Op-Ed

On Working for Henry Waxman

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MY FIRST MEETING WITH CONGRESSMAN HENRY A. WAXMAN, the giant of health policy who recently announced that he was retiring after 40 years in Congress, came soon after I started working on his staff. I had left a full-time medical career on an academic track to join the staff as a junior member and had moved with my family to Washington, DC.

I sat low on the couch in his office, facing him in a chair. “What do you want to accomplish in this position?” he asked. There was a long, awkward pause. Then I said, “I’d like to work on national health insurance.” He grimaced. “You won’t be long for this job,” he said.

The year was 2001. President George W. Bush was in the White House, and Congress was under Republican control.

“I don’t want you to spend your time pushing for something that is not going to happen anytime soon,” Waxman added. “Let’s find areas where we can make progress, and we’ll wait for the right time for national health insurance.”

What followed was, for me, a 4-year immersion course in health policy and politics. I had a front-row seat as Congressman Waxman accomplished more in the minority party than most members of Congress accomplish in their entire careers. He was a chef using only readily available ingredients but somehow was able to assemble one surprising dish after the other.

Congressman Waxman released evidence-based reports and letters with the same frequency that his colleagues put out press statements. With clear methods and exhaustive references, the reports brought data to bear on critical policy questions and, in the process, framed those questions in a way that pointed naturally to a solution.

For example, during my time on his staff, Congressman Waxman wrote the US Olympic Committee about the potential harm of new Taekwondo rules that encouraged children to knock out one another with blows to the head¹ (the policy was soon reversed)²; queried the

US Food and Drug Administration (FDA) about the safety of nicotine lollipops³ (which were quickly removed from the market)⁴; asked GlaxoSmithKline about its withdrawal of support for a critical international HIV trial⁵ (Glaxo changed its mind the next day)⁶; detailed how the Bush administration had altered a report on health disparities⁷ (the original version was later released)⁸; and wrote to food manufacturers about their erroneous nutritional claims for rice-based “milk” products⁹ (leading to revised packaging for leading brands).

Because Congressman Waxman encouraged his staff to connect the dots between discrete issues, we were able to put together a comprehensive report on the Bush administration’s misuse of science,¹⁰ helping define its shortcomings on a range of issues for the media and the public, as well as providing a language for resisting new threats to science-based policy.

While his criticism of the Republican administration made the most headlines, Congressman Waxman also was generous with support when called for. He once wrote critically of errors in a report on preventable causes of death coauthored by the director of the Centers for Disease Control and Prevention. But when those errors were addressed in a letter to the editor, he thanked her publicly and considered the matter closed. He supported the Bush administration’s position on vaccine safety because it was the correct one, despite criticism from the Republican leaders of his committee. His integrity was one of the most important reasons why Congressman Waxman’s reputation and influence grew throughout his tenure in Congress.

It also made working for him a great pleasure. From time to time, a left-leaning interest group would come to me asking that Congressman Waxman sign a letter or support a position that was not terribly well thought out. I would do my best to decline, politely. Nonetheless, I recall managing to infuriate one caller, who pointedly asked me whether the good congressman was aware that a “right-winger” was secretly working on his staff. She then demanded to talk with Congressman Waxman personally. I replied: “I’m happy to ask the congressman to speak to you, but first let’s think about how that conversation is going to go. You will ask him to sign your letter, and I’ll point out errors that are unnecessary and will ultimately be used to attack him. He won’t sign the letter, and your credibility with him will be gone forever.” My caller chose instead to revise the letter.

Congressman Waxman was the driving force and lead sponsor behind numerous legislative advances in health policy, including multiple insurance expansions in the Medicaid program, the Ryan White Care Act for HIV/AIDS, the Family Smoking Prevention and Tobacco Control Act, the Vaccine Injury Compensation Program, and the Hatch-Waxman Act, which created the market for generic drugs.

What do these topics have in common? Only that there was a need and an opportunity to pass legislation to advance the health of the nation. Rather than expend all his energy on proposals that had no chance of passage, Congressman Waxman found opportunities in the crises of the moment. He spoke out with tremendous moral force, and he also worked behind the scenes when such an approach was more effective.

Under his signature, our committee staff conducted a survey of every juvenile detention center in the nation and found that more than half were holding children unnecessarily because community services were not available. Then when it came time to release the report, we did so with a Republican senator in order to maximize our reach and impact.¹¹

I brought to Congressman Waxman the problem of the FDA's deregulating the sale of nonprescription contact lenses, under a new legal theory holding that such lenses were technically not medical devices. Children were purchasing these lenses over the counter, developing severe corneal injuries or infections, and risking blindness. He found a Republican member of Congress to work with, and we quietly moved legislation through both the House and the Senate to become Public Law 109-96. Few took notice of his guiding hand.

A critical question in policy and politics is whether a particular compromise is a good deal, or in the language of political science professors, is half a loaf of bread better than none?

If there were a final exam for my immersion course working for Congressman Waxman, this would be the only question. And after watching his pragmatic approach yield results time and again, my answer would be yes—but only when the half a loaf creates the conditions that can lead to further progress later. Congressman Waxman always had an eye on the next step, the one that would include more people, extend lifesaving benefits even further, or have a greater lasting impact.

The Affordable Care Act—our nation's closest answer to national health insurance—is one such compromise. The president and Congress, with the leadership of Congressman Waxman, took advantage of an unusual opportunity to extend health coverage to tens of millions of

Americans and reform our nation's delivery system. While the law is far from perfect, its implementation is creating new expectations for the availability and affordability of health insurance, the role of prevention, and the need for value in health care services.

Such expectations will help shape the steps forward for our health care system. This time, however, Congressman Waxman will not be in Congress to lead the effort. This is the nation's loss and a challenge to the rest of us to honor his legacy.

References

1. Letter from Rep. Henry A. Waxman and Rep. Jesse Jackson Jr. to William C. Martin, Acting President, US Olympic Committee. April 24, 2004. <http://oversight-archive.waxman.house.gov/documents/20040628070626--12542.pdf>. Accessed March 5, 2014.
2. Officials worry about athlete head trauma. Associated Press. May 20, 2004.
3. Letter from Rep. Henry A. Waxman to Secretary of the US Dept of Health and Human Services Tommy Thompson. April 3, 2002. <http://oversight-archive.waxman.house.gov/documents/20040827160232--53520.pdf>. Accessed March 5, 2014.
4. FDA melts nicotine lollipops. CNN. April 10, 2002. http://money.cnn.com/2002/04/10/news/fda_lollipops/index.htm. Accessed April 28, 2014.
5. Letter from Rep. Henry A. Waxman to J.P. Garnier, Glaxo Pharmaceuticals. June 30, 2004. <http://oversight-archive.waxman.house.gov/documents/20040817123439--66837.pdf>. Accessed March 5, 2014.
6. Glaxo to remain part of HIV trial in poor countries. *Wall Street Journal*. July 1, 2004.
7. A case study in politics and science: changes to the National Healthcare Disparities Report. Report of the minority staff of the Government Reform Committee. January 2004. <http://oversight-archive.waxman.house.gov/documents/20040901170729--77795.pdf>. Accessed March 5, 2014.
8. Bloche MG. Health care disparities—science, politics, and race. *N Engl J Med*. 2004;350(15):1568-1570.
9. Letter from Rep. Henry A. Waxman to FDA Commissioner Andrew C. von Eschenbach. November 17, 2005. <http://oversight-archive.waxman.house.gov/documents/20051117130206--26259.pdf>. Accessed March 5, 2014.

10. Politics and science in the Bush administration. Report of the minority staff of the Government Reform Committee. August 2003. <http://oversight-archive.waxman.house.gov/documents/20080130103545.pdf>. Accessed March 5, 2014.
11. Incarceration of youth who are waiting for community mental health services in the United States. Report of the minority staff of the Committee on Government Reform. July 2004. <http://www.hsgac.senate.gov/download/incarceration-of-youth-who-are-waiting-for-community-mental-health-services>. Accessed March 5, 2014.

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