Decision 2016: The Politics of a Pandemic

National, state and local races will affect HIV prevention, care and treatment—both at home and abroad.

September 26, 2016 By Benjamin Ryan

In this election year—characterized by Republican nominee Donald Trump's what'll-he-do-next campaign and enduring questions about Democratic nominee Hillary Clinton's trustworthiness—it's easy for many Americans to forget that selecting the president isn't the only choice they'll face on the November 8 ballot.

The majority in Congress, particularly in the Senate, also hangs in the balance. In addition, 12 states are holding gubernatorial elections, and voters will weigh in on 86 of the 99 state legislative chambers.

While it was George W. Bush who launched the U.S. President's Emergency Plan for AIDS Relief (PEPFAR), Democrats have largely been the champions of the HIV and health care access fights, not to mention LGBT rights. It is arguably no accident that the HIV epidemic is increasingly most severe in the Republican-dominated South.

For starters, the states of the former Confederacy have mostly refused to expand Medicaid under the Affordable Care Act (ACA, or Obamacare), leaving many low-income people living with or at risk for HIV without proper access to health care.

The federal government provides indispensable support for HIV through National Institutes of Health (NIH)–sponsored research, the Centers for Disease Control and Prevention (CDC), the ACA, Medicaid, Medicare, Housing Opportunities for Persons with HIV/AIDS (HOPWA) and the Ryan White CARE Act, among others.

The 2016 political races are particularly pivotal if party control stands a chance of flipping. There's a good possibility that the U.S. Senate will turn blue, with Democrats needing a net gain of four (five if Trump wins) of the 34 seats on the ballot this year; 24 of those seats are currently in Republican hands.

Thanks to gerrymandering of congressional districts by Republicans and to other demographic factors, only 23 Republican-held and 7 Democratic-held House seats are competitive and another

22 Republican and 4 Democratic seats lean to their respective parties, according to the Cook Report, as of August.

By a count of 247 to 188, the GOP will likely hold on to its majority—albeit a slimmer one—in the House. (The Dems need to pick up 30 seats to gain control.) However, Trump's alienation of key voting blocs may trickle down the ticket and lead Democrats to wrest control of the chamber.

But if all politics is local, so is the HIV epidemic, which is made up of smaller epidemics, mainly clustered in metropolitan areas and varying widely in severity and by demographics. These types of differences require uniquely tailored local responses.

"Everyone pays attention to national elections or top-of-the-ticket elections," says Greg Harris, an HIV-positive member of the Illinois House of Representatives. "But for people with HIV, the real decisions that impact their lives, including housing, funding, supportive services—whether it's mental health treatment or substance abuse—are all made at the local level."

Nearly half of the 100 largest U.S. cities are holding municipal elections this year.

In San Francisco, the highly progressive city government has poured resources into an ambitious plan to essentially end new HIV infections. New York state, which has a Democratic governor, and liberal New York City have teamed up to launch a similarly expansive plan to send the local epidemic into retreat.

Truvada (tenofovir/emtricitabine) as pre-exposure prophylaxis (PrEP) is a centerpiece of both efforts. The high rates of PrEP use in New York City and San Francisco are each a likely testament to the close connection between local political support for the HIV prevention method and its use among high-risk groups. Of the handful of major cities where PrEP is increasingly popular, none is in the South.

"More than ever, we need more knowledgeable, progressive people in office in the state and local level who get it when it comes to HIV," says San Francisco Supervisor Scott Wiener, who is running for the California Senate and has been public about taking PrEP. "Because more and more we are relying on state and local government to fund the HIV program, to push the envelope in terms of progressive approaches to HIV care and prevention."

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Health care access is fundamental to combating and controlling the HIV epidemic. So when President Barack Obama and his administration marshaled the ACA through Congress, which included the expansion of state Medicaid programs, it provided a watershed opportunity for people living with the virus.

However, 19 Republican-controlled states have refused to expand their Medicaid programs—the 2012 U.S. Supreme Court decision that upheld Obamacare granted state governments this discretion.

“We have tens of thousands, if not hundreds of thousands, of people living with or otherwise affected by HIV who are not realizing the full benefit of the Affordable Care Act,” says Jeff Graham, executive director of Georgia Equality. “The only reason not to expand Medicaid is politics. Certainly, I think the outcome of local, state and federal races in November could really be a deciding factor on the remaining states and their attitudes toward Medicaid expansion.”

The Republican-dominated U.S. House of Representatives has voted over 60 times to repeal the ACA since the health care overhaul passed along razor-thin partisan lines in 2010. But according to Jennifer Kates, PhD, director of global health policy and HIV policy at the Kaiser Family Foundation, many experts believe that opposition to the ACA overall, as well as to Medicaid expansion, will likely diminish over time. This would follow a historical trend set by the rollouts of the original Medicaid program in the 1960s and the Children’s Health Insurance Program (CHIP) during Bill Clinton’s presidency. Both programs initially met with strong opposition from Republicans but were eventually adopted by all states.

The Supreme Court upheld the ACA in 2012 by a 5-to-4 vote, with Chief Justice John Roberts joining the court’s liberal wing. Considering that the next president could appoint as many as three, perhaps even four, justices to the nation’s highest court, appointees who cement a conservative majority could open the door for further challenges to the health care law.

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The 45th president may also be in a position to take a strong stand against the kind of discriminatory practices that have cropped up among private Obamacare plans and that allow insurers to limit the number of antiretrovirals on their formularies or place all HIV meds on the highest copay tier.

Scott Schoettes, the HIV project director at Lambda Legal, believes that the next president could use executive regulatory authority to set minimum requirements that insurers must meet for HIV care and treatment coverage. Trying to manufacture such a policy shift “through one-off lawsuits,” he says, “is going to take forever.”

As the ACA has expanded health care access throughout the decade, the HIV health policy community has watched carefully to see what role the Ryan White CARE Act may still need to play.

“Ryan White is very much needed, not only for wraparound coverage of the co-pays and deductibles that accompany Affordable Care Act plans, but also for the important services not covered by plans,” concludes David Poole, director of legislative affairs at AIDS Healthcare Foundation’s Southern Bureau.

Passed with bipartisan gusto in 1990, Ryan White was reauthorized four times, every three to six years, through 2009. The program has seen flat funding in recent years, but its annual budget still receives support from both parties.

Then, of course, there’s Planned Parenthood. The besieged network of community health clinics plays a key role in HIV prevention and testing efforts nationwide. Republican vice presidential nominee Mike Pence, a former congressman who is currently governor of Indiana, has been instrumental in starving his own state’s Planned Parenthood clinics of funding; numerous locations have closed in recent years.

Notably, the loss of the clinic in Scott County, Indiana, in 2013 preceded a 2014 to 2015 outbreak of HIV among more than 180 injection drug users; only 14,800 people ages 18 to 65 live in the county. (It’s up for debate whether the clinic closure is directly linked to the outbreak.)

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HIV is protected under the antidiscrimination statutes of the Americans with Disabilities Act, as well as the ACA. Nevertheless, bias against people living with the virus is still woven into the legal fabric of American society.

More generally, discriminatory laws and attitudes against gay, bisexual and transgender Americans likely contribute to the epidemic by, for example, alienating these groups from health care. For trans women, effective restrictions on employment opportunities mean many turn to sex work.

Georgia Equality’s Graham points to the gubernatorial election in North Carolina, where Republican Governor Pat McCrory recently signed legislation rolling back civil protections for LGBT residents and restricting bathroom use based on biological sex. Should McCrory lose, Graham says, his defeat could serve as an important warning to politicians who vote to discriminate against LGBT people.

An example of more HIV-specific discrimination is the U.S. military’s continuing policy to bar HIV-positive people from entry.

Critically, HIV gets separate treatment in many state criminal codes. About two thirds of U.S. states have laws criminalizing HIV transmission or an HIV-positive person’s failure to disclose his or her serostatus in the event of another person’s potential or perceived exposure to the virus. The

threat of similar legal action remains even in states without such statutes.

Members of the burgeoning movement to overturn HIV criminalization statutes argue that such laws are unjust, unfairly stigmatize people living with HIV (other infectious diseases are not subject to such harsh legal treatment), are unscientific in their appraisal of transmission risk and ultimately worsen the epidemic.

Recently, HIV criminalization reform has passed in Iowa and Colorado, while activists have thwarted passage of harmful statutes in a number of other states. In the meantime, opponents of HIV criminalization are hoping that the U.S. Justice Department will soon write to state attorneys general encouraging them to undertake reform; such reform must occur at the state level.

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The rising epidemic of opioid addiction, which has led to calls for action from Democrats and Republicans alike, has prompted the CDC to warn of the threat of HIV and hepatitis C virus (HCV) outbreaks among injection drug users in 220 mostly rural communities in 26 states. The risk is particularly pervasive in Appalachia.

The Indiana outbreak underscores the key role that syringe exchange programs can have in combating the spread of the two viruses (more than 90 percent of those who contracted HIV in Scott County acquired HCV as well), not to mention how politics plays a heavy hand in the availability of such programs.

In March 2015, Pence stopped dragging his feet and declared a public health emergency in Scott County. This lifted the state's ban and allowed for a local syringe exchange program, which has been instrumental in controlling the outbreak. Soon after, instead of supporting such programs as a long-term preventive measure, Pence signed legislation allowing Indiana counties to declare a state of emergency and apply to the state to run a syringe exchange for up to one year. There is no state funding for such programs.

Earlier this year, Congress finally lifted the longstanding ban on federal funding for syringe exchange programs. However, cumbersome caveats remain, like the curious fact that federal dollars can't be used to pay for the syringes themselves. States are also free to continue banning syringe exchanges.

Elsewhere on the prevention front, according to the sexual health and education advocacy group SIECUS, the federal government has spent an estimated $1.9 billion on ineffective, ideologically driven abstinence-only sex education programs in public schools over the past three decades. Only in the last year of Obama's presidency has his administration moved to eliminate all remaining federal funding for such abstinence-only sex ed.

According to theCDC, fewer than half of high schools and only one in five middle schools teach all 16 topics the agency says are essential for sex ed.

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The United States is the greatest supporter of global HIV prevention, care and treatment efforts, both through PEPFAR and as the biggest contributor to the Global Fund to Fight AIDS, Tuberculosis and Malaria. PEPFAR has met with bipartisan support (and in recent years, flat funding).

Yet Kaiser Family Foundation's Jennifer Kates says the American electorate's increasingly sour attitude toward foreign aid suggests that in the future such expenditures may be cut back, a move that could affect HIV funding.

By Kates's count, only a third of the congressmen who in 2003 initially authorized PEPFAR are still in office, and just 45 percent of members remain from the group that reauthorized the pivotal foreign aid program in 2008.

Meanwhile, just as the Joint United Nations Programme on HIV/AIDS (UNAIDS) has called for a scale-up of global HIV spending to effectively vanquish the pandemic by 2030, donor nation contributions to the effort fell by 13 percent between 2014 and 2015, from $8.62 billion to $7.53 billion.

Mathematical models suggest that ramping up efforts in the short term to combat HIV in low- and middle-income nations could accelerate the decline in new infections, ultimately yielding long-term gains with regard to new infections spared and money saved.

As plans for effectively ending the HIV epidemic gather steam, the efforts of American policy makers are pivotal for realizing such dreams, both at home and abroad. Such efforts require considerable political willpower from politicians up and down the ticket.

Click here to read the party platforms and candidate positions.

Click here to read about HIV-positive politicians and HIV advocates.

Presidential priorities are particularly key for international ventures. Hillary Clinton has voiced specific support for PEPFAR. And while the Republican platform does the same, Donald Trump's isolationist view of foreign policy calls into question his personal support for such a program.

Putting politicians who support the HIV cause into other offices is just as important, if not more so.

As Georgia Equality's Graham stresses, "It is imperative that people living with HIV, advocates for people living with HIV and, most importantly, organizations that serve people living with HIV not forget how important voter registration and voter turnout are."
