on reaching out to members in these committees and their leadership for educational purposes on scope of practice issues that impact patient care.
If Attorney General Roy Cooper’s lead holds after the ongoing recount, there will be changes at the NC Department of Health and Human Service (DHHS). Cooper promoted expansion of Medicaid through the Affordable Care Act (ACA) during his campaign, so this would likely be a priority of his administration. The state’s opportunity to expand Medicaid, however, under the ACA may evaporate under the incoming Trump Administration; Trump pledged to repeal and replace the ACA throughout his campaign, though some reports since the election have indicated that he may be softening his position. Regardless, the supermajority of Republicans in both chambers of the state legislature, which has opposed Medicaid expansion in the past (although there may be some softening on the issue here as well), will likely continue to be an obstacle to expansion.

Insurance Commissioner Wayne Goodwin lost in his third re-election bid to Mike Causey who won the job this year in his fourth attempt. Causey campaigned on lowering insurance rates through competition and making the Department of Insurance more accessible to consumers. The NCSEPS is encouraged to set up a meeting with the new commissioner to discuss any pending health insurance issues impacting ophthalmology.

The incoming State Treasurer, Dale Folwell, will be in charge of the State Health Plan. Folwell was known as a very innovative legislator during his time in the state House, and he may be interested in CON reform as a way to save money for the State Health Plan. He served four terms in the House and two years as House Speaker.

With the flip of the NC Supreme Court from Republican to Democrat there may be a challenge to the medical malpractice and tort reform laws that were passed in 2011. The new composition will also play heavily into legislative redistricting, which will occur again in the upcoming 2017 long session.

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