

The Role of Specific Political Factors Muddling Through the Muddled Middle

Joseph White

Case Western Reserve University

The health care reform of 2010 passed because it was the bill that could get support from the median member of the House and marginal member (either fiftieth or sixtieth, depending on the legislative vehicle) of the Senate. Being central, however, is not the same thing as winning. Even as colleagues to their left likely feel the swing legislators had disproportionate influence, the situation probably looked to those pivotal legislators like an extremely dangerous dilemma. They were right. But the danger had two dimensions: political dangers for themselves and their party's majority and the risk that policy would be incoherent.

Political Dangers

In the 111th Congress, health reform agenda setting created political dynamics that looked to many Democrats like a lose-lose political situation. Swing voters in the legislative battle were put in a situation in which they feared they could appear to be either out of touch with their districts or complicit members of an inept governing party. The legislation passed in part because, by advocating it, the president put his most vulnerable copartisans in a dangerous bind. Creation of the choice situation defined the status quo as something worse than “no change”—at least in terms of the image of the Democrats.¹ If voters usually worry more about losses

1. This is an important point in terms of the spatial-modeling approach to understanding politics. The median legislator was not comparing change simply to a reversion point that consisted of the status quo. In that situation the legislator's personal view of the status quo and its

than gains and if legislators take positions in part based on whether they feel they can explain a position in response to criticisms, then legislators' personal policy preferences and their political calculations should weight negative preferences ("not that") more strongly than positive preferences ("yes, that"). So what did the swing legislators want, and what did they want to avoid?

Each legislator is unique. But the core swing votes in both chambers pretty much shared the views of the House Blue Dog Democrats, who represent themselves as particularly interested in balancing the federal budget and who generally do not take an oppositional stance toward business, particularly their local business interests, or the wealthy, particularly their local elites.

They are not modern Republicans because they feel there is a role for government other than national defense and regulating behavior; thus they want to balance the budget, not just shrink it to nothingness. They also seem much more likely to believe that society should help people who could not afford health insurance, and they are especially interested in helping rural areas. Blue Dogs' highest stated priority was cost control in order to "get our nation's fiscal house back in order" (Blue Dog 2009a). Representing districts where patriotism is highly valued, they were not going to defend any policy as doing what other countries did. Instead, they emphasized creating a "uniquely American" system that would be built on "competition within the marketplace" (Blue Dog 2009a). They would not support the public plan unless it was effectively neutered by being entirely separate from Medicare (Blue Dog 2009b). The Blue Dogs did not want the government to compete with private insurers or exercise power against providers, believing this could be unfair and that it already led to payments being too low in rural areas. They sought reform that was "deficit neutral," would "bend the cost curve in the long run," and "maintain competition within the marketplace" (Blue Dog 2009c).

Not all the legislators who voted against the House bill in November of 2009 or its final passage in March 2010 were formally members of the Blue Dog Coalition. Yet two-thirds were, and others shared geographic and ideological profiles with the Blue Dogs even though they were not members of the group.² Nor did all Blue Dogs vote against the bills—in

substantive popularity among constituents is weighed against his or her view of the alternative. Agenda setting changed the choice situation by adding a new cost to sticking with the status quo.

2. Twenty-eight of forty-two Democrats who voted "no" on either bill were Blue Dogs; twenty-one of twenty-nine who voted "no" both times were Blue Dogs. The discussion here is

fact, more members of the coalition (twenty-six) voted “yes” both times than “no.” But the southern and border-state members of the group voted especially heavily against the legislation, and all but one of the twenty-nine Democrats who voted “no” twice, not coincidentally, represented districts that are tough sells for their party.³

The Blue Dogs sought legislation that could not be attacked as anti-business or as increasing deficits. This in most cases reflected both personal preferences and what they thought could make them most vulnerable in their districts. Some did not get everything they wanted, but the result was a bill that has no public plan; that does not use regulation to control costs; and that the Congressional Budget Office scored as budget neutral or better. But that didn’t solve either their political or policy dilemmas.

It didn’t solve the political dilemma because the bill could still be attacked as a “big government” initiative from an African American president with an Arab name and a “San Francisco Democrat” House Speaker. Moreover, the attempt to solve the policy dilemma by achieving savings without (much) cost regulation in the private insurance market required stricter payment controls within Medicare than outside (hard to explain to seniors) and a cap on the tax-deductibility of benefits that is far more popular with economists than with voters. Both are unpopular with employers, a group that centrist Democrats want to support—the first because it is viewed as increasing risks of cost shifts and the second because it gives employers only painful choices.⁴

Incoherent Policy

It didn’t solve the policy dilemmas because the bill still did very little to control national health care costs and thus to address the stated priority of budget-focused, business-focused Democrats. Hence the chair of the Blue Dog health reform task force, who voted against the bill, criticized it for the measures that actually saved money (e.g., the Medicare savings) and also for not controlling costs well enough (Ross 2010).

based on vote tallies from Wayne and Epstein 2010 and on membership from Blue Dog 2010. The Web site for the Blue Dogs had disappeared or was on hiatus in January of 2011; more-secondary sources based on different dates give slightly different membership. See also the discussion in Cohen and Friel 2010.

3. For more on congressional institutional dynamics, see essays by Morone, Brown, Peterson, and Hacker in this issue.

4. For early statements of employer opposition to reducing the tax preference, see National Business Group on Health 2009, American Benefits Council 2009, and ERISA Industry Committee 2009b.

One of the questions that the editor of this journal posed for this symposium was what might happen to the law in the future. Would flaws, for example, be likely to be repaired? It should be clear that House Republicans have no interest in repairing the flaws as defined above. A more interesting question is whether the Democrats, if they were to regain the House and so be able to enact changes they approved, would be likely to change the law in a way that is more likely to control costs, thus making insurance more secure for nervous middle-class voters.

I see this as improbable. If the Democrats were to regain most of the seats they lost, those seats seem unlikely to be filled by liberals. Nor do I see why the basic attitudes of the remaining more-conservative Democrats would be likely to change. These legislators did not believe—and actually saw great political risk—in extending regulation beyond Medicare.

During the 2009–2010 debate they joined in expressing the hope that emphasizing prevention, doing something about variations, and materializing other popular dreams within the health policy community would save money, but they had no better idea than anyone else about how to do that. I can imagine business-oriented Democrats changing their position only if business interests also changed. But business interests in 2009 exhibited hardly any support for regulation, focusing almost entirely on the theory that volume could be reduced by making care more appropriate (also with no good ideas about how to do that).⁵

The policy result for the business interests was at least as bad as for the centrist legislators. They ended up with hardly any implementable cost controls;⁶ a “Cadillac tax” that they widely opposed; Medicare cuts that, in the view of employers, threatened more cost shifting; and a new requirement that employers with more than fifty employees contribute to the costs of health insurance. The personal results, however, were not as negative for corporate executives as they were for the legislators. About half of the House Blue Dogs running for reelection lost their jobs (Terkel 2010).

To summarize, both the content of the Affordable Care Act and the political aftermath were heavily influenced by the preferences and political circumstances of the legislators at the pivot point. These legislators

5. My review of the testimony by business interests to the May 12, 2009, hearing of the Senate Finance Committee and the June 24, 2009, hearing of the House Committee on Ways and Means revealed only one instance of a business lobby even suggesting regulation as a fallback (Lee 2009b)—in contrast to frequent objections to capping the tax expenditure and frequent references to how low Medicare prices cause cost shifting (often as an argument against a public plan linked to Medicare).

6. For more on cost-control aspects of the ACA, see essays in this issue by Oberlander, Rice, and Pauly.

were put in a position that had no good political solution. The president put them there by pressing so hard for health care reform. The bill that passed was a muddle-through bill for this muddled and endangered middle. It was not particularly coherent as policy, and it did not solve the swing legislators' political problems.

In spite of all its flaws, if implemented, the health care reform legislation should, according to my values, do significant good by expanding access to care. Whether it does even that will, of course, depend on what happens in 2012. If the Republicans gain control of the government, I have to expect the individual mandate and much more in the bill to be repealed. It is simply too easy a target for budget cutting: it is always easier to cut benefits people have yet to receive.

If the Democrats regain control of the House and keep the Senate and the presidency, then they will have to figure out what to do about costs as the law is being implemented. At that point it is hard to say what will happen, because the choice situation will be different. Yet I find it hard to believe that there will be a coherent position that resolves the swing legislators' concerns even then. In 2009–2010 neither the status quo nor change was safe. That is likely to be true for the median legislator in any future Democratic Congress as well.

References

- American Benefits Council. 2009. Statement of James A. Klein on Behalf of the American Benefits Council Submitted to the Committee on Finance of the United States Senate for the Roundtable Discussion on Financing Health Care Reform. May 12. finance.senate.gov/imo/media/doc/James%20A%20%20Klein.pdf.
- Blue Dog Coalition. 2009a. The Blue Dog Coalition: Principles for Health Care Reform. News release, May 12. majorityleader.gov/docUploads/BlueDogsPrinciplesforHealthCareReform051209.pdf (page now discontinued; for content, see McCants 2009).
- . 2009b. Health Care Reform: Ensuring Choice in the Marketplace. www.house.gov/melancon/BlueDogs/Press%20Releases/Health%20Care%20Reform%20-%20Ensuring%20Choice%20in%20the%20Marketplace.pdf (accessed August 18, 2010; page now discontinued; for content, see Oaktown Zoo 2009).
- . 2009c. Blue Dog Statement on Health Care Reform Legislation in the House. News release, July 29. www.hlc.org/BD_Statement_on_House_Legislation.pdf.
- . 2010. The Blue Dog Coalition: 15 Years of Leadership. www.house.gov/melancon/BlueDogs/Member%20Page.html (accessed August 18, 2010; page now discontinued; for similar content, see Free Range Talk 2009).

- Cohen, R. E., and B. Friel. 2010. 2009 Vote Ratings: Politics as Usual. *National Journal*, February 27. www.nationaljournal.com/member/magazine/2009-vote-ratings-politics-as-usual-20100227?mrefid=site_search.
- ERISA Industry Committee. 2009a. Statement of Michael Stapley on Behalf of the ERISA Industry Committee, Submitted to the Committee on Education and Labor of the U.S. House of Representatives at a Hearing on the Tri-Committee Draft Proposal for Health Care Reform. June 23. www.eric.org/forms/uploadFiles/1A25A00000043.filename.StapleyTestimony6-23-09.pdf.
- . 2009b. Statement to House Committee on Ways and Means. June 24. waysandmeans.house.gov/Hearings/Testimony.aspx?TID=8172 (page now discontinued; for nearly identical content, see ERISA Industry Committee 2009a).
- Free Range Talk. 2009. Meet the Blue Dog Coalition, Members of Congress Standing in the Way of Health Care Reform. July 13. freerangetalk.com/?p=16274.
- Lee, P. V. 2009a. Health Care Reform: Creating a Sustainable Path to High Quality Health Care for All Americans. Statement to House Ways and Means Committee. June 24. www.pbgh.org/storage/documents/commentary/House-WaysMeansPBGHPLeeStatement06-24-09.pdf.
- . 2009b. Testimony by Peter Lee, Executive Director for National Health Policy, Pacific Business Group on Health, to House Committee on Ways and Means. June 24. waysandmeans.house.gov/Hearings/Testimony.aspx?TID=2198 (page now discontinued; for content, see Lee 2009a).
- McCants, K. 2009. Blue Dog Coalition Releases Principles for Health Care Reform. Peanut Politics blog. May 14. peanutpolitics-keith.blogspot.com/2009/05/blue-dog-coalition-releases-principles.html.
- National Business Group on Health. 2009. Statement for the Record for Senate Committee on Finance Roundtable on Health Care Reform. May 12. finance.senate.gov/imo/media/doc/Steve%20Wojcik.pdf.
- Oaktown Zoo. 2009. Health Care Reform—Ensuring Choice. June 16. oaktownzoo.com/test/cgi-bin/index.cgi?action=forum&board=congress&op=printpage&num=391.
- Ross, M. 2010. Health Care. ross.house.gov/Issues/Issue/?IssueID=9788 (accessed August 18, 2010).
- Terkel, A. 2010. Blue Dog Coalition Crushed by GOP Wave Election. *Huffington Post*, November 3. www.huffingtonpost.com/2010/11/03/blue-dog-coalition-gop-wave-elections_n_778087.html.
- Wayne, A., and E. Epstein. 2010. Obama Seals Legislative Legacy with Healthcare Overhaul. *CQ Weekly*, March 29, 748–753.