How Health Policy is Made
• “We are not enemies, but friends. We must not be enemies. Though passion may have strained it must not break our bonds of affection. The mystic chords of memory, stretching from every battlefield and patriot grave to every living heart and hearthstone al over this broad land, will yet swell the chorus of the Union, when again touched, as surely they will be, by the better angels of our nature.”
“Politicians and diapers must be changed often, and for the same reason.”

- Mark Twain
Quick tour through the federal health policy apparatus...

- A **policy** is a...
  - deliberate system of principles to guide decisions and achieve rational outcomes
  - statement of intent, and is implemented as a procedure or protocol
Health Policy

“If health policy is chess, then health politics is chess while playing rugby on a speeding train.”

Anonymous Congressional Staffer
How do you make/change public policy?

Richmond-Kotelchuck Model. Amer J Pub Health 1997;87:1603-10
Political Will: 
Moral and Philosophical Battle

• Social Justice Movement vs. Tea Party Movement
• What is the proper role and size of the federal government?
Politics: Art of the Possible
HOW DOES A BILL BECOME A LAW?

Start Here

Bill Introduced in House

Committee marks up the bill with changes

House Full Vote

Bill is referred to House committee or subcommittee

Committee reports and Bill is put on House calendar

House reading and debate, Amendments are added

Senate Full Vote

Committee reports and Bill is put on Senate calendar

Senate reading and debate, Amendments are added

Committee marks up the bill with changes

Veto

The President can veto any bill that is passed by Congress. The veto can be overridden by a 2/3 vote in both the House and Senate.

Voted on by Full Committee

If a bill is passed by Congress but vetoed by the President, it can be overridden by a 2/3 vote in both the House and Senate.

Bill introduced in Senate

Bill is referred to Senate committee or subcommittee

Committee marks up the bill with changes

Voted on by Full Committee

If a bill is passed by the Senate and vetoed by the President, it can be overridden by a 2/3 vote in the Senate.

435 Representatives

Each state's number of representatives in the House is proportional to its population but is limited to a maximum of 13 representatives. Each representative serves a district that is generally one of the nation's most populous districts, and must be present in the House to vote.

50 Representatives

Each state is represented by two senators, regardless of population. The Senate offers equal representation of the states in this body. Senators are elected for staggered six-year terms.

100 Senators

Each U.S. state is represented by two senators, regardless of population. The Senate offers equal representation of the states in this body. Senators are elected for staggered six-year terms.
How a Law becomes a Rule: Legislation versus Rulemaking

• Bills/Laws are written in broad legislative language

• Legislative/statutory law language: Programming language

• Administrative/regulatory law: Users guide for app
  • Rulemaking (in context of all other current law)
Legislation versus Rulemaking
Example of this 2-Step Process

• HITECH Act (Health Information Technology for Economic and Clinical Health)
  • Part of the American Recovery and Reinvestment Act of 2009
  • $19B to hospitals to foster widespread use of EMRs

• CMS: translated the language of the Law → Rule
  • $ goes to each hospital with a unique Medicare provider #
  • But - ~300 multi-hospital systems share a single provider #
  • CMS Proposed Rule
    • only one payment regardless of # of hospitals in system
Opportunities for Advocacy

Idea → Draft Bill → Introduce Bill → Committee Staff → Hearings → Mark-up & Vote → Floor Vote → Other Chamber → Conference Committee → Proposed Rule → Final Rule → President → Proposed Rule → Conference Committee → Other Chamber → Hearings → Committee Staff → Introduce Bill → Draft Bill → Idea
## US Congress Leadership

### One Hundred Sixteenth United States Congress

<table>
<thead>
<tr>
<th>House: 435</th>
<th>Senate: 100</th>
</tr>
</thead>
<tbody>
<tr>
<td>232 D – 197 D (5 vacant)</td>
<td>53 R – 45 D (+ 2 I)</td>
</tr>
</tbody>
</table>

- **Speaker:** Nancy Pelosi (D-CA)
- **Pres Pro Temp:** Chuck Grassley (R-IA)
- **Maj Leader:** Steny Hoyer (D-MD)
- **Mitch McConnell (R-KY)**
- **Maj Whip:** Jim Clyburn (D-SC)
- **John Thune (R-SD)**
- **Min Leader:** Kevin McCarthy (R-CA)
- **Chuck Schumer (D-NY)**
- **Min Whip:** Steve Scalise (R-LA)
- **Richard Durbin (D-IL)**

- ~20 Committee Chairs (Majority) and Ranking Members (Minority)
## Congressional Committees with Jurisdiction for Health

<table>
<thead>
<tr>
<th>House</th>
<th>Senate</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Authorizing Committees (~20/Chamber with Chair and Ranking Member)</strong></td>
<td><strong>Finance (SFC)</strong>&lt;br&gt;Chuck Grassley (IA); Ron Wyden (D-OR)</td>
</tr>
<tr>
<td>Ways and Means (W&amp;M)&lt;br&gt;Richard Neal (D-MA); Kevin Brady (R-TX)</td>
<td><strong>Health Education Labor &amp; Pensions (HELP)</strong>&lt;br&gt;Lamar Alexander (R-TN); Patty Murray (D-WA)</td>
</tr>
<tr>
<td>Energy and Commerce (E&amp;C)&lt;br&gt;Frank Pallone (D-NJ); Greg Walden (R-OR)</td>
<td></td>
</tr>
<tr>
<td><strong>Appropriation Sub-Committees (12/Chamber)</strong></td>
<td></td>
</tr>
<tr>
<td>Labor, Health and Human Services, Education, and Related Agencies&lt;br&gt;Rosa DeLauro (CT); Tom Cole (OK)</td>
<td>Labor, Health and Human Services, Education, and Related Agencies&lt;br&gt;Roy Blunt (R-MO); Patty Murray (D-WA)</td>
</tr>
</tbody>
</table>
Three kinds of money in Washington
2018 total federal spending = $4,100,000,000

1. Discretionary spending ($1.3T)
   • money will not be there unless the Congress acts to provide it
   • Budgeting by dollars

2. Mandatory spending ($2.8T)
   • money will be there unless Congress acts to change the promise in statute

3. Tax spending ($1.6T)
   • revenue foregone: tax deduction/credit
   • money that doesn’t come in is the same as money that comes in and goes out
Figure 1. Federal Outlays by Category Since FY1962
As a Percentage of GDP

Source: CRS calculations based on OMB data from the FY2019 budget submission.
The Budget Lifecycle

- Nov. – Jan.: Budget Justification
  - Federal Agency
    - Recipient
      - Payment
        - Treasury
  - White House
    - President’s Budget
      - Congress
        - Budget Resolution
          - Appropriations
            - Federal Agency
              - Obligation
                - After Oct. 1
  - First Monday in Feb.: Congress
    - Budget Resolution
      - Appropriations
        - Federal Agency
          - Obligation
            - After Oct. 1
  - April 15: Budget Resolution

Center for Effective Government
Humphrey Building – DHHS
Washington, DC
Secretary: ASPE, ASPR, ONC, OIG
Divisions: CMS, NIH, AHRQ, CDC, FDA, HRSA, SAMHSA

CMS Headquarters
Woodlawn, MD
Medicare, Medicaid & CHIP, CMMI
## Academy versus Congress:*

### Values Culture Shock

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<thead>
<tr>
<th>Academic Values</th>
<th>Congressional Values</th>
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<tr>
<td>• Publish or perish</td>
<td>• The press</td>
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<tr>
<td>• A mile deep</td>
<td>• A mile wide</td>
</tr>
<tr>
<td>• Peer review</td>
<td>• Public opinion</td>
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<tr>
<td>• Lecturing</td>
<td>• Meet and greet</td>
</tr>
<tr>
<td>• Research/ Grants</td>
<td>• Fundraising</td>
</tr>
<tr>
<td>• Endowed Chair</td>
<td>• Committee Chair</td>
</tr>
<tr>
<td>• Promotion/Tenure</td>
<td>• The next election</td>
</tr>
</tbody>
</table>

*Adapted from Marie Michnich, Director, RWJF Health Policy Fellowship*
# Academy versus Congress:*
## Scientific versus Political Thought Processes

<table>
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<tr>
<th>Scientific Paper</th>
<th>Political Brief</th>
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<td>• Problem Statement</td>
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<td>• Literature Search</td>
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<td>• Methods</td>
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<td>• Results</td>
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<tr>
<td>• Limitations</td>
<td>• Relevant Stakeholders</td>
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<tr>
<td>• Summary and Conclusions</td>
<td>• Budget Impact and Distribution</td>
</tr>
</tbody>
</table>

*Adapted from Marie Michnich, Director, RWJF Health Policy Fellowship*
Iron Triangle of Policy
Stable and Impenetrable “Sub-Government”

Congress

House and Senate - CBO, GAO, CRS

WH, HHS, FDA, CDC, NIH, CMS, VA

Executive Bureaucracy

Think Tanks, Trade, Health, & Prof Associations, Labor, AARP

Interest Groups
Interest Groups

• wealthy, well organized, and well connected
• they move votes and raise cash
• expertise and political clout
• Indispensable partners in policy-making
• The “Docs” (AMA...)
Trade Associations:
- America’s Health Insurance Plans (AHIP), American Hospital Association (AHA), Association of American Medical Colleges (AAMC), Pharmaceutical Research and Manufacturers Association (PhRMA)

Voluntary Health Associations:
- American Heart Association (AHA), American Cancer Society (ACS), American Diabetes Association (ADA), Paralyzed Veterans of America, March of Dimes

Professional Societies:
- American Medical Association (AMA), National Medical Association (NMA), American Nurses Association (ANA), American Pharmacists Association, American College of Physicians (ACP)

Academia and Think Tanks:
- Every University, Center for American Progress, Heritage Foundation, Cato Institute, Urban Institute, New America Foundation, Brookings Institute

Unions:
- American Federation of Labor - Congress of Industrial Organizations (AFL-CIO), United Auto Workers (UAW), Service Employees International Union (SEIU)

Others:
- American Association for Retired Persons (AARP), Families USA, National Governors Association (NGA), National Conference of State Legislators
Mark D. Schwartz, MD
Robert Wood Johnson Foundation
Health Policy Fellow, 2009-2011
Subcommittee on Health
Committee on Ways and Means
March Madness
March Miracle
I don’t know if you know this, but I’m kind of a big fucking deal.
The Morning After

• Dramatic improvement over the status quo
• Transformed insurance industry and eliminates distinction between worthy and unworthy poor
• Scaffolding for ongoing delivery system/payment reform
Health Reform Process

GOVERNMENT

If you think the problems we create are bad,
just wait until you see our solutions.
THE BEST ARGUMENT AGAINST
DEMOCRACY IS A FIVE-MINUTE
CONVERSATION WITH THE
AVERAGE VOTER.

—SIR WINSTON CHURCHILL
The best argument for democracy is that, over the long run, it enables us to find a path forward in a very complex world.