

Wonder Drug or Bad Medicine? A Short History of Healthcare Reform and a Prognosis for Its Future

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The Patient Protection and Affordable Care Act—more commonly known as simply the Affordable Care Act or (at least by some) Obamacare—is a big deal. You may recall Vice President Joe Biden making the same point at the bill’s signing ceremony with slightly more colorful language. Well, he was right. The Affordable Care Act is a milestone in the broad scope of American healthcare policy. Among other things, it’s another step toward the longstanding liberal dream of universal coverage. To be sure, the new law does not get all the way to that promised land, but it’s an unmistakable step in that direction.

The new law is also a big deal politically. It played a pivotal role in the Republicans’ historic victory in last fall’s midterm elections. And looking forward, you can expect a lot more discussion of healthcare in the next few years—including in the 2012 presidential campaign. Tonight, I’ll offer some thoughts on the political context of the new healthcare law. What does it mean in the broad, historic scope of American healthcare policy? And what does it mean for American politics right now and looking ahead to the 2012 elections?

THE CURRENT STATE OF AMERICAN POLITICS

Before diving into the healthcare debate, though, it’s worth taking a moment to assess where we are in American politics. One thing that the last couple years should teach us is that things can change very quickly in American politics.

It was only a shade over two years ago that I was with Professor Plane and a group of Juniata students in Washington for Barack Obama’s inauguration as the forty-fourth president of the United States. At that time, journalists, pundits, and Democrats were falling all over themselves to proclaim his decisive victory to be the dawning of new political era. It was widely thought that Obama was primed to join that elite Mount Rushmore-class of presidents that transforms American politics for a generation.

But, obviously, we aren’t hearing those kinds of proclamations now, after what Obama himself called the “shellacking” his Democrats took in November’s election. The president’s poll numbers are also down, and only several weeks ago the Washington chattering class was wondering if Obama should even seek reelection. That speculation was, I think, a bit ridiculous. Clearly, Obama will be seeking a second term, and I think he has a good chance of getting it—particularly when one surveys the list of

likely Republican candidates. But, nonetheless, it is clear that he and his party have been humbled over the last two years.

And that observation leads to the question, “What happened?”

I think two things happened. First, there was no way Obama could sustain the enthusiasm he generated during his 2008 campaign. As effective as that campaign was for getting him to 1600 Pennsylvania Avenue, it’s been something of a liability since he moved in because it raised expectations to an unrealistic level. The rock-star idolatry that fueled Obama’s campaign called for an encore that no president could deliver.

The second thing that happened, I’ll suggest—and the one I want to focus on tonight—is the passage of the Affordable Care Act in March of 2010. And there’s great irony here, of course: The Democrats’ current political struggles are—at least partially—a result of their great success in passing a healthcare reform bill that, imperfect as it may be, had long eluded them.

Before looking at this new law and what it means for American politics, I want to say something about that first point—the widespread expectations we had for the Obama presidency.

Those expectations were frequently expressed with reference to a political science term: *realignment*. I’m sure many of you heard this word being bandied about in the press around the time of the inauguration two years ago. No concept from the academic discipline of political science has received more play outside the ivory tower than realignment.

In a nutshell, realignment theory suggests that every generation or so, an important election comes along that upends partisan politics for an extended period of time. The once-dominant party is thrown to the curb to languish in minority status, while the formerly marginalized party assumes control and dominates for an extended period. Naturally, the new party in charge has its own ideas about public policy and goes about implementing them, thus taking the country in a different direction. Eventually the era runs its course and the other party takes control and starts yet another era. And in fact, the theory suggests, we can chart America’s political history with reference to these realigning moments that change everything.

According to realignment theorists, only five elections clearly meet this standard: Thomas Jefferson’s victory in 1800 at the head of the Democratic-Republican Party over John Adams and his Federalists; Andrew Jackson and the Democrats’ 1828 defeat of John Quincy Adams; 1860 when Abraham Lincoln led the newly formed Republican Party to power; 1896 when William McKinley and the Republicans took control; and 1932 when Franklin Roosevelt’s New Deal Democrats dispatched Herbert Hoover’s GOP.

The notion of realignments began as a purely academic enterprise and it's been enormously influential within political science. It's shaped the academic approach to understanding American political history, political parties, and elections.

But over the years, this academic theory gained increasing prominence in the media and the popular imagination. Now, every four years, cable news programs and op-ed pages hash out the potential for the coming election to usher in one of these realignments and a new era of American politics. Predictably, in late 2008 many observers held that we were witnessing one of these rare surrogate revolutions.

Yet, we tend to have very bad memories. Few remembered that only four years earlier we had been subjected to pronouncements hailing the dawning of a new Republican era led by President Bush and his in-house realignment theorist Karl Rove. Of course, that purported Republican realignment imploded within months and was quickly forgotten.

But realignment talk reemerged in 2006 when Democrats captured both houses of Congress and Obama surfaced as a viable presidential candidate. And, I think it's safe to say, that the expectations for one of these realigning moments were even greater than normal for Obama because of widespread discontent at the end of President Bush's tenure and because of Obama's unique traits: his youth, background, outsider status, and charisma.

These constant expectations we have for one of these realigning presidencies is silly. But more than that, our obsession with these realigning moments also puts our presidents in a tough spot. With the benefit of hindsight, it's clear that Bush's failure to produce a realignment was over-determined. The same may well be true of Obama. Yet it is also true that we are not likely to see a realignment like those we associate with, Lincoln, McKinley, or FDR, because their realignments weren't nearly as seamless as our nostalgic realignment narrative would suggest.

We forget that Lincoln was poised for electoral defeat in 1864 before Atlanta serendipitously fell to Union forces and changed popular perceptions of the Civil War. Likewise, the Republicans' thirty-six year era that supposedly started with McKinley awkwardly included ten years of progressive Democratic control on Capitol Hill and the great progressive hero Woodrow Wilson in the White House. And Franklin Roosevelt failed to get a number of his key legislative priorities passed into law and probably would have been defeated in 1940 had it not been for the specter of World War II.

The point of all this is that American politics has always been divisive and filled with frequently bitter disputes. It's unrealistic for us to think that we're going to have a president—Bush, Obama, or anyone else—who can magically usher us into some sort of new era in which we transcend this fundamental reality of political life. Partisan control of American government—be it by Democrats or Republicans—tends to be delicate and subject to reversal.

The idea many people (especially, but not limited to, those on the left) seemed to have a couple years ago, that Democrats were going to permanently rule over American politics for a generation, was nonsense. Our two-party system has a way of creating a relatively even playing field in which the “out” party—even after a landslide defeat—can fairly easily adjust to new circumstances and become competitive again. So, while it’s natural to seek to categorize political history into periods or eras, the realignment framework obscures as much of our political history as it illuminates. And it establishes unrealistic expectations that our presidents will be able to quickly bring about transformative change that will be wildly popular. But that’s just not the way it tends to work.

Historically, one of the ways we have time and time again seen the political tides shift has been around important policy issues that are emotionally charged and over which there are deep and fundamental differences of opinion. Healthcare is one such issue. And like divisive policy issues have in the past, it demonstrates how delicate partisan control in American politics tends to be.

A SHORT HISTORY OF PRESIDENTIAL HEALTHCARE INITIATIVES

Our healthcare system truly is remarkable in terms of how fast it developed; how it rapidly became professionalized for doctors, nurses, and other providers; and how effective it has become in terms of easing pain, treating disease, rehabilitating injuries, and keeping people alive. The difficult and longstanding questions are how we make all the great aspects of modern medicine available to the people who need it, and how we pay for it.

To understand the Affordable Care Act and its place in American politics, it really helps to know a bit about the history of healthcare in America. In the most basic sense, much of America’s century-long political struggle over healthcare has centered on attempts to accomplish two goals that are, at least to some extent, in tension. Those goals are (1) to allow people access to the care they need and (2) to do so affordably. The tension between these two goals is a big part of the ongoing struggle over the Affordable Care Act. It’s also been a point of tension since the development of modern medicine.

If you’ve seen the new Coen Brothers’ movie, *True Grit*, you may remember the doctor that Rooster—Jeff Bridge’s character—and Mattie Ross, the girl, encounter on the trail. The doctor was the figure riding a horse through the woods and wearing the full bearskin. Even though he’s only on screen briefly, I loved this character because he actually provides a not-altogether-inaccurate portrait of the medical profession in the nineteenth century. If you haven’t seen the film, let’s just say that this doctor doesn’t inspire a whole lot of confidence. He’s definitely not who you’d want to see walk into the operating room to perform surgery as a nurse begins to give you anesthesia.

But doctors at that time—*True Grit* is set in 1870—were typically not well trained, not well paid, and they didn’t possess anything like the kind of social prestige they hold now. Hospitals were different, too. Today, many of our hospitals are vibrant, innovative, institutions on the cutting edge of technology.

But it wasn't all that long ago that if you found yourself in a hospital, it probably meant you were poor and about to die. People with even modest means paid doctors—like the one depicted in *True Grit*—affordable fees for home visits. Hospitals were essentially charitable organizations seeking to ease poor peoples' suffering a bit before they died. So, we can really see how much American medicine has changed when we consider our hospitals and the healthcare professionals who work in them.

We can also see that transformation when it comes to health insurance. And health insurance is at the center of the new law. The first calls for health insurance began in the Progressive Era, but these overtures were as much attuned to disability compensation for illness-induced work absences as they were for the cost of the healthcare itself, which remained relatively low. But as American medicine improved, costs began increasing and, as a result, insurance became important.

Liberal reformers quickly came to embrace the idea of nationalized, government-sponsored healthcare to cover these costs. The first major episode in this push came during the debate over Social Security in 1935. There was a potential window of opportunity for universal health insurance to make its way into that bill, but it was ultimately left out of the version Franklin Roosevelt signed.

And it was in that post-1935 period when insurance was increasingly seen as necessary that the private insurance industry developed and filled the gap. These developments in the 1930s—the liberal failure to include government-sponsored, universal coverage in the Social Security bill and the ensuing development of the private health insurance market—have shaped the debate ever since. President Harry Truman pushed for a national health-insurance plan but was forced to abandon his efforts when the Korean War broke out. John Kennedy, too, made a major push for reform, but he was thwarted as well.

Progressives seeking government-sponsored insurance coverage finally gained some traction under Lyndon Johnson in 1965 with the enactment of Medicare and Medicaid. Though these public programs failed to provide universal, government-sponsored healthcare for all, Johnson was more than content with this incremental step because he knew that any proposal for universal coverage would be dead on arrival in Congress. Medicare covers healthcare for the elderly and Medicaid covers the poor and disabled. These programs were a relatively easy sell because Americans tended to see these groups as worthy of government assistance. Most other groups, by contrast, were in a position to take care of themselves and were, therefore, deemed less worthy of government support.

But after Medicare and Medicaid, and in an era of rising costs and tight budgets, progress toward universal coverage stalled. President Jimmy Carter's efforts to enact universal coverage failed. And, more recently, President Bill Clinton's plans met with disaster. Small, incremental steps continued to be made, notably including the George W. Bush-sponsored expansion of Medicare to provide a prescription drug entitlement. But these increases in the governmental role in American healthcare fell well short of the long-coveted liberal goal of universal coverage.

So, why didn't any of these efforts to achieve universal, government-run insurance coverage ever succeed? Liberals frequently note that America is virtually alone among the developed countries in not having such a system. Why is that?

Well, there are a number of factors. But the most important and fundamental difficulty facing healthcare reformers in America is that our system of government has multiple veto points: the separation of powers, checks and balances, federalism, and various parliamentary tactics including the Senate filibuster. All these things make—indeed, were designed to render—change difficult.

These veto points play a critical role in understanding American government and policymaking and how our system is unique. Other countries don't have nearly as many points at which legislation can get held up. This feature of American government carries great benefits: It promotes stability and moderation and protects individual rights—at least once they have been established. However, these veto points make American government very slow to react to problems—beyond healthcare, think about civil rights, for instance.

The key point is that in our country, when you take a policy area in which many citizens, as well as organized interests, prefer the status quo to new policies with uncertain implications, these veto points allow for ample opportunity to halt legislation that would get passed in most other democracies. Our system is a cautious one when it comes to domestic policymaking. (Foreign policy, on the other hand, is totally different because the president has much more power.)

And it's this feature of American government that—more than anything else—has long repelled progressive efforts to reform American healthcare. Of course, it makes the Affordable Care Act's passage all the more remarkable. Even though it falls short of the liberal dream of universal coverage, this law moves us much closer toward that end.

THE AFFORDABLE CARE ACT

To call the 2,000-page Affordable Care Act complicated would be a charitable description. But above all, the law's purpose is to increase the number of people who have health insurance. And though it will still leave millions of Americans without insurance, estimates suggest that thirty-two million Americans will gain coverage who currently go without. It will do this through a number of provisions:

- First, it will introduce new measures to get people private health insurance through their employers. Employers with fifty or more employees will have to cover their employees or pay penalties of \$2,000 per employee. Government subsidies will help finance this employer-based coverage.
- Second, each state will regulate health insurance exchanges in which small employers (defined as fifty or fewer workers) and individuals without coverage through their jobs

will be more easily able to compare policies offered by private insurance companies and receive subsidies from the government to buy them.

- Third, it will expand access to Medicaid. Under the new law, individuals and families earning up to 133% of the poverty level will be eligible for the program. (Current standards vary by states but are generally below 100% of the poverty level for adults.)
- Fourth, it will place new regulations on private insurance companies. They will be required to offer insurance to people with pre-existing conditions and will be banned from imposing annual or lifetime caps on coverage payouts. Additionally—and a point of special interest for this audience—young adults will be allowed to remain on their parents' health insurance until they're twenty-six years old.
- And finally, it will establish the so-called individual mandate. Essentially, this provision will require individuals to have health insurance. If you don't, you'll pay a fine. Of everything that ended up in the final version of the law, this requirement has generated the most controversy.

All of these provisions are obviously geared toward addressing that first big question that has always faced American healthcare: How do we allow people access to the care they need? Over many decades, the United States has dealt with this issue through an insurance system that is partly private and partly government-sponsored. All the provisions in the new law build on this system and seek to extend coverage to more people.

To pay for the new provisions geared toward covering more people, the law institutes a new tax on individuals earning more than \$200,000 a year or couples making more than \$250,000. Additionally, “Cadillac insurance plans” will be taxed and there will be some reductions in Medicare spending. There are also proposals for various cost-cutting measures. However, the Affordable Care Act contains little in the way of cost containment measures. Indeed, its failure to address the rapidly rising costs of healthcare is widely seen as a major failure of the law.

Whatever one thinks of the Affordable Care Act, it's rightly seen as an historic legislative accomplishment similar to the enactments of Social Security, Medicare, and Medicaid. But public opinion polls have consistently shown the public is, at the very least, extremely skeptical about the law—if not downright opposed.

Many Democrats and liberals have clearly been surprised that the public failed to rally behind the new law. But it really shouldn't have been that shocking. The history of health policy reform efforts is not pretty. Obama followed a well-worn presidential path in his attempt to transform America's healthcare system. For most of his predecessors, it was a treacherous road that ended in disappointment.

The obvious and primary reason for these difficulties—but an aspect of this most recent incarnation of the debate that is too frequently overlooked—is that healthcare reform is a high-stakes and controversial policy area that raises challenging questions for American democracy. Among other points of tension, there are perceived implications for two of America’s fundamental ideals: liberty and equality. Proponents of the bill like the expanded coverage. Everyone, they say, has a right to healthcare. They see healthcare as an issue of equality. Opponents, on the other hand, see various provisions in the law—especially the individual mandate—as infringements on personal liberty and freedom. And although the law is on the books, its opponents haven’t given up the fight.

THE POLITICAL PROGNOSIS

Those seeking to repeal the Affordable Care Act are pursuing three strategies. The first involves attempts to repeal the bill in Congress. For the foreseeable future, this option is a non-starter because Republicans don’t have control of the Senate, let alone the sixty-vote threshold needed to overcome a guaranteed Democratic filibuster. And even if a repeal bill made it to President Obama’s desk, he would surely veto it. But the 2012 elections could alter this balance. Republicans have a good chance to regain the Senate and Obama looks a lot more vulnerable than he did two years ago. Yet even if the GOP is successful on both these fronts, repeal efforts would still be tough given the filibuster. The difficulty of repeal highlights once again the importance of veto points in American government. It’s hard to get legislation enacted in the United States, but the flip side of that fact is that it’s also hard to get laws repealed.

A second path of resistance—echoing the Nineteenth Century nullification movement—can be seen in many of the states that have the responsibility for implementing key aspects of the new law. Most of the challenges center on prohibiting or not implementing provisions like the individual mandate or the fines on employers who fail to provide insurance coverage for their employees.

But the route of resistance with the best chance of success is likely going to be in the courts. Two judges have already ruled the law’s individual mandate unconstitutional. The case is almost certain to go before the Supreme Court sometime in the next few years, and Court watchers and legal experts are not at all sure how the Supremes will rule. However, the very fact that it’s so unclear what the Court will say makes this route by far the most promising for proponents of repeal—and the biggest source of concern for the law’s supporters.

Finally, a word on 2012. The Affordable Care Act is clearly shaping up to be a major issue in the 2012 election. Republicans have jumped all over the issue and obviously think, with good reason, that they could benefit from public displeasure over the bill. Obama will defend the law and he has to hope that as it gets implemented, the public will become more supportive. And that’s far from a hollow hope. There are many examples of an initially skeptical public coming to embrace government-sponsored social

policies. Social Security offers perhaps the clearest example of a once-unpopular policy eventually gaining third-rail status. But, of course, there's no guarantee the Affordable Care Act will follow that path. To increase the chances of a happy ending, Democrats would do well to start selling this law as one that benefits the middle class by providing an element of security that's necessary given the risks of sickness or the possibility that employers will drop healthcare coverage or cut jobs. Right now, polls indicate that most Americans don't think they're benefiting from the law.

A side casualty of the Affordable Care Act is Mitt Romney. It wasn't that long ago that many Republicans were supportive of an individual mandate. Romney was one. He strongly supported and signed a bill when he was governor of Massachusetts that contained an individual mandate. In a Republican Party eager to repeal the Affordable Care Act, that fact is going to be a lot to overcome in the 2012 GOP primaries.

But, it's always worth remembering that American politics can change a lot in the nearly two years before our next election. This latest instance of healthcare reform once again highlights the fragility of party control in America. The quadrennial media hype over whether we are witnessing a once-in-a-generation realignment is both silly and an impediment to presidential leadership. Realignment theory, as popularly understood, offers a utopian vision that does not accurately reflect the constant struggles, divisiveness, frustrations, and failures that characterized the administrations of our "great" presidents who presided over realigning moments. The American political system is not designed to produce the uniformity and cohesion that realignment theory too often imposes. Our politics, more accurately depicted, varies by degree of partisan and ideological polarization, not by periods of unity and periods of upheaval. Expectations that our presidents and their parties will live up to these rose-tinted and skewed images of prior golden eras are bound to lead to disappointment, as they recently have for many Democrats.

But despite the fact that Democrats are disappointed with the public response to the law and by their historic electoral defeat last November, one has to think that party luminaries of the past such as Harry Truman, John Kennedy, and Lyndon Johnson might be smiling. After all, passage of the Affordable Care Act represents a policy accomplishment that has eluded liberal reforms for generations.