

# **HEALTH CARE REFORM**

**Professor Marc A. Rodwin**

**Fall 2007**

**Course No. 2323-AD**

Class Time: Monday: 2:00 PM - 3:50 PM  
Classroom: Room 245  
Office Hours: M 11:15 to 12:15; W: 3:50 to 4:30; and by appointment

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This course examines efforts to reform the health care policy and law in the United States. There are two parts to the course: 1) the assigned readings; and 2) the research paper on a health care reform topic of the student's choice. Papers do not have to be related to the themes or topics that are the focus of the assigned readings so long as they address health care reform in some way. The paper can evaluate a proposed reform, a reform implemented, or unsuccessful reform efforts. They may also trace the history of a reform or propose a reform.

The course readings discuss why the United States has not adopted National Health Insurance and past and current proposals to expand health insurance coverage or enact National Health Insurance. It examines the Clinton administration initiative as a case study of health care reform and politics. In addition, readings examine recent and current proposals to reform Medicare and Medicaid and to make our health care system more market-based and consumer-driven. Some readings discuss the pros and cons of reforms. Others examine the role of interest groups and the legislative and political process and how these affect the prospects of proposals becoming law.

Topics addressed in the course include the following:

- The American Social Ethic for Health Care
- What Ails the United States Health Care System?
- Why the United States Has No National Health Insurance
- Terms of the Health Reform Debate: Policy Options for Reform
- Managed Competition and Market Proposals
- Single Payer and Pay-or-Play Proposals
- The Clinton Health Care Reform Initiative
- Interest Groups and the Legislative Process
- Recent Proposals for Increasing Markets in Health Care
- Disentitlement—Ending Rights to Health Care
- Other National Health Systems as Models for the United States
- Massachusetts Reforms and Other State Initiatives

Those writing a paper related to course readings have the benefit of a wide array of supplemental hard copy and electronic documents that I have compiled. I will assist individuals writing on other topics as well. Examples of other paper topics include: the Mass. health care reform; reform of medical malpractice law; proposals to change the FDA drug approval process or laws regulating pharmaceutical industry marketing and promotion; reform of laws related to patients' rights or protection of human research subjects; reform of managed care.

## **Course Requirements**

Grades will be based on the student's paper (due at the end of the semester), class presentation, and participation. The paper may, but need not, fulfill the law school legal writing requirement.

Students should come to class prepared to contribute to discussion. I will award additional credit for students that distinguish themselves in classroom participation.

Students should read regularly a national newspaper (such as *The New York Times*, *Washington Post* or *Wall Street Journal*) and think about how class relates to current health news. An excellent daily listing of links to health news articles is available at:

<http://www.kaisernetwork.org/dailyreports/healthpolicy>. You can receive these links as an email each day from the Kaiser Family Foundation if you sign up at <http://www.kff.org/profile/subscriptions.cfm>. Students who do not subscribe to a hard copy of a newspaper can read them on the web, or on Lexis or Westlaw. It would also be helpful to occasionally scan health care press such as the *BNA Health Care Policy Report*.

## **Writing a Paper to Fulfill the School Legal Writing Requirement**

You may elect to write a paper for this course to meet the school legal writing requirement. If you want to do so, let me know early in the semester, meet with me to get your topic approved, and fill out the registrar forms. *A draft paper needs to be submitted by the 9<sup>th</sup> week of class and revised based on my comments.*

## **Texts**

Course Reader (Available at bookstore)

Paul Starr. 1994. *The Logic of Health Care Reform Why And How The President's Plan Will Work*. New York, N.Y.: Whittle Books In Association With Penguin Books. (Available from instructor)

Theda Skocpol. 1997. *Boomerang: Health Care Reform and the Turn Against Government*. New York: Norton & Co.

Jill Quadagno. 2005. *One Nation Uninsured: Why The US Has No National Health Insurance*. New York: Oxford University Press.

Media reports on health policy and law.

## **Academic Honesty**

Your paper must be written by you alone and must respect law school rules on academic honesty. When turning in your exam and paper, include a separate page paper clipped to the back with the following statement and your signature.

*“I have reviewed the Suffolk University Law School policy on academic honesty and plagiarism. My essay and take home exam are my own written work and conform to these rules.”*

## **Format and Style for Papers**

- Number pages.
- Use 12 pt. font with 1 inch margins on all sides.
- Double space.
- Put your paper title on a title page.
- Include a bibliography with your sources as well as citations. You may use any citation and bibliographic style that you choose.

## TENTATIVE LIST OF WEEKLY TOPICS.

### **Week 1: Choosing a Social Ethics for U.S. Health Care: What Role for Markets and Government?**

Reinhardt, Uwe. 1997. Wanted: A Clearly Articulated Social Ethics for American Health Care. *J. Am Med Assn* 278 (17): 1446-47.

Epstein, Richard, et al. 1998. Response to Uwe Reinhardt. *J. Am Med Assn* 279 (10): 745-46.

Himmelstein, Jay. 2006. Bleeding-Edge Benefits. *Health Affairs* 25(66): 1656-1663.

President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research. 1983. *A Report on the Ethical Implications of Differences in the Availability of Health Services, Vol 1*. Ch 1. An Ethical Framework in Securing Access to Health Care.

### **Week 2: What Ails the United States Health Care System?**

Starr, Paul. 1993. *The Logic of Health Care Reform*  
Ch. 1 A Negative Consensus  
Ch. 2 What Went Wrong?  
Ch. 5 Breaking the Job Linkage.

Consumer Reports. 1983. *How to Resolve the Health Care Crisis: Affordable Protection for All Americans*  
Ch. 1 Wasted Health Care Dollars: Part I. pp 40-52

Barnes, Fred. 1993. What Health Care Crisis?

Bodenheimer, Thomas and Kevin Grumbach. 2002. *Understanding Health Policy*.  
Ch.15 National Health Insurance.

Aaron, Henry and William Schwartz. 1990. Rationing Health Care: The Choice Before Us. *Science*, 247 (4941): 418-422. [In Blackboard]

*Supplemental Reading* (Available on Blackboard, under Clinton Health Care Reform)

Eckholm, et al. 1993. *Solving America's Health Care Crisis*  
The Spreading Insecurity. pp 28-34.  
Inner-City Meltdown. pp 34-36.  
The Insurance Nightmare. pp 43-68.

### **Week 3: Why We have No National Health Insurance in the U.S.: Part I**

Gordon, Colin. 2005. *Dead On Arrival: The Politics of Health Care in Twentieth-Century America*.

Introduction: Why No National Health Insurance in the United States?

Ch.1 The Political Economy of American Health Care: An Overview, 1910-2000.

Quadagno, Jill. 2005. *One Nation Uninsured: Why the US has No National Health Insurance*.

Chapters 1-3.

### **Week 4: Why We have No National Health Insurance in the U.S.: Part II**

Steimo, Sven, and Watts, John. 1995. It's the Institutions, Stupid! *Journal of Health Politics, Policy and Law* 20(2): 329-372.

Quadagno, Jill. 2005. *One Nation Uninsured: Why the US has No National Health Insurance*.

Chapter 4-6.

*Supplemental* (Available on Blackboard)

Hoffman, Beatrix. 2003. Health Care Reform and Social Movements in the United States. *American Journal of Public Health* 93(1): 75.

Rothman, David. 1993. A Century of Failure: Health Care Reform in America. *Journal of Health, Politics, Policy and Law* 18(2).

### **Week 5: Terms of the Debate: Policy Options and Issues and Main Options for Reform: Managed Care, Pay or Play, Managed Competition, Single Payer, Vouchers**

Aaron, Henry. 1991. The Terms of the Debate. *Serious and Unstable Condition* pp 109-140.

Havighurst, Clark. 1994. Contract Failure in the Market for Health Services. 29 *Wake Forest Law Review* 47 (1994) (Excerpt on Contract Failure, 3 or 4 pages – 579-581)

Office of Technology Assessment. *Competing Approaches to Health Care Reform*.

## **Week 6: Single Payer and Managed Competition**

### *Single Payer*

Saltman, Richard. 1992. Single-Source Financing Systems. *J. Am Med Assn*, 268(6):774-779.

Bodenheimer, Thomas. Should We Abolish the Private Health Insurance Industry? *Ch. 5: 51 -72.*

Wellstone & Shaffer. 1993. The American Health Security Act: A Single-Payer Proposal. *New Eng J. Med* 328(20):1489-1493.

### *Managed Competition*

Hacker, Jacob. 2005. *The Road to Nowhere: The Genesis of President Clinton's Plan for Health Security*. Ch 2: A Prescription for Reform.

Iglehart, John. 1993. Managed Competition. *New Eng Med*. 328(16):1208-1212.

Stone, Deborah. 1993. When Payers Go to Market. *American Prospect* 13:109-15

Enthoven, Alain. 1993. The History and Principles of Managed Competition. *Health Affairs Supplement* 24-48.

Himmelstein and Woodhandler. Mangled Competition. *American Prospect* 13:116-21.

Himmelstein, David, Sidney, Steffie Woolhandler. 1993. A National Health Program for the United States. *New Eng J. of Med* 320(2): 102-108.

### ***Supplemental (Available on Blackboard under Clinton Health Care Reform)***

#### *Single Payer*

Eckholm, et al. 1993. *Solving America's Health Care Crisis*. The Restive Left Flank. 273-277.

Annon. 1993. The Wrong Prescription. *The New Yorker* editorial, April 26.

#### *Managed Competition*

Eckholm. 1993. *Solving Am Health Care Crisis* An American Style Answer? pp 265-272.

Judis, John. 1993. Whose Managed Competition? 3 pp

Vladeck, Bruce. 1993. Old Snake Oil in New Bottles. New York Hospital Fund.

Enthoven, Alain and Sara Singer. 1995. "Market-Based Reform: What to Regulate and by Whom." *Health Affairs* 14: 105-119. (Listed under Reform Articles and Proposals)

## **Week 7: The Clinton Health Care Reform I**

### *The GENESIS*

Hacker, Jacob. 2005. *The Road to Nowhere: The Genesis of President Clinton's Plan for Health Security*. Ch 3. The Liberal Synthesis.

Starr, Paul. 1993. *The Logic of Health Care Reform*

Ch. 3 Hope Among the Ruins.

Ch. 4 The Logic of System Reform.

Ch. 6 A New Framework.

Ch. 7 Financing the Plan.

Skocpol, Theda. 1997. *Boomerang: Health Care Reform and the Turn against Government* Ch. 1. A Way through the Middle.

## **Week 8: The Clinton Health Care Reform II**

### *KEY ELEMENTS OF THE PLAN*

Skocpol, Theda. 1997. *Boomerang: Health Care Reform and the Turn against Government* Ch. 2 Designing Health Security.

### *THE POLITICS OF THE CLINTON PLAN*

#### The Opposition

Kristol, William. 1994. A Republic Response to Health Care. *World and I*, 9(5), May.

Skocpol, Theda. 1997. *Boomerang: Health Care Reform and the Turn against Government* Ch. 5 Mobilization Against Government.

#### The Limits of Reformer's Initiatives

Skocpol, Theda. 1997. *Boomerang: Health Care Reform and the Turn against Government* Ch. 3 Democrats in Disarray; Ch. 4 Marketing an Ambivalent Message.

#### *News Sources*

Moffit, Robert. 1993. Clinton's Frankenstein. *Policy Review* (Winter) 4-12.

Arney, Dick. Your Future Health Plan. *Wall Street Journal*. (October 13).

*Supplemental* (Available on Blackboard under Clinton Health Care Reform)

White House Domestic Policy Council. 1993. *The President's Draft Plan*  
Chapters 1-7 pp 14-70;  
Chapters 9-11 pp 81-96;  
President Clinton's Address to Congress. pp 301-314

White House Domestic Policy Council. 1993.*The President's Draft Plan*  
Chapter 13 pp 102-110;  
Chapters 24-27 pp 196-235.  
Chapter 30 pp 256-284.

White House Domestic Policy Council. 1993.*The President's Report*  
Chapters 2-9 and Conclusion pp 21-102.

## **Week 9: Interest Groups and Politics**

### The Interest Group Model of Legislation

Feldstein. Paul.1996. *The Politics of Health Legislation: An Economic Perspective*  
Ch. 10 pp 257-273.  
Ch. 11 pp 275-290

### The Public Spirit Model of Legislation

Kellman, Steven. 1987. *Making Public Policy*  
Ch. 10 The Wellsprings of Public Behavior: Alternative Views. pp 265-276.

## **Week 10: Health Care Reform after Clinton: Market-Based and Other Recent Proposals**

Skocpol, Theda. 1997. *Boomerang: Health Care Reform and the Turn against Government* Ch. 6 Legacies and Lessons; Afterward: Now We Know, 1994 Really was a Turning Point..

Marmor, Theodore and Jonathan Oberlander. 2004. Paths to Universal Health Insurance Progressive Lessons from Past for the Future. *University of Illinois Law Review*.  
The 2000 Elections and Instrumentalism.  
Alternative Plans: Federalism, the Pincer Movement and Single Payer. 213-223.

Marmor, Theodore and Jonathan Oberlander. 2004. Paths to Universal Health Insurance Progressive Lessons from Past for the Future. *University of Illinois Law Review*.

Barriers to National Health Insurance pp 209-213.

### Market Oriented Proposals

Herzlinger, Regina. 2002. Let's Put Consumers In Charge Of Healthcare. *Harvard Business Review*. July 1-12.

Butler, Stuart. 1991. A Tax Reform Strategy to Deal With The Uninsured. *J Am Med Assn*. 265:2541.

Butler, Stuart. 2004. A New Policy Framework for Health Care Markets. *Health Affairs* 23(2):22-24.

Butler, Stuart, and Robert Moffit. 1995. The FEHBP as a Model for a New Medicare Program. *Health Affairs* 14: 47-61.

Thorpe, Kenneth. Medical Savings Accounts: Design and Policy Issues. *Health Affairs* 14(3): 254.

*Supplemental* (Available on Blackboard)

Enthoven, Alain and Sara Singer. 1995. "Market-Based Reform: What to Regulate and by Whom." *Health Affairs* 14: 105-119.

Antos, J.R. 2003. Reforming Health Insurance: Realistic Options and Hard Choices. *Health Affairs. Web Exclusive* 212-215.

### **Week 11: Medicare Reform Proposals**

Iglehart, John. The Struggle to Reform Medicare. *N Eng J Med*. 334(16): 1071-1075

Potetz, Lisa and Thomas Rice. 2001. *Medicare Tomorrow: the Report of the Century Foundation*. New York: Century Foundation Press.

Introduction: Principles and Summary, Social Insurance, and Financing 1-33.

Potetz, Lisa and Thomas Rice. *Medicare tomorrow: the report of the Century Foundation*. New York: Century Foundation Press, 2001.

Medicare Reform and Competition among Health Plans 136-150.

Premiums Support & President Clinton's Proposal for Medicare Reform 151-179.

Marmor, Theodore and Jonathan Oberlander. 1998. Rethinking Medicare Reform." *Health Affairs* 17: 52-68.

*Supplemental*

Smith, David. 1992. *Paying for Medicare: The Politics of Reform.*

Reischauer, Robert; Stuart Butler; and Judith Lave. 1998. *Medicare: Preparing for the Challenges of the 21st Century.*

Moon, Marilyn. 1993. *Medicare Now and in the Future*, Ch. 8 How Should Medicare Change? pp 311-321.

Bodenheimer, Thomas, et al. 1999. Rebuilding Medicare for the 21<sup>st</sup> Century: A Challenge for the Medicare Commission and Congress. *National Campaign to Protect, Improve, and Expand Medicare.*

Moon, Marilyn. 2000. Medicare Matters: Building on a Record of Accomplishments. *Health Care Financing Review* 22(1):9-22.

Rettenmaier, Andrew and Thomas Saving. 2000. *The Economics of Medicare Reform.*

## **Week 12: Other National Health System as Models**

Bodenheimer, Thomas and Kevin Grumbach. 2000. *Understanding Health Policy*, Ch. 14 Health Care in Four Nations.

Reinhardt, Uwe. 1993. Reforming the Health Care System: The Universal Dilemma. *Am J. Law and Med.* 19(1-2):21-36.

Graig, Laurene. 1999. *The Health of Nations*

- Ch.1 In Search of New Directions for U.S. Health Care: An International Perspective. pp 1-12.
- Ch.8 Will U.S. Health Care Be Shaped by International Experience? pp 167-179.
- Ch. 3 Canada's National Health Insurance System: U.S. Nemesis or Model for Reform? pp 35-74.

### *Supplemental*

Consumer Reports. 1983. *How to Resolve the Health Care Crisis:*  
Ch. 6. Alternative Systems: Canada, Hawaii, Minnesota.

Eckholm et al. 1993. *Solving America's Health Care Crisis*  
Japan: Cradle to Grave, No Frills. pp 421-424.  
Germany: Curbing Costs with Pressures. pp 425-428.

Marmor, Theodore and Jerry. Mashaw. *American Prospect.* Northern Light: Canada's Lessons for American Health Care 383-394.

### **Week 13: Massachusetts Health Care Reform as a Model**

McDonough, John, Brian Rosman, Fawn Phelps, and Melissa Shannon. 2006. The Third Wave of Massachusetts Health Care Access Reform. *Health Affairs, Web Exclusive*.

Holahan, John and Linda Blumberg. 2006. Massachusetts Health Care Reform: A Look at the Issues. *Health Affairs, Web Exclusive*.

Turnbull, Nancy. 2006. The Massachusetts Model: An Artful Balance. *Health Affairs, Web Exclusive*.

Miller, Tom. 2006. Massachusetts: More Mirage than Miracle. *Health Affairs, Web Exclusive*.

McGlynn, Elizabeth, and Jeffrey Wasserman. 2006. Massachusetts Health Reform: Beauty Is in the Eye of the Beholder. *Health Affairs, Web Exclusive*.

Etheredge, Lynn. 2006. Massachusetts Reform Plus President Bush's Tax Credits: A National Model? *Health Affairs, Web Exclusive*.

### **Week 14: Reform as Disentitlement**

Jost, Timothy. 2003. The Tenuous Nature of the Medicaid Entitlement. *Health Affairs* 22(1):145-153.

Lambrew, Jeanne. 2005. "Making Medicaid a Block Grant Program: An Analysis of the Implications of Past Proposals." *The Milbank Quarterly* 83(1): 41.

*Supplemental* (Library Reserve, Hard copy)

Jost, Timothy. 2003. *Disentitlement?: The Threats Facing our Public Health-care Programs and a Rights-based Response*. New York: Oxford University Press.

### **Week 15: Student Presentations**

#### ALTERNATIVE TOPICS

- Health Care Reform and Politics
- Managed Care Reform
- Private Insurance Market Reform