

Washington and Lee University

Politics, Policy, and Health Care Reform

The effect and influence of politics and policy in the passage of Health Care Reform in the 111th Congress

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Politics 100
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10/20/2010

Of all the issues that affect American citizens, none is more essential than having access to quality health care. The idea of national health insurance in America dates back more than 100 years into the presidency of Theodore Roosevelt. However, it was not until 1932—during the Great Depression—that President Franklin D. Roosevelt revived the idea. Despite the efforts by Roosevelt and the later efforts made by Presidents Truman, Eisenhower, Kennedy, Johnson, Nixon, and Clinton, it was not until Barack Obama inhabited the Oval Office that Congress approved comprehensive health care reform legislation.¹ A decisive party decision in the House, the bill was unanimously opposed by Republicans, and all but 34 Democrats voted aye. The Senate decision was on strict party lines: All 60 Democrats voted aye; All 39 Republicans voted nay. The passing of the Affordable Care Act on strict party lines—effectively overruling the minority party—was not a popular decision among citizens. Even President Obama questioned its negative political implications.² Despite the negative sentiment toward the bill by the public and many Congressmen, however, the passage of the Patient Protection and Affordable Care Act (The Affordable Care Act)³ was still successful. In the case of health care reform, it was previous policy attempts that defined the politics of the formation of the bill; but by and large, the politics employed by health care reform proponents and opponents was the greatest influence that shaped the now-passed piece of health care legislation.

To understand the debate surrounding health care reform, it is essential to understand the long-battled debate of social policy. The idea of a “welfare state” has not always been

¹ The Staff of The Washington Post. "Introduction." In *Landmark: The Inside Story of America's New Health-Care Law and What It Means for Us All*, by Dan Balz. New York, New York: PublicAffairs, 2010.

² Schneider, Bill. "Health Bill Changes Everything." *National Journal*, March 2010: 18.

³ The Patient Protection and Affordable Care Act and the Health Care and Education Reconciliation Act of 2010, collectively, are referred to as the “Affordable Care Act.”

present in American society. In fact, only after emerging from World War I did the United States have a foundation that evolved into the modern ideal of welfare.⁴ This foundation facilitated the growth of social policy in 1932 when Franklin D. Roosevelt, candidate for the presidency, promised to implement policy that would ease the nation out of economic turmoil.⁵ Those policies, collectively known as the New Deal, serve today as the groundwork that facilitates deliberation of social policy legislation. Because policies like Social Security and Medicare have become a stitch in the fabric of American entitlements, politicians were able to introduce new health care policy without having to introduce the concept of a welfare state. By having this precedent of policy, political arguments focused less on the idea of a welfare state, and more on the best way to address the problem of insufficient health care.

Because the codification of the Affordable Care Act is less than six months old, clear answers to the most intriguing questions (e.g. How did the bill pass in less than two years of its introduction? Who or what was the greatest influence on the bill?) do not result in solid answers. Many pieces of the health care reform debate are still not completely recognized; nevertheless, the big “players” of the Affordable Care Act are anything but incognito. In fact, the earliest stages of pushing health care legislation were carefully constructed in part by Senator Ted Kennedy. Kennedy, who has advocated a national health insurance plan since he entered public office, assembled what he named the “workhorse group.” This group was composed of leading supporters of reform and health care trade groups in order to “create inside-Washington momentum” for the endeavor. Senator Max Baucus, chairman of the Senate

⁴ Gours, Alexander. *Social Welfare Policy*. Vol. 4, in *Encyclopedia of U.S. Political History*, edited by Robert D. Johnson, 333-334. Washington, D.C.: CQ Press, 2010.

⁵ Bessette, Joseph M., and Jr., John J. Pitney. "Social Policy and the Welfare State." In *American Government and Politics: Deliberation, Democracy, and Citizenship*, edited by PJ Boardman, 526-527. Boston, MA: Wadsworth, 2011.

Finance Committee was one such member. Kennedy's close work with Baucus was a defining example of politics defining policy, for Kennedy knew Baucus could pull the remainder of the votes that Kennedy needed. In return, Kennedy pledged to support Baucus in his political decisions.⁶

Kennedy also elicited the support of a very influential colleague, then-Senator Barack Obama, by endorsing him for the presidency. For Kennedy's endorsement, he requested that Obama "make health-care reform his top domestic priority and commit himself to the goal of universal coverage."⁷ Obama upheld his pledge. In just over a year after taking office, he signed into law the legislation which Kennedy had dedicated a better part of his career in public service to pass. In a controversial action, Obama carried out what some argue violates separation of powers. In order to acquire the votes from Democrat "holdouts," he promised to sign an executive order that would prohibit federal funds from covering abortions.⁸ The "Stupak" executive order,⁹ as it is colloquially titled, was signed on March 24, 2010—one day after the Affordable Care Act was ratified. It was primarily focused on prohibiting federal funding of abortion (excluding cases of rape, incest, or instances where the safety of the

⁶ Cohn, Jonathan. "How They Did It." *The New Republic*, June 10, 2010: 18.

⁷ The Staff of The Washington Post. "Introduction." In *Landmark: The Inside Story of America's New Health-Care Law and What It Means for Us All*, by Dan Balz. New York, New York: PublicAffairs, 2010.

⁸ Wayne, Alex, and Edward Epstein. "Obama Seals Legislative Legacy With Health Insurance Overhaul." *CQ Weekly Online*. March 29, 2010. <http://library.cqpress.com/cqweekly/weeklyreport111-000003634205> (accessed October 17, 2010).

⁹ The Stupak executive order is named after Representative Bart Stupak. Stupak was a Democrat holdout who would only vote in favor of the bill if an amendment addressing abortion was issued.

woman is in danger.)¹⁰ This eased the concerns of the moderate left-wing of Congress, but Americans were expressively uneasy.

Although the Affordable Care Act has been codified, it is not etched in legislative marble quite yet. Within minutes of Congress' passing of the Act, state attorneys from 14 states filed lawsuits challenging the constitutionality of requiring every American to purchase health insurance.¹¹ While courts have been open to the states' concern of the law's constitutionality, trying to prove the law unconstitutional is the way of most resistance for those who wish to *kill the law*. Compulsory programs, like Social Security, are too ingrained in the American system for political deliberation to overrule the tenure of existing policy. The most likely means of fighting this policy is through the legislature—indirectly by voters and directly by Congressmen.

Minority Leader John A. Boehner said when referring to health care reform, "We have failed to listen to America...In a democracy you can only ignore the will of the people for so long."¹² On November 2, 2010, voters across America will voice their opinions in midterm elections. Without a doubt, "Obamacare" will be one issue on their minds. Earlier this year, Massachusetts voters rattled the status quo when they voted Republican Scott Brown to replace Senator Kennedy's vacant seat. Brown campaigned "pledging to use his critical forty-

¹⁰ Office of the Federal Register, National Archives and Records Administration. "Presidential Documents." *Federal Register* (Office of the Federal Register, National Archives and Records Administration) 75, no. 59 (March 2010): 15599.

¹¹ Sacks, Mike. "Lawsuits to undo key parts of health-care law move forward, so far." *Christian Science Monitor*. September 29, 2010. <http://www.csmonitor.com/USA/Politics/2010/0929/Lawsuits-to-undo-key-parts-of-health-care-law-move-forward-so-far> (accessed October 19, 2010).

¹² Wayne, Alex, and Edward Epstein. "Obama Seals Legislative Legacy With Health Insurance Overhaul." *CQ Weekly Online*. March 29, 2010. <http://library.cqpress.com/cqweekly/weeklyreport111-000003634205> (accessed October 17, 2010).

first vote to filibuster health care legislation to death.”¹³ Although Brown was never able to exercise this pledge, his ability to replace a Democratic Senator who served almost 47 years speaks to the discontent that resulted from the passage of the Affordable Care Act. In the 2010 midterm election, this trend of ousting incumbent Democrats is expected to continue. It is not uncommon to find predictions that Democrats will lose over 50 seats in Congress to Republicans. Predicting 2012 is much more speculative, but many are already voicing their opinions. Political pundit Michael Barone predicted that “passing a law that produces a horrible mess could be even more electorally deadly” than failure to pass any legislation at all.¹⁴ One can expect that as Democrats turned the focus in 2008 to the detriments of privatizing Social Security, the 2012 election will have a two-part goal: Demonize any social policy still being presented in Congress and connect Obama to the controversy.¹⁵ Overall, future health care arguments could be just as damaging to Republicans in 2012 as it will be to Democrats in the coming midterm election.

Republicans in the 112th Congress have the opportunity to act with justified haste should they decide to answer the passage of the Affordable Care Act with their own plan. Democrats may have succeeded in passing the bill, but they failed to rally even *one* Republican vote in either legislative chamber. Republicans have at least a three-fold argument in calling for the repeal of the bill. First, they can accuse the 111th Congress of hiding from the people the

¹³ Gerstle, Gary. "The GOP in the Age of Obama." *New Labor Forum* 19, no. 3 (Fall 2010): 27-28.

¹⁴ Barone, Michael. "Washington Examiner." *Democrat Sees "Huge Unknowns" in Health Care Bill*. October 15, 2009. <http://www.washingtonexaminer.com/opinion/blogs/beltway-confidential/Democrat-sees-huge-unknowns-in-health-care-bill-64370552.html> (accessed October 20, 2010), quoted in Connelly, Jr., William F. "Democrats' Dilemma." In *James Madison Rules America*. Lanham, Maryland: Rowman & Littlefield Publishers, Inc., 2010.

¹⁵ Connelly, Jr., William F. "Resurgent Republicans." In *James Madison Rules America*. Lanham, Maryland: Rowman & Littlefield Publishers, Inc., 2010.

true provisions of the bill and highlighting the ethical fallacies of how the bill was written.

Second, they can exploit the bill's costs—specifically, the costs that will pass along to taxpayers.

Third, related to cost, they can describe how every state health care plan implemented has either failed or has not had been around enough time to be properly studied.¹⁶ If Republicans exemplify the failures of such policy, they will not seem as partisan in their efforts should they decide to “repeal and replace” the passed health care legislation.

The deliberation of health care reform was not only riddled with the compromise between politicians, but from external attributes that affect the legislature. Exemplifying this is the Rubik's Cube™ analysis. The Rubik's Cube, with its three dimensions, describes “the complex interplay of ideas, interests and institutions in [Congress.]”¹⁷ This analysis characterizes the reasons for which legislators are influenced to make decisions, including whether to vote in favor of a bill. To complete the analogy, hands manipulating the Rubik's cube represent the actions of individuals.¹⁸ In order for health care reform to pass, the Rubik's cube needed to be solved by those hands which manipulate the puzzle. The change sought or unsolicited by Americans and legislators represented the first dimension of this puzzle. The second dimension was the special interest groups, including but not limited to, pharmaceutical companies, health care professionals, and the uninsured. The final dimension was institutions—the very pieces of the government that are the medium for such change to occur. Only time will

¹⁶ Quote: “Balanced budget requirements, almost alone, disqualify states as operators of sizable health programs.” Greer, Scott L., and Peter D. Jacobson. “Health Care Reform and Federalism.” *Journal of Health Politics, Policy and Law* (Duke University Press) 35, no. 2 (April 2010): 216.

¹⁷ Edsall, Thomas B., and Ben White. “Solving the House GOP Puzzle.” *The Washington Post*, January Sunday, 1998: A8.

¹⁸ Connelly, Jr., William F., and John J. Pitney. “PS: Political Science and Politics.” *The House GOP's Civil War: A Political Science Perspective*, December 1997: 700.

tell what *final* edition of health care reform legislation will result. The connection between politics and policy will only become more apparent in the coming months. For Congressmen, there are no more hypotheticals. This argument is now confined by codified timelines and changes in public conformity of the bill; if legislators wait too long, the public consensus may turn in favor of keeping the Act. In 2010, Republicans must win the race against time if they wish to undo the actions of the 111th Congress—repealing the policy before negative public sentiment toward the law diminishes.

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Pledge:

Acknowledgments: Williams School Communications Center and Leyburn Library Reference Assistance

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October 20, 2010