Op-Ed

The Democrats' Dilemma

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SHOULD DEMOCRATS COOPERATE WITH REPUBLICANS ON health reform? The American Health Care Act (AHCA) appears dead, but “Obamacare” politics are far from over. Republicans have campaigned too hard for too long to let the issue go quietly. Some Democrats are torn between trying to block everything the Trump administration tries to do or leveraging this moment to enact changes they had hoped to make with President Hillary Clinton.

This is just one of the dilemmas Democrats have wrestled with since Donald Trump’s victory in November, including whether to attend his inauguration and whether to confirm his nominees for cabinet positions and the Supreme Court. Democrats have made a lot of noise but then often let President Trump have his way. I doubt the same will be true with health reform.

The health reform debate has already taken many dramatic turns in the opening months of the Trump presidency. At each juncture the choice among Democrats has been to remain united against Trump and Speaker Paul Ryan (R-WI). Shortly after the election there was widespread consensus that repeal was inevitable. Republicans in both chambers had already passed a repeal bill in December 2015 that was only prevented from becoming law because of a veto by President Obama. They did not have the 60 votes in the Senate necessary to overcome the threat of a filibuster, so they used the reconciliation process, which only requires a straight majority. Republicans were expected to pass a similar bill in 2017, which would be signed by President Trump. Democrats would be in no position to criticize the process since this is how they passed the Affordable Care Act (ACA) in the first place.

Passing an updated version of this law would have repealed the ACA but delayed the effective date, giving Congress two or three years to develop its replacement. This approach would allow Republicans to deliver on their promise of gutting the ACA while putting pressure on Democrats who would be torn between working with Republicans to

pass an inferior law or letting the ACA expire with nothing in its place. Republicans could not be blamed for millions of people losing health insurance coverage because the ACA's replacement would be bipartisan. Jonathan Chait likened this scenario to "handing Democrats a gun and mak[ing] them choose which hostage to shoot."¹

But the political dynamic shifted in early 2017 as it became clear that Republicans did not have the votes to pass a repeal and delay bill, even using the reconciliation process. Trump boxed Republicans into a tight corner by promising that the repeal would cover more people and lead to lower premiums and lower deductibles. A Republican caucus retreat at the end of January was supposed to be a turning point toward the ACA's repeal, but instead leaked audio from these meetings made it clear that they were still far from consensus.²

It seems that Republicans have not studied why health reform has failed throughout the 20th century. The current fight feels more like 1993 than 2009.³ In both cases Democrats controlled both branches of Congress and the White House. But in 1993 they were so confident that health reform was inevitable that they allowed internal disagreement to derail the process. Key leaders learned from this in 2009, including Senator Kennedy—whose steadfastness had blocked Richard Nixon's moderate health reform proposal in the 1970s—who insisted that liberal proposals such as single payer not be considered.

The AHCA's failure shows that Democrats are for the first time benefiting from the institutional advantages that Jonathan Oberlander says give opponents an edge over reformers.⁴ First, bills need to pass multiple committees and then on the floor of both the House and the Senate to be enacted. Opponents need to succeed at only one of these points to kill a bill. Second, unlike a parliamentary system in which a legislator's loyalty is to the Prime Minister, members of Congress are primarily concerned with their constituents and are willing to vote against their party leaders. Third, our system is intensely biased toward inertia. Stakeholders and interest groups might not like everything about the ACA, but they have adjusted their business models and want stability.

The post-Obama status quo is very different than in 2009 when Democrats went out of their way to mostly affect people who did not have insurance or were in the individual market. What the oversimplified line "If you like your insurance, you can keep it" was really trying to communicate was that the ACA was not about the millions of

people who receive insurance through Medicare or their employers. Now, Republicans run the risk of being blamed for millions of people losing coverage or being put into plans that leave them more vulnerable, such as health savings accounts and high-risk pools.

Political scientists have been surprised that the ACA has not become more popular since the coverage provisions went into effect in 2014. A deep body of literature describes policy feedback loops in which “new policies beget new politics.”⁵ However, opposition remained strong as news coverage about the ACA was dominated by stories of insurers pulling out of exchanges and dramatic increases in premiums and deductibles.

Donald Trump and Paul Ryan have managed to do something Barack Obama never accomplished—educate the public about what the ACA has accomplished. Polls showed that only 17% of the public liked Ryan’s plan, largely because they learned how many people were protected by the ACA. Republican politicians are undoubtedly paying attention to the growing anxiety about the law’s repeal.

The political dynamics are complicated by the large number of Republicans in states that have expanded Medicaid. This includes 12 Republican governors, 20 senators, and dozens of representatives. Most of these Republicans have so far been principally concerned with being conservative enough to stave off primary challengers, though the focus may be different in 2018. As one California member of Congress said, “We’d better be sure that we’re prepared to live with the market we’ve created. That’s going to be called Trumpcare. Republicans will own that lock, stock, and barrel, and we’ll be judged in the election less than two years away.”² Trump is gambling that a shift to “collapse and repeal”—a variant of the earlier “repeal and replace” strategy—puts pressure back on Democrats.

Notice that the Democrats’ dilemma is mostly about Republicans? Donald Trump, Paul Ryan, and Mitch McConnell now own the problems of the US health care system, regardless of whether they repeal, replace, or repair the ACA. This makes the choice easy for Democrats: It is better to unite in opposition and let Republicans fight amongst themselves.

The lessons from 1993 suggest that reform will be very difficult and it is quite likely nothing passes. Democrats should be careful, though, not to overlearn the lessons from the failed Clinton reform and expect to be rewarded in the next election. The map in the Senate is so unfavorable and the House is so gerrymandered that it is extremely unlikely they

will win back control of Congress in 2018. The irony of the Democrats' dilemma is that they could win the fight over the ACA but still not gain political ground.

References

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