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The Democrats and Health Care

An account of political self-destruction.

By TEVI TROY

From Commentary

The passage of Barack Obama's health-care legislation in the spring of 2010 proved profoundly injurious to the president and his party in the November midterm elections. Studies conducted at Stanford University and the University of Minnesota agree that at least one-third of the 63-seat Democratic loss in the House of Representatives can be attributed to the electorate's negative reaction to the health-care bill—which suggests that the legislation was responsible for taking a bad election and turning it into a historic disaster.

Indeed, the determination of Democrats to push for the passage of health-care legislation may have created a new political dynamic in the United States. Since 1991, as I explained in an article published in the March 2010 issue of *Commentary* called "Health Care: A Two-Decade Blunder," Democrats have operated under a misperception—the misperception that health care was a winning issue for them. It has repeatedly led them to mistake voter concern for the economy for support for the Democratic health-care vision. In both 1992 and 2008, Democrats won the presidency in the midst of economic turmoil. And following both elections, Bill Clinton and Barack Obama saw their respective victories as a mandate to make a government-run health-care system—the final desideratum of the New Deal welfare state—a reality. Clinton's failure to get it and Obama's success in getting it led both men to spectacular midterm defeats.

But while the health-care issue has been problematic for the Democrats, it hasn't worked particularly well for Republicans either, 1994 notwithstanding. That may have just changed. The Democratic Party's association with unpopular government-run health care has now become so complete on a political level that the issue now may become a distinct advantage for Republicans going forward. That would be revolutionary.

It is all the more striking that Democrats have allowed this to happen to them when they had all the advance warning anyone could have needed to steer them away from the shoals on which they would founder in November 2010. And the person who wouldn't heed the warnings was the captain of the ship of state.

In June 2009, according to the *New Republic's* Jonathan Cohn, chief Obama adviser David Axelrod briefed the president on polling numbers showing the unpopularity of his health-care plans, telling him that "these numbers are pretty discouraging—there's a political cost to this." Obama responded with a story of a cancer patient who lacked health insurance and told Axelrod, "Let's keep fighting."

In August 2009, Vice President Joe Biden and White House Chief of Staff Rahm Emanuel suggested that they turn away from health care to spare the party a political disaster. Obama refused, telling some of his aides, "I feel lucky." A month later, according to David Paul Kuhn of Real Clear Politics, Virginia Senator James Webb visited President Obama in the White House and "told him this was going to be a disaster." As Webb described it, Obama somewhat blithely "believed it was all going to work out." In retrospect, the preternaturally calm-in-a-crisis Obama celebrated in best-selling books like *Game Change* seemed less calm than bizarrely oblivious.

The behind-the-scenes worries proved prescient at the beginning of 2010, when an insurgent Republican candidate running for Ted Kennedy's Senate seat in Massachusetts secured a stunning victory in a special election. Scott Brown had explicitly run as an opponent of the health-care bill. "One thing is clear," he said, "voters do not want the trillion-dollar health-care bill that is being forced on the American people." Some prominent House liberals, including Barney Frank and Anthony Weiner, assumed that the health-care reform moment was over. Emanuel started pushing once again for an exit strategy. Nevertheless, Obama and outgoing Speaker of the House Nancy Pelosi proceeded. "We'll never have a better majority in your presidency in numbers than we've got right now," Pelosi told the president. "We can make this work."

And they did, in a strictly legislative sense. Democrats passed the bill in March 2010. Obama told wavering Democrats as he lobbied them relentlessly that everything would work out—that a proposal that had been greeted with concern in polls, in town-hall meetings, and on the airwaves would suddenly become acceptable or even popular with the American people once it was passed. As Mother Jones's Kevin Drum put it in March, "once people get a taste of universal healthcare, they like what they see and they don't stop until the job is finished." The Washington Post's Ezra Klein went further, arguing that the zeal of skeptics and critics was already melting away, and that Republicans might well "be running on expanding the bill come November."

Alas for Obama and Drum and Klein, it turned out that the more people tasted it, the less they liked it.

Americans were unhappy with the manner in which the bill was passed—with wavering senators and congressmen getting sweetheart deals for their states in exchange for their votes, which were quickly given nicknames of notoriety like the Cornhusker Kickback. More important, they did not like the substance of the bill itself, and the way in which the grand new system of rules and regulations was greeted in the real world deepened their dislike. Within a week of the bill's passage, Indiana Governor Mitch Daniels announced that he would be reconsidering his innovative "Healthy Indiana Plan" because of certain new restrictions in the bill. AT&T declared a \$1 billion loss as a result of tax changes in the new law. Later in the spring, AT&T's discovery that it could save \$1.8 billion by ending employer-sponsored coverage for its employees and leaving them instead to enter new and complex "exchanges" managed by the government gave Americans a frightening sense of the perverse incentives the bill would create.

It was at this point that the essential dishonesty of President Obama's repeated promise to dubious voters—"if you like your health care, you can keep it"—became inescapable. What Obama had meant, it turned out, was that government would not actively terminate employer-sponsored coverage to force you into a government program. So if employers chose to act rationally in response to the new law's incentive structure, well, then, it would be your employer terminating your coverage and not the government.

It didn't take long for the mood among Democrats to turn from fear of the party to fear of the citizenry. By April 16, less than one month after passage, James C. Capretta wrote in *National Review* that "the Obama administration and Democratic congressional leaders seem to want health-care news stories to fall off of the front page." A few days later, a disastrous report from the Center for Medicare and Medicaid Services (CMS) Actuary predicted that, contrary to what the Obama administration had been claiming for months about its bill's "bending the health-care cost curve downward," health-care costs would in fact rise inexorably upward over the next decade by \$251 billion. And on May 6, Diana Furchtgott-Roth, the former chief economist at the Department of Labor, reported that the effect of the bill would be to increase unemployment among low-wage workers, presumably the exact same workers the president had

been aiming to help.

In the midst of the torrent of bad news and continual evidence that the new law would not do what the Democrats had promised, the Obama administration made a key tactical mistake. On April 19, the president nominated Dr. Donald Berwick to be the head of CMS. Dr. Berwick is a respected physician and health-care expert, but he had a long record of statements supporting the concept of health-care rationing in general and the cost-cutting of the British National Health Service in particular. This made Berwick a convenient target for Republican senators and other opponents of the new bill. It was bad enough that the Obama administration had passed the new law, or so went the argument, but they compounded matters by appointing someone who was an on-the-record proponent of exactly what the bill's critics most feared.

The Berwick move was problematic from a governing perspective as well. The CMS head is the single most important official in the complex implementation of the new law, and it would have behooved the administration to have had someone in place and ready to start implementing the law the day it was signed. In the best-case scenario, an official appointed to a Senate-confirmed job in April could not expect to be sworn in until August at the earliest. As it turned out, this was far from the best-case scenario. The Berwick nomination caused such an uproar that the Obama administration began to fear how bad his confirmation hearing would be from a public-relations standpoint. An odd situation developed: Senate Republicans began pressing for a nomination hearing for a controversial Democratic nominee instead of dragging their feet, which is the ordinary custom. It was Democrats who wanted to avoid one.

In order to avoid having Berwick answer uncomfortable questions about his views and the new law, the Obama administration waited until Congress adjourned for its summer break to install Berwick to the office on July 7 as a "recess appointee." This was an unusual maneuver, so questionable in its mockery of conventional process that even Democrats like Finance Committee chairman Max Baucus criticized it. The unwillingness to allow Berwick to air his views in public indicated the degree to which Democrats had become the party on the defensive in the health-care debate.

Unfortunately for the Democratic Party, its position continued to erode. On August 3, Missouri voters rejected the notion of the individual mandate in a ballot initiative that secured 70 percent of the vote. In September, the Pacific Research Institute's Jeffrey Anderson wrote an analysis in the *Weekly Standard* showing that Democrats who voted against the health-care bill were polling significantly better than Democrats in similar situations who had voted for it. President Obama was compelled to give Democrats the green light to run against health care, saying in a September 13 press conference that "we're in a political season where every candidate out there has their own district, their own makeup, their own plan, their own message.... That's how political races work."

After this, Democrats went forth with ads critical of the health-care bill to counter Republican ads that also opposed the bill. According to one analysis, three times as many ad dollars were spent on health-care commercials opposing the bill than supporting it—among Democrats. Wisconsin Senator Russ Feingold was considered bold for daring to run an ad touting his support for the bill in his race against the Republican businessman Ron Johnson. Feingold spokesman John Kraus told the *Washington Post* at the time that "Russ has the backbone to stand by reform while Johnson doesn't have the guts to stand by his plan to repeal reform."

When Election Day came, Republicans gained 63 seats in the House and six seats in the Senate—including Feingold's—and made extraordinary gains at the state level among governors and state legislatures. Of the 219 Democrats who had voted yes on the health-care bill, 52—almost a quarter—did not return, owing to retirement or defeat.

Nonetheless, some have attempted to advance the view that health care was not particularly harmful to Democrats in the election. Arguments on this score go from the plainly silly to the somewhat plausible. In the ludicrous category, there is the argument that more Democrats who voted for the bill won re-election than those who voted against. This

can be seen in an analysis from a website called Irregular Times, which argued that voting for health care was the safer move for the Democrats, since while 60 percent of Democratic health-care opponents won re-election, 85 percent of those who voted for the bill succeeded. But of course, Democrats in safe liberal seats were in no danger of losing the election, and voting for the health-care bill involved no political risk on their part.

A somewhat more substantive analysis came from the Democratic National Committee, which made the case that exit polls showed only 18 percent of voters citing health care as the key issue before Congress, and only two of the 12 Democratic senators who voted for the health-care bill (Feingold and Arkansas's Blanche Lincoln) lost. Yet this, too, is a facile argument, since at least five of those victorious Democrats—including two from New York State—did not face significant opposition and were never in any political danger. More-honest Democrats, like pollster Fred Yang, had to concede that "it is not correct to say Tuesday's vote was a referendum on health care, but it did help set the stage for Tuesday."

The stronger case to be made, however, is that health care did in fact drive the election results. According to GOP pollster Bill McInturff, "This election was a clear signal that voters do not want President Obama's health-care plan." McInturff looked mainly at the battleground elections rather than including the heavily Democratic safe districts and found that in the 100 most closely contested House districts, 51 percent of voters described their votes as a message to the president on health care. In addition, more than half of independent voters told McInturff that they were voting against the health-care law. Independents supported Republicans over Democrats by a margin of 18 percent.

Another analysis, by Jeffrey Anderson, found that in "comparable districts, anti-Obamacare Democrats won reelection at twice the rate of pro-Obamacare Democrats." According to Anderson, this meant that Democratic House members in swing districts who voted for the health-care bill "cut their chances of gaining reelection approximately in half."

Just as he did in ignoring the counsel of David Axelrod and Rahm Emanuel in 2009, President Obama is refusing to heed the message the American people sent him in November 2010. He has continued to argue that the shellacking was due to the bad economy he inherited and a failure of communication on his part. The problem with that analysis is that it suggests that he should continue to talk about it but in a different way. And that would be the worst possible thing for Democrats. From their perspective, the ideal situation at this point would be that the bill gets implemented over the next four years and we never discuss health care again.

Conservatives and Republicans are determined not to let that happen. As the Cato Institute's Michael Cannon wrote one day before the president signed the bill into law, on March 23, 2010: "The good part of the bad news is that most of these provisions do not take effect for almost four years. That leaves time to educate the public and, hopefully, time to repeal them."

Republicans are taking over the House of Representatives with a justified belief that the American people have given them a mandate to "repeal and replace" the health-care bill. They can't succeed at it. Even if a repeal vote passes the House—and it is likely that such a vote will take place early in the year—Republicans will not be able to get that bill through the Democratic-controlled Senate, and President Obama would veto it in any event. As a result, House Republicans will have to spend the next two years making the case for repeal, using the tools of the majority—gavels, more staff, and subpoena power—to highlight the case.

There are, however, two possible means of repeal. There is actual legislative repeal, passed by both Houses and signed by the president, which cannot happen until 2013 at the earliest. And there is effective repeal, in which the body politic rejects the substance of the bill, seeks waivers and exemptions, supports defunding important provisions, and challenges it in court, all of which would have the effect of making the whole scheme unworkable. This could be the ultimate fate of Obama's signature legislation.

Many Democrats are sure to keep telling themselves, as President Obama has, that "the outcome was a good one." That

conviction should comfort them as they continue to deal with the consequences arising from the intensity of the electorate's rejection. The Pyrrhic victory Democrats secured for themselves in March 2010 may prove not to have been a victory at all but rather an ever-roiling, ongoing, and recurring act of political and ideological self-destruction.

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