

## California Spotlight: Impact of the Mid-Term Elections on the Life Sciences Industry

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California is the most active and progressive state Legislature in the country. This is the case despite the existence of a moderate bloc of Assembly Democrats, often referred to as the “New Democrats,” an informal but organized caucus of business-aligned Democrats who identify with the party on social issues like LGBT rights, but who often align with the business community against Democratic allies such as labor unions. Governor Jerry Brown, although tagged by the national media as a liberal Democrat, has also served as a “backstop” for the business community on key issues in recent years. The New Democrats and Governor Brown have, together, been able to fend off some of the more extreme proposals impacting businesses across a variety of sectors, including the life sciences industry. But in 2019, with a more progressive Governor-elect Gavin Newsom at the helm, coupled with a Democratic super majority in both houses, we anticipate a particularly active year on issues impacting the life sciences industry.

**Drug Pricing & Transparency:** Over the past few years, efforts to contain costs have been at the forefront of the Legislature’s agenda. This is due in great part to consumer outrage and media publicity over increased drug prices. In response, the Legislature has passed and the Governor has signed several bills to address cost containment. The following are two such examples:

- SB 17 (Hernandez, Chapter 603 of 2017) increased transparency in drug pricing by requiring advance notice of price increases of more than 16% over two years to public and private purchasers and provide additional information about pricing and impacts on insurance premium rates and cost-sharing.
- AB 315 (Wood, Chapter 905, Statutes of 2018) requires pharmacy benefit managers (PBMs) to register with the state and requires them to disclose information about drug acquisition costs and negotiated rates to purchasers.

We expect both SB 17 and AB 315 to serve as model legislation on both the state and federal levels.

**Opioid Crisis:** Drug pricing has been a battle in the Legislature for many years; however, one emerging issue that will continue to dominate the legislative agenda in 2019 is the opioid crisis. In response, the Legislature introduced over 20 bills last year attempting to tighten prescription regulations, expand access to alternative treatments, increase prescriber training and ensure safe storage and dumping of prescription drugs.

One such bill (AB 1998, Rodriguez) sought to establish a safe prescribing protocol for all opioids, and require prescribers to provide naloxone under certain conditions. It was held in the fiscal committee, but we expect to see this bill or a similar version thereof reintroduced in 2019. Another proposal we expect to see in California to combat the opioid crisis is to require nonpharmacological treatment options prior to prescribing opioids. Under this proposal, a healthcare practitioner would be required to prescribe or recommend physical therapy, occupational therapy, acupuncture, massage therapy and chiropractic care for new patients with conditions that cause chronic pain instead of prescribing opioids. This law recently passed in West Virginia, and we anticipate to see a version of this concept introduced in California.

**New Administration:** As expected, Gavin Newsom was recently elected to be the next Governor of California. He is no stranger to the California political landscape, having previously served as the Mayor of the City of San Francisco and most recently as Lieutenant Governor. While it's difficult to know which of his progressive policies will be at the forefront during his first year as Governor, he has been a longtime supporter of single payer healthcare. In fact, as Mayor of San Francisco he created the "Healthy San Francisco" program aimed at creating universal healthcare in the city. Given that universal healthcare is a cornerstone of the California Democratic party platform, and the backlash by powerful unions such as the California Nurses Association in response to a universal healthcare bill being defeated in the Legislature last year, we expect this to be a persistent and divisive issue during Newsom's first few years as Governor.