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Drug Regulation in a Trump World: Health Policy In 2017

Kate Rawson
Prevision Policy LLC
Rising Leaders Conference on Healthcare Policy
May 16, 2017

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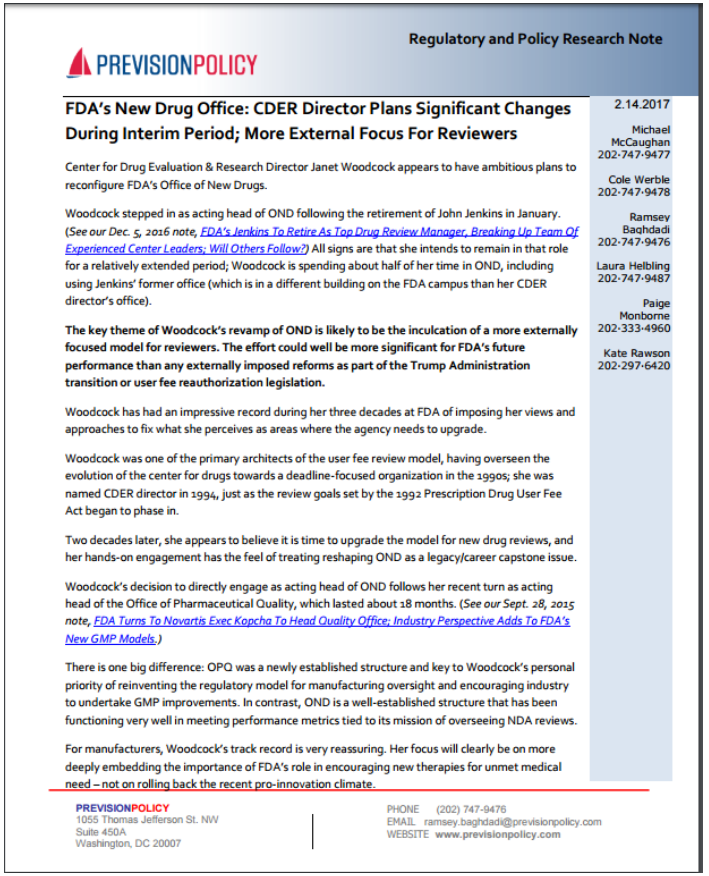

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Regulatory and Policy Research Note

FDA's New Drug Office: CDER Director Plans Significant Changes During Interim Period; More External Focus For Reviewers

2.14.2017

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Center for Drug Evaluation & Research Director Janet Woodcock appears to have ambitious plans to reconfigure FDA's Office of New Drugs.

Woodcock stepped in as acting head of OND following the retirement of John Jenkins in January. (*See our Dec. 5, 2016 note, FDA's Jenkins To Retire As Top Drug Review Manager, Breaking Up Team Of Experienced Center Leaders; Will Others Follow?*) All signs are that she intends to remain in that role for a relatively extended period; Woodcock is spending about half of her time in OND, including using Jenkins' former office (which is in a different building on the FDA campus than her CDER director's office).

The key theme of Woodcock's revamp of OND is likely to be the inculcation of a more externally focused model for reviewers. The effort could well be more significant for FDA's future performance than any externally imposed reforms as part of the Trump Administration transition or user fee reauthorization legislation.

Woodcock has had an impressive record during her three decades at FDA of imposing her views and approaches to fix what she perceives as areas where the agency needs to upgrade.

Woodcock was one of the primary architects of the user fee review model, having overseen the evolution of the center for drugs towards a deadline-focused organization in the 1990s; she was named CDER director in 1994, just as the review goals set by the 1992 Prescription Drug User Fee Act began to phase in.

Two decades later, she appears to believe it is time to upgrade the model for new drug reviews, and her hands-on engagement has the feel of treating reshaping OND as a legacy/career capstone issue.

Woodcock's decision to directly engage as acting head of OND follows her recent turn as acting head of the Office of Pharmaceutical Quality, which lasted about 18 months. (*See our Sept. 28, 2015 note, FDA Turns To Novartis Exec Kopcha To Head Quality Office; Industry Perspective Adds To FDA's New GMP Models.*)

There is one big difference: OPQ was a newly established structure and key to Woodcock's personal priority of reinventing the regulatory model for manufacturing oversight and encouraging industry to undertake GMP improvements. In contrast, OND is a well-established structure that has been functioning very well in meeting performance metrics tied to its mission of overseeing NDA reviews.

For manufacturers, Woodcock's track record is very reassuring. Her focus will clearly be on more deeply embedding the importance of FDA's role in encouraging new therapies for unmet medical need – not on rolling back the recent pro-innovation climate.

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The Election Results Are In…

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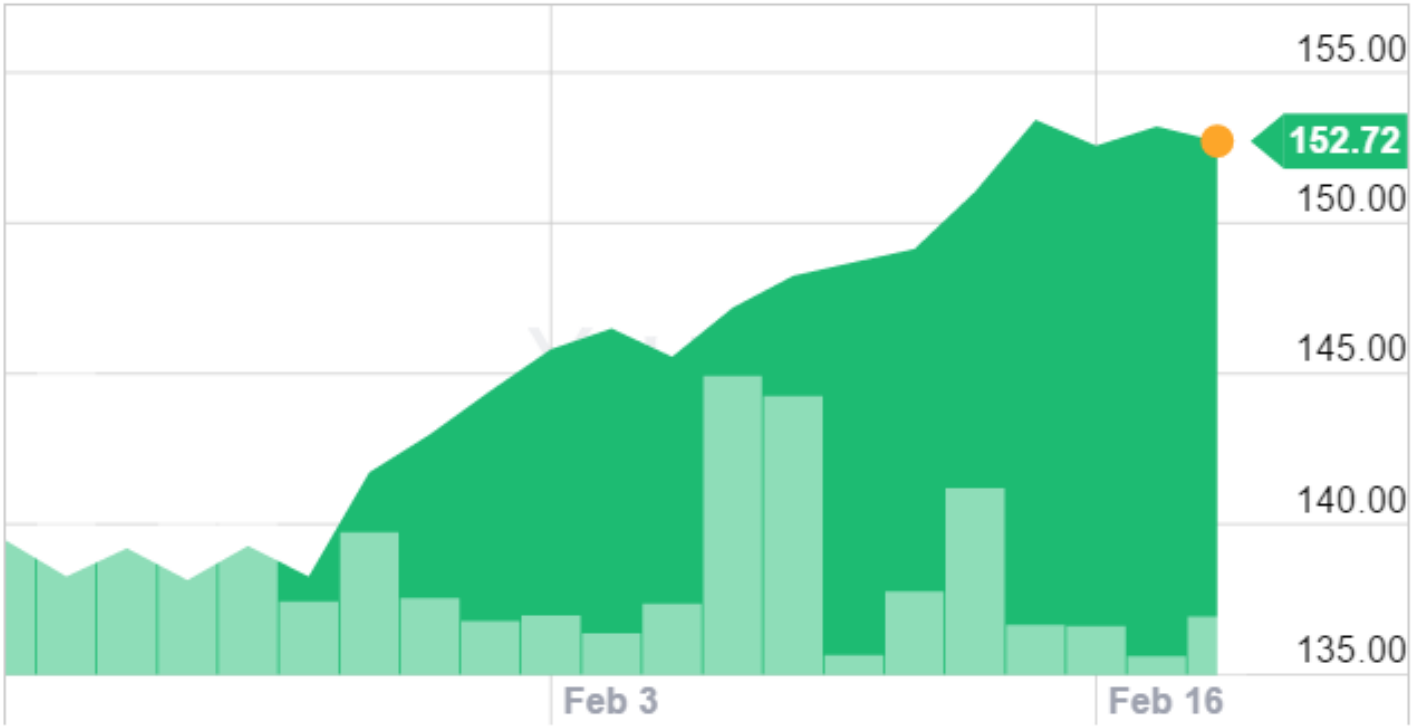
And Biopharma Won!



…At Least On Wall Street

Is It That Clear Cut?

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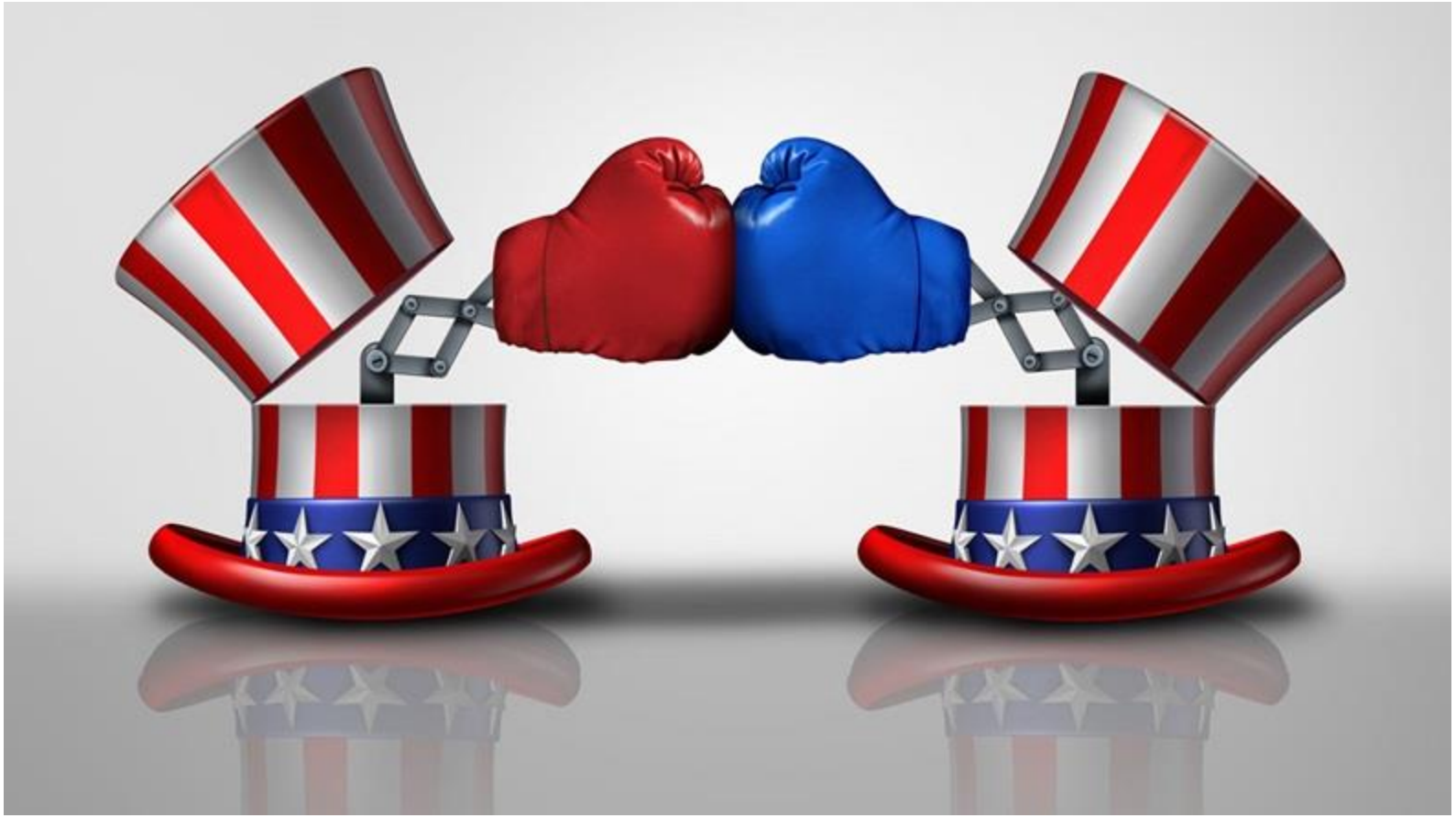

#1: No Clinton Drug Pricing Plan

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Factsheets

Hill[illegible] Clinton's Plan [illegible]
[illegible]ring Prescription Drug C[illegible]ts

September 22, 2015

- ✓ $250/month co-pay cap ($3K/year)
- ✓ [illegible] Rx reimports
- ✓ [illegible]h or rebate"
- ✓ Part [illegible]s and price negotiatio
- ✓ No DTC t[illegible]its; FDA preclea
- ✓ End "pay for [illegible]als
- ✓ Reduce biologics [illegible] 12 years to seven years
- ✓ More funding fo[illegible]eviews
- ✓ [illegible] Affordable Care Act

#2: No Sanders Drug Pricing Hearings

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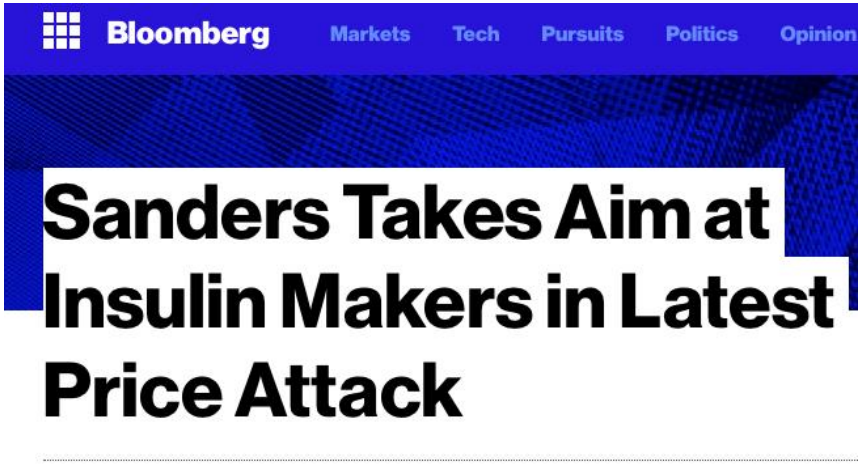
Vermont Sen. Bernie Sanders



"Drug corporations' greed is unbelievable."

#3: Prop 61 Defeated

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Vote Yes on Prop. 61!

Statewide

100.0% (24,847 of 24,847) precincts partially reporting as of November 14, 2016, 8:49 p.m.

	Votes	%
Yes	4,418,909	46.1%
No	5,159,373	53.9%

Wasn't This The Year Drug Pricing Was The Bipartisan, Populist Issue?

So We Are All Feeling Good, Right?

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Things Aren't All That Simple…

There Are Some Uncertainties…

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Here Are A Few

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1. **How Will Trump Govern?**
2. **What Happens To FDA?**
   - Overall a positive regulatory climate, with uncertainties on horizon
     - FDA commissioner outlook; what does Commissioner Gottlieb do?
     - CDER ongoing hiring challenges
     - Leadership change at Office of New Drugs
   - Change is Coming, Regardless
     - 21st Century Cures funding and implementation
     - PDUFA VI: what might get hung from that Christmas tree?
3. **Affordable Care Act: Repeal, Replace, Regurgitate?**
   - Repeal is inherently NOT good for pharma
4. **The Drug Pricing Debate is NOT Over**

#1: How Will Trump Govern?

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Chairman Of The Board

The Voice of the "Deplorables"

Uncertainty #2: What Happens To FDA?

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FDA Climate: Extremely Good Overall…

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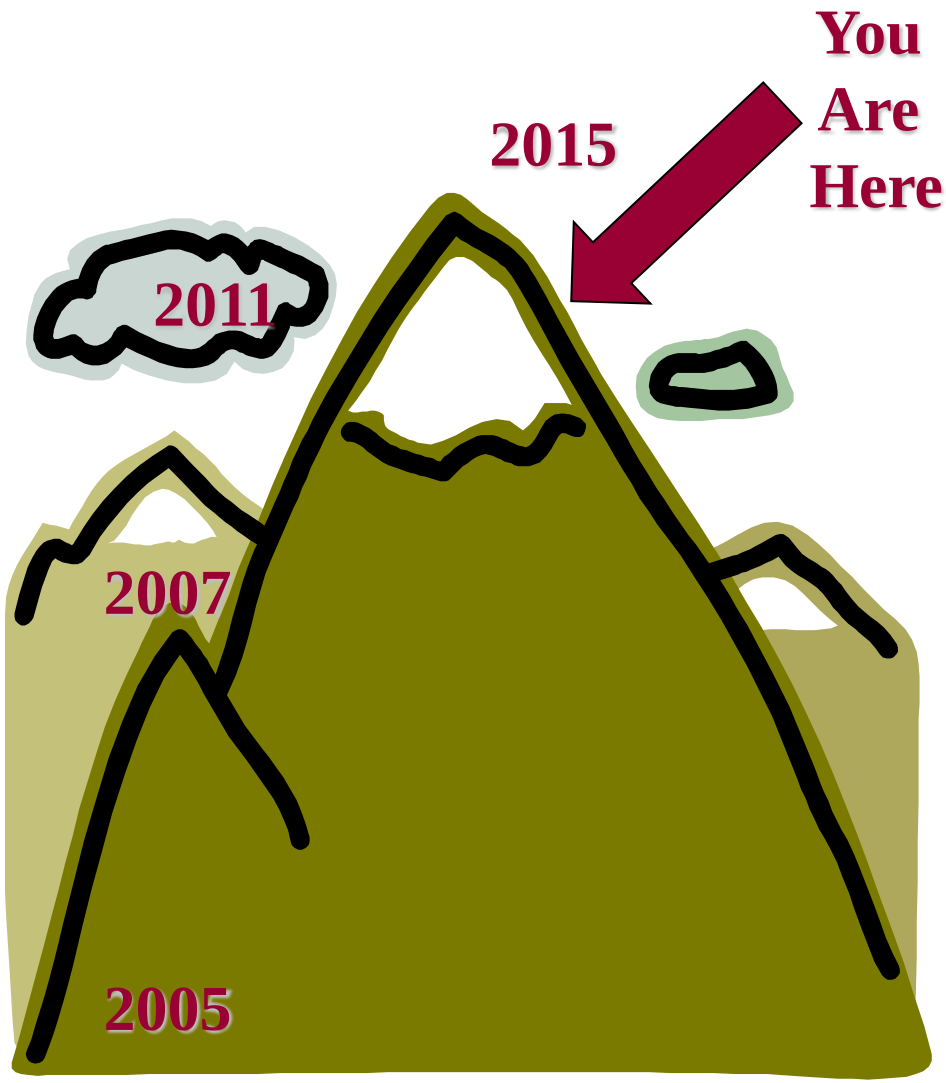
- Innovator-Oriented
- Regulatory Flexibility
- Confident and Decisive*
- Risk Tolerant*
- Operating At High Efficiency*

*(Relatively Speaking)

But: We Are Past The Peak



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Real Innovation is Rewarded

- 67 Breakthrough approvals to date*
  - 441 requests for Breakthrough; 150 designations granted*
  - Initially thought would have 2-3 designations per year
- "The Lake Wobegon effect": Where *all* drugs are special
  - Now 19 (!) special designations at FDA (three under "Cures")
  - 73% of novel drugs approved in 2016 used an expedited pathway
  - 37% of novel 2016 approvals were in rare disease
  - Nearly one-third (32%) of 2016 novel approvals were Breakthrough
- Have Breakthrough approvals hit the peak? Likely not.
  - 18 so far in 2017, including three over two days (as of April 30)
  - 21 approvals each in 2015/2016, versus 15 in 2014; three in 2013
    - Includes novel treatments and new indications

*as of March 31, 2017

2016 Scorecard: Down Year for Approvals

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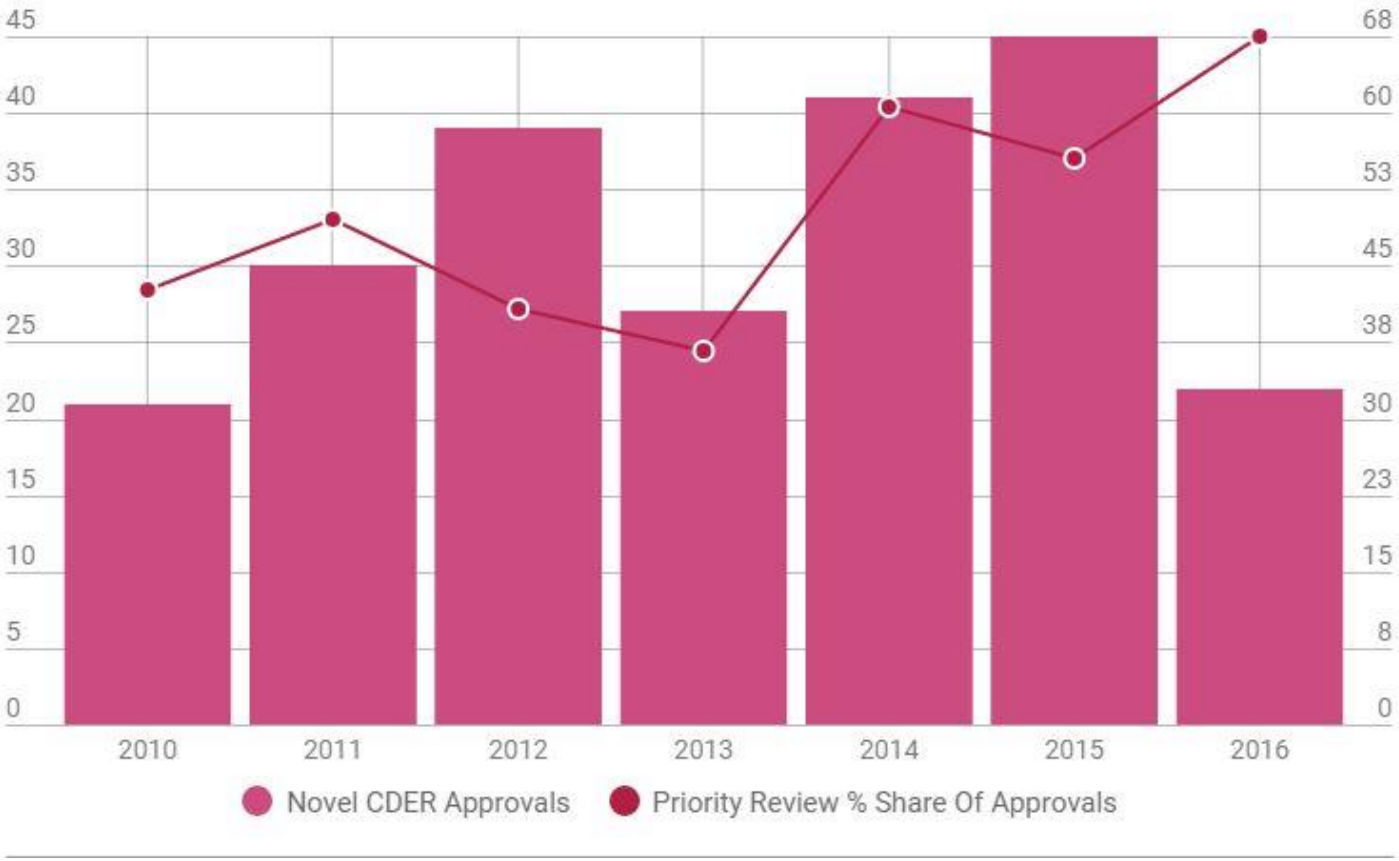
A Year Of Extremes

Fewer New Drugs, But With Higher Priority



SOURCE: The Pink Sheet, January 2, 2017

Looking Ahead: Approval Bounce in 2017?

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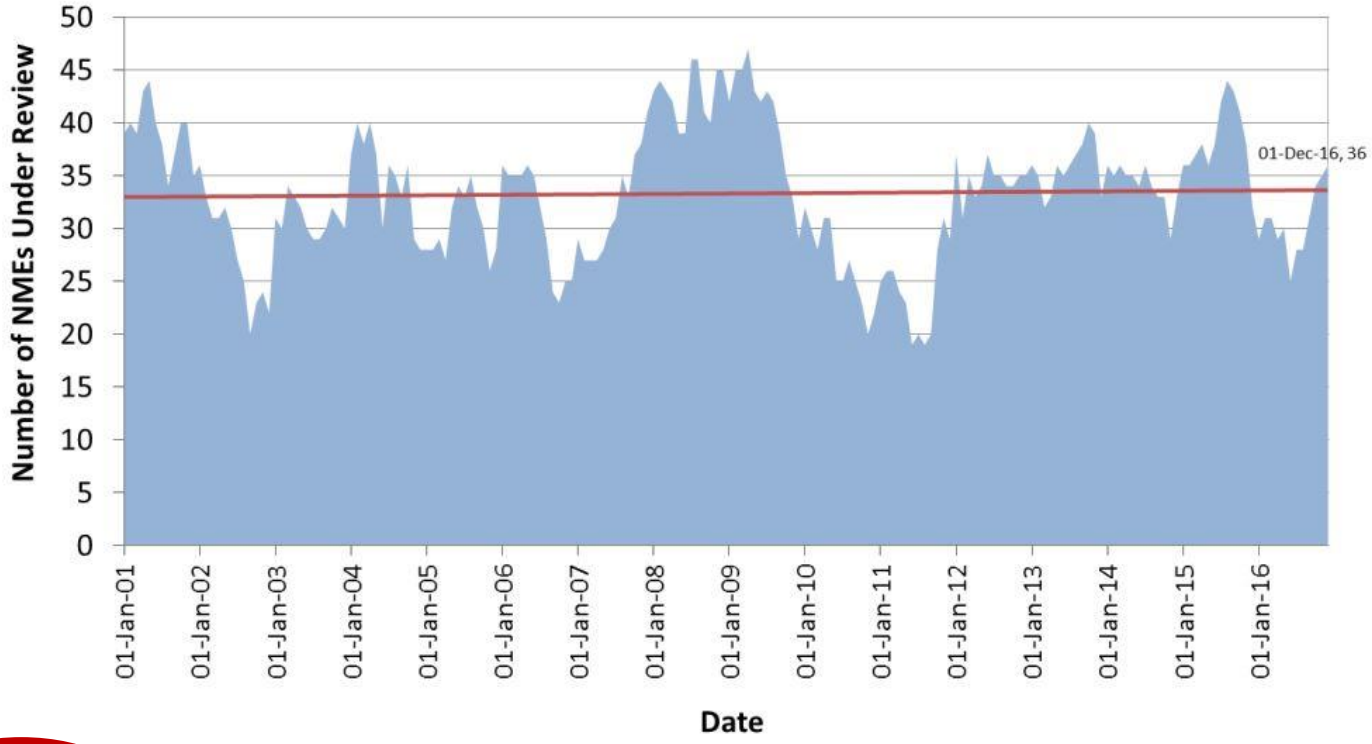
CDER Novel Drugs and Biologics Under Active Review

FDA



* Data as of 12/1/2016

SOURCE: John Jenkins, Food & Drug Administration

Is A Pendulum Swing Coming?

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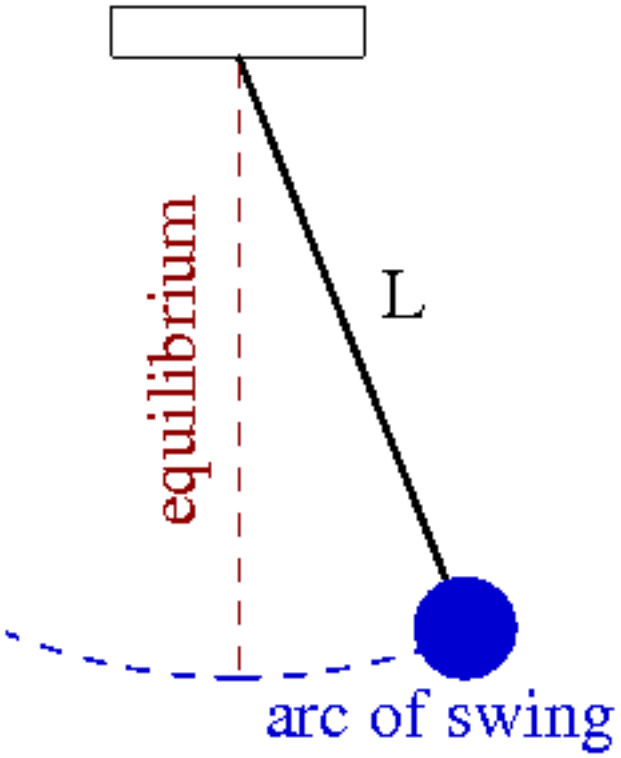

Transitions Are ALWAYS Disruptive…

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Government Hiring Freeze

- Most CDER slots exempted, BUT:
- 50 vacant leadership posts (591 vacancies total)
    - ~100 open positions in Office of New Drugs

"Two-for One" Reg Rule

- Cost Offset is Key Constraint
- Plenty of Exceptions
- End of OTC Monograph Process?

FDA Budget Improves

…And This One Could Be VERY Disruptive

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"We're gonna be cutting regulations at a level that nobody's ever seen before…. We're gonna streamline the FDA."

--President Trump, January 31

Trump's Health Team (So Far)

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HHS Secretary Tom Price

House Budget Chair
Sponsor of ACA "Repeal"
MD (Orthopedist)
Opponent of Part B Demo
"Reimagine HHS"
Senate confirmed
February 10

HRSA Adminstrator George Sigounas

East Carolina University/Brody School of Medicine
Bone Marrow Transplantation Program
NIH Researcher

CMS Administrator Seema Verma

"Healthy Indiana" Author
Model For GOP Medicaid Expansion
Senate confirmed March 13

FDA Commissoner Scott Gottlieb

Physician, Cancer Survivor
Former FDA, CMS Official
Confirmed May 9

First Trump appointee at FDA: Anna Abram/point person on user fees

FDA Commissioner Scott Gottlieb

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- **Good news:** The Trump Administration Can Listen
  - Knows Key FDA Staff
  - Democrats Complaints About Industry Ties Will Set Table For Future Critiques
  - Lacks Management Experience

- **Will He Have To Play To Peter Thiel?**

FDA Commissioner Gottlieb's To-Do List

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- ✓ Implement 21st Century Cures
- ✓ Secure User Fee Reauthorization
- ✓ Set "Off-Label" Policy

And:

- ✓ Opioids
- ✓ Tobacco "Deeming" Regs
- ✓ LDT Regulation
- ✓ Food Safety
- ✓ And Whatever Crisis Erupts

Job Number One: Reassure The Staff

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Robert Temple
CDER Deputy
Joined FDA 1972
45 years

Janet Woodcock
CDER Director
Joined FDA 1986
31 years

Doug Throckmorton
CDER Deputy
Joined FDA 1997
20 years

Richard Pazdur
OCE/OHOP Director
Joined FDA 1999
18 years

Tom Abrams
OPDP Director
Joined FDA 1993
24 years

RETIRED

John Jenkins
Office of New Drugs Director
Joined FDA 1992
25 years

Gerald Dal Pan
Office of Surveillance & Epidemiology
Joined FDA 2000
17 years

205 years at FDA combined

21st Century Cures

Signed into Law
December 13

New Antibiotic Pathway

- "Limited Use"

Regenerative Medicine Process

- More Headlines Than Substance

Tweaks Health Economic Promotion Rules

Small, Immediate Funding Boost

Incremental FDA Reforms

- **Real World Evidence**
- **Innovative Trial Design**
- **Biomarker Qualification**
- **Patient Input**
- **Centers of Excellence**

It's A User Fee Year!

User Fee Bill Due By October 1

Funds Medical Product Reviews

- Brands (PDUFA)
- Generics (GDUFA)
- Biosimilars (BsUFA)
- Devices (MDUFMA)

Biggest Changes For Generics

FDA User Fees: Christmas in 2017?

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Already Negotiated

- Patient-Focused Drug Development
- Breakthrough Therapies program capacity
- Real World Evidence
- Post-Market safety surveillance
- Many FDA commitments for guidance documents, etc.

Potential Add-Ons

- Wildcard patent for antibiotics
- REMS reform/CREATES
- Generic expedited reviews
- Accelerated approval guidance from FDA
- REGROW reincarnated?
- Right to Try – or broaden clinical trial enrollment
- Orphan Drug Act changes
- *NO drug pricing (yet)*

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President's Budget

- Double User Fees
- Trump Says Industry Must Pay "Their Share"
- **Nonstarter for 2017…**
- **...But Is Start Of Push To 100% User Fees For FDA?**

DEPARTMENT OF HEALTH AND HUMAN SERVICES

The Department of Health and Human Services (HHS) works to enhance the health and well-being of Americans by providing effective health and human services and by fostering sound, sustained advances in the sciences underlying medicine, public health, and social services. The Budget supports the core mission of HHS through the most efficient and effective health and human service programs. In 2018, HHS funds the highest priorities, such as: health services through community health centers, Ryan White HIV/AIDS providers, and the Indian Health Service; early care and education; and medical products review and innovation. In addition, it funds urgent public health issues, such as prescription drug overdose, and program integrity for Medicare and Medicaid. The Budget eliminates programs that are duplicative or have limited impact on public health and well-being. The Budget allows HHS to continue to support priority activities that reflect a new and sustainable approach to long-term fiscal stability across the Federal Government.

The President's 2018 Budget requests $69.0 billion for HHS, a $15.1 billion or 17.9 percent decrease from the 2017 annualized CR level. This funding level excludes certain mandatory spending changes but includes additional funds for program integrity and implementing the 21st Century CURES Act.

The President's 2018 Budget:

- Supports direct health care services, such as those delivered by community health centers, Ryan White HIV/AIDS providers, and the Indian Health Service. These safety net providers deliver critical health care services to low-income and vulnerable populations.
- Strengthens the integrity and sustainability of Medicare and Medicaid by investing in activities to prevent fraud, waste, and abuse and promote high quality and efficient health care. Additional funding for the Health Care Fraud and Abuse Control (HCFAC) program has allowed the

#3: What Happens To The ACA?

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Repeal And Replace Is NOT Inherently Good For Pharma

The Health Reform "Deal"

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Repeal These

Keep These

Short Term Pain

Medicaid Rebates Increase

- Retroactive Impact

Market Share "Fee"

Donut Hole Discount

[illegible]s Expansion

But Not This!

Don't Touch This!

Long Term Gain

Newly Insured Lives

- Adding Canada to the US

Better Coverage for Insured

- Pre-Existing Conditions
- No Lifetime Cap
- Potential For Co-Pay Reform
- The End of the Donut Hole

No Launch Price Controls

The Story So Far:

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The Story So Far:

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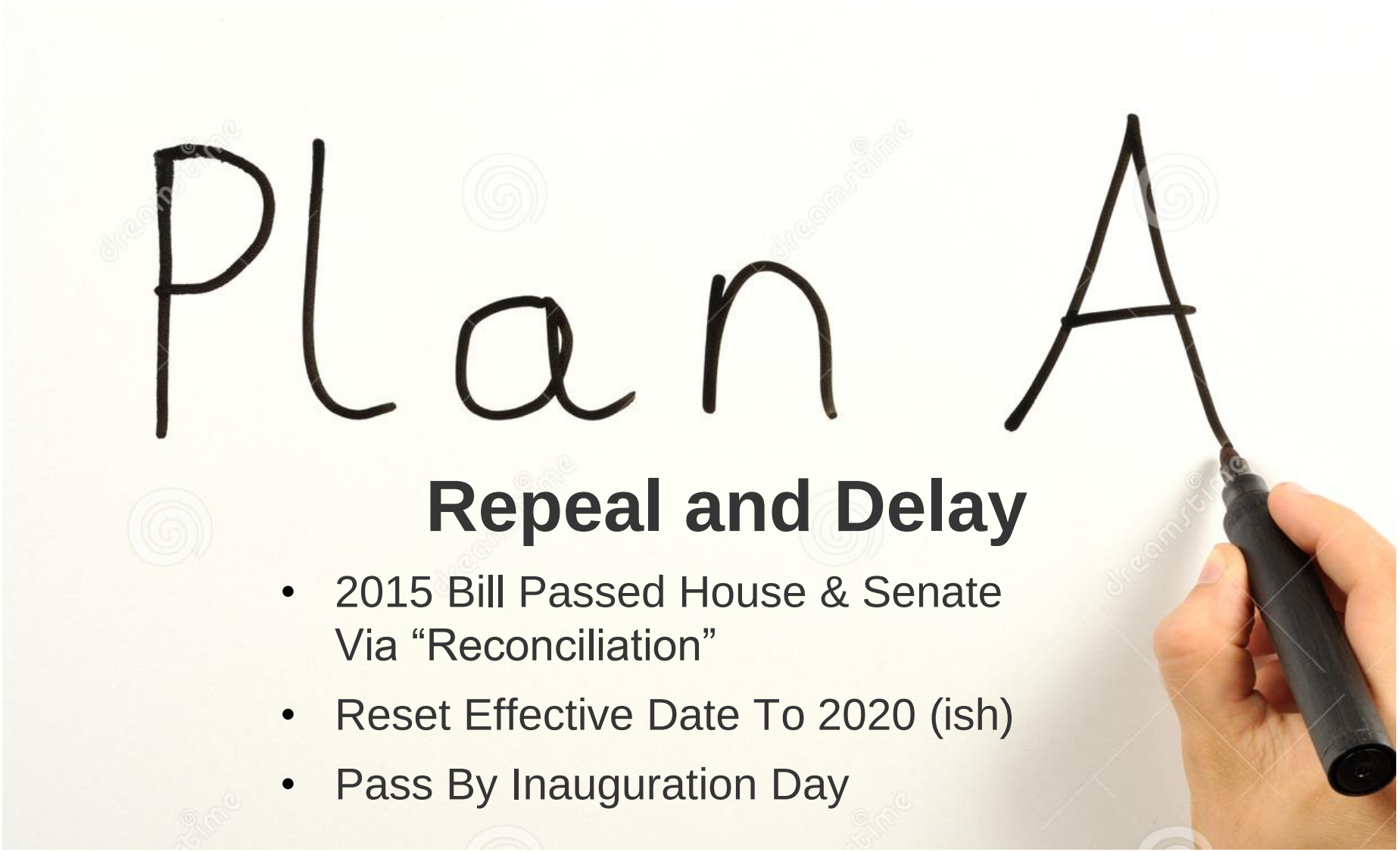

Repeal and Delay

- 2015 Bill Passed House & Senate Via “Reconciliation”
- Reset Effective Date To 2020 (ish)
- Pass By Inauguration Day

The Story So Far:

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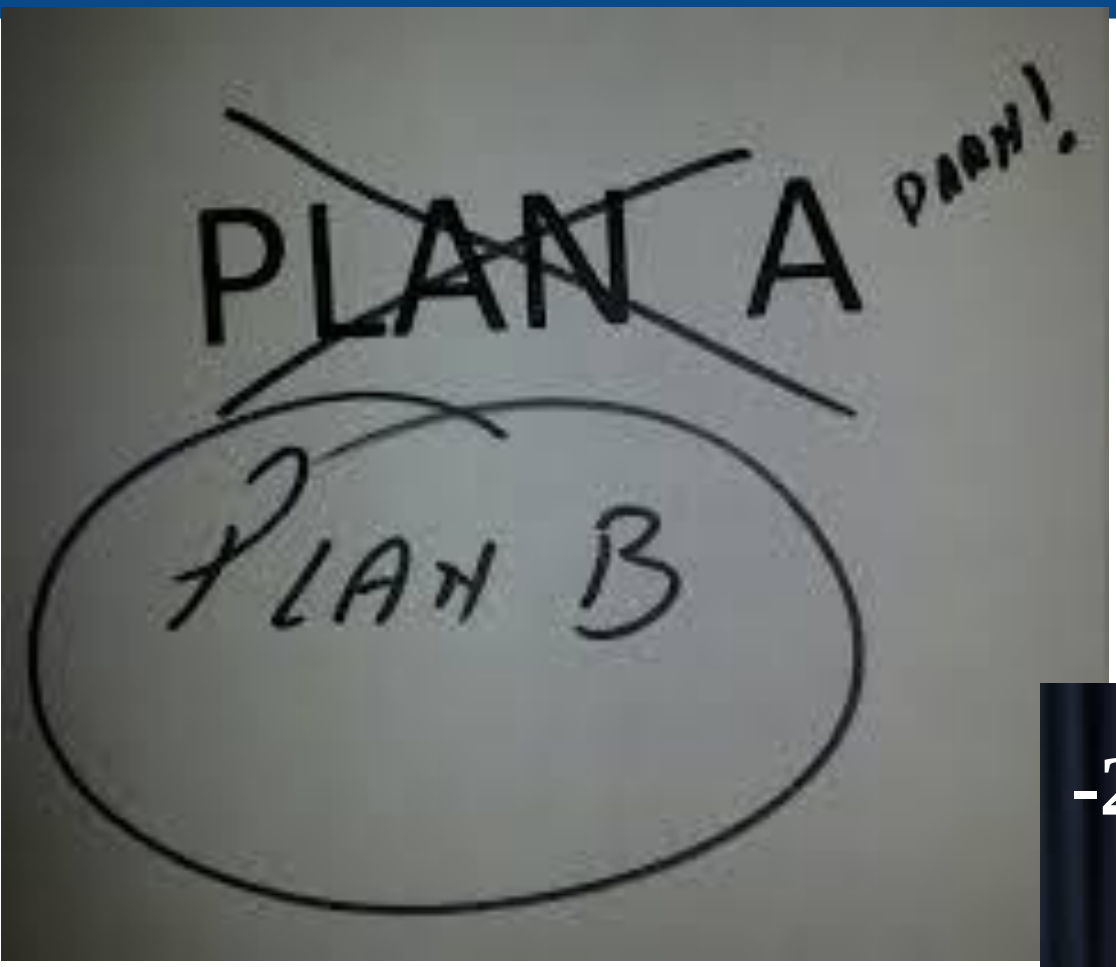
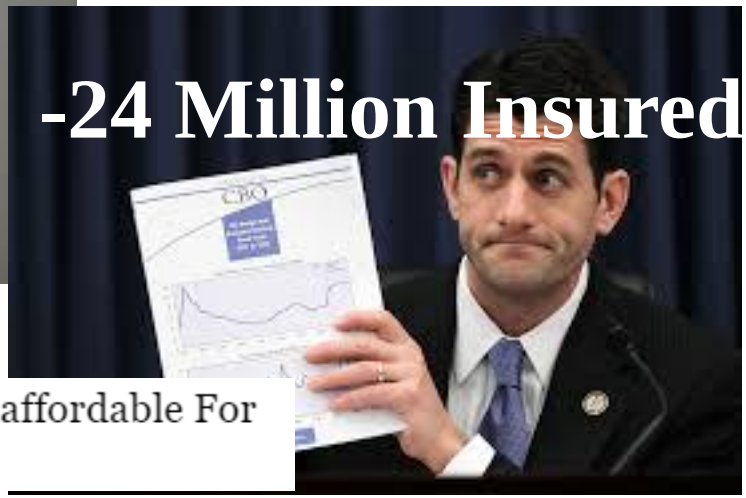


Repeal And "Replace"

- Dramatic Medicaid Reforms
  - Phased In (Maybe?)
- Age-Based Tax Credits
- Enrollment Penalty



GOP's Obamacare Replacement Will Make Coverage Unaffordable For Millions -- Otherwise, It's Great

The Story So Far:

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OK. So Now What?

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****CBO score on American Health Care Act due week of May 22****

If All Else Fails…

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Repair – Then Replace

- Focus On Stabilizing Exchange Market
- Continue “Repeal” Fight For Another Cycle…

MOVE ON TO TAX REFORM!

Which Brings Us To…

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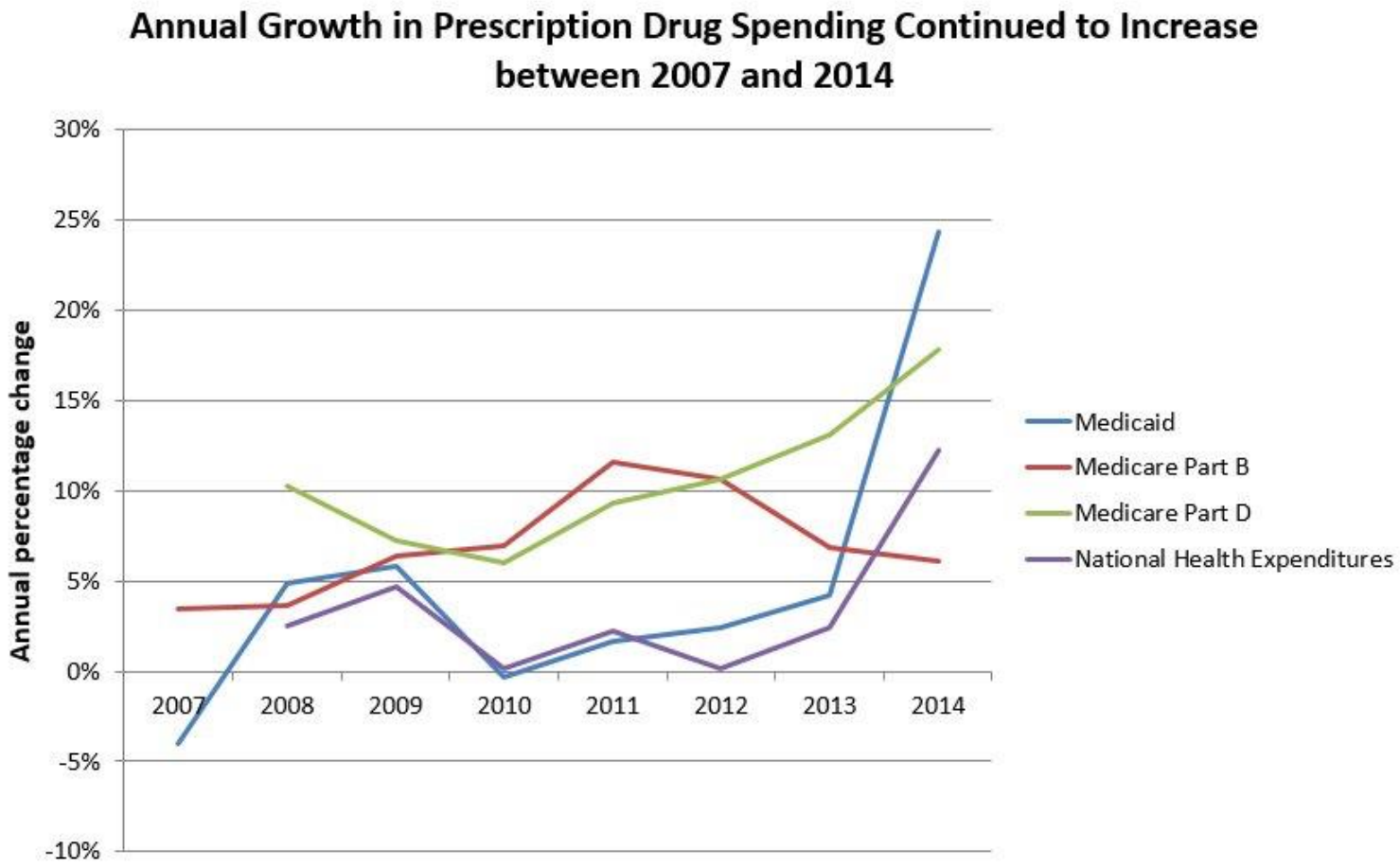

#4: Drug Pricing Debate Is Not Going Away

What Will Trump Do?

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It Depends Who You Ask…

“Reforming the Food and Drug Administration and reducing the regulatory burdens on drug manufacturers so as to enhance competition will help accomplish those goals.”

March 8 Statement

“The other thing we have to do is create new bidding procedures for the drug industry, because they're getting away with murder.”

Jan. 11 press conference

The Politics of Drug Pricing

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"The pricing has been astronomical. You folks have done a very great job over the years but we have to get the prices down."

The President Supports Part D Price Negotiation!

What Obama Had:

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A Whole Administration Staffed With People Interested In Addressing Drug Prices

HHS Drug Pricing Forum

CMS Letters To Hep C Companies; Part B Demo

What Trump Has:

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A Twitter Account

What Neither Has:

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The Power To Exclude

- Fragmented Payors
- Blend of Public And Private
- Value Discussion Diffuse
- No One Can "Just Say No"
    - Different Products Profiles Can Fit Different Niches
- Blanket Policies Tend To Support Access

Trump's Drug Pricing Toolbox

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The Presidential Tweet

Single-Product Negotiation

Enhanced FTC Enforcement

False Claims Act Prosecutions

FDA Reforms to Enhance Competition

Some pharma companies are making pricing pledges.
Will they be enough?

Tom Price "Listening Sessions"

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What's On the Table?

- "Pay for delay" patent settlement agreements
- Patient assistance programs that drive brand purchasing
- Accelerating generic drug approvals as a way to stimulate more price competition
- Shortening the regulatory process for expanding drug labels with post-market data
- Copay reform

Quotes From FDA Commissioner Robert Califf

With better evidence, "**people wouldn't spend money on expensive drugs when they are not needed.**"

Senate HELP confirmation hearing November 15, 2015

On FDA's mission: "FDA's mission statement includes another component as well…to advance the public health by helping to speed innovations that make medicines and devices more effective, safer, **and more affordable**...."

On generics: "…Over 90 percent of prescriptions in the US are now generics – a critical element of efforts to **reduce cost** and improve accessibility of therapies."

On biosimilars: "This groundbreaking path to market was created five years ago by Congress to create greater competition, increase treatment options for patients, and **produce less expensive alternatives to comparable products**.

FDLI annual conference 2016

"Re-Pricing" Strategy Is Dead (For Now)

Marathon Pharmaceuticals

SHUTTING DOWN

Emflaza™
(deflazacort)
6 mg | 18 mg | 30 mg | 36 mg tablets
22.75 mg/mL oral suspension

Don’t Be A Price Increase Leader

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Mylan CEO Heather Bresch
House Oversight & Government Reform
September 21, 2016

Is 10% The Magic Number?

A Chance To Build A Better Model

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Executive Action Can Help

- "Best Price" Tweaks To Enable Outcomes-Based Contracts
- IG Policy Change On Adherence Programs
- Part D Plans Pressured On Cost-Sharing
- Demonstration Projects On Innovative Pricing/Coverage Models

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GOP Doesn't Want To Overspend On Drugs Either

Former CMS Administrator Scully

- Least Costly Alternative
- Functional Equivalence
- Negotiation on *Zevalin*

Former HHS Secretary Thompson

- *Cipro* Purchase Agreement
- Implied Patent Threat
- Supported Price Negotiation

HHS Can't Negotiate Prices, But It Can Negotiate *A* Price

Thank You!

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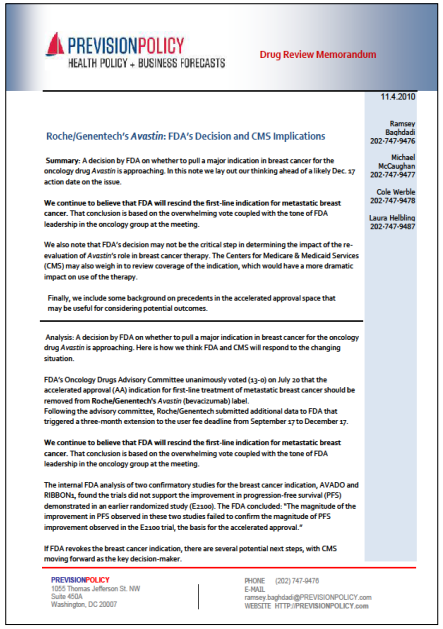

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Drug Review Memorandum

11.4.2010

Roche/Genentech's *Avastin*: FDA's Decision and CMS Implications

Summary: A decision by FDA on whether to pull a major indication in breast cancer for the oncology drug *Avastin* is approaching. In this note we lay out our thinking ahead of a likely Dec. 17 action date on the issue.

We continue to believe that FDA will rescind the first-line indication for metastatic breast cancer. That conclusion is based on the overwhelming vote coupled with the tone of FDA leadership in the oncology group at the meeting.

We also note that FDA's decision may not be the critical step in determining the impact of the re-evaluation of *Avastin*'s role in breast cancer therapy. The Centers for Medicare & Medicaid Services (CMS) may also weigh in to review coverage of the indication, which would have a more dramatic impact on use of the therapy.

Finally, we include some background on precedents in the accelerated approval space that may be useful for considering potential outcomes.

Analysis: A decision by FDA on whether to pull a major indication in breast cancer for the oncology drug *Avastin* is approaching. Here is how we think FDA and CMS will respond to the changing situation.

FDA's Oncology Drugs Advisory Committee unanimously voted (13-0) on July 20 that the accelerated approval (AA) indication for first-line treatment of metastatic breast cancer should be removed from **Roche/Genentech's** *Avastin* (bevacizumab) label.
Following the advisory committee, Roche/Genentech submitted additional data to FDA that triggered a three-month extension to the user fee deadline from September 17 to December 17.

We continue to believe that FDA will rescind the first-line indication for metastatic breast cancer. That conclusion is based on the overwhelming vote coupled with the tone of FDA leadership in the oncology group at the meeting.

The internal FDA analysis of two confirmatory studies for the breast cancer indication, AVADO and RIBBON1, found the trials did not support the improvement in progression-free survival (PFS) demonstrated in an earlier randomized study (E2100). The FDA concluded: "The magnitude of the improvement in PFS observed in these two studies failed to confirm the magnitude of PFS improvement observed in the E2100 trial, the basis for the accelerated approval."

If FDA revokes the breast cancer indication, there are several potential next steps, with CMS moving forward as the key decision-maker.

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