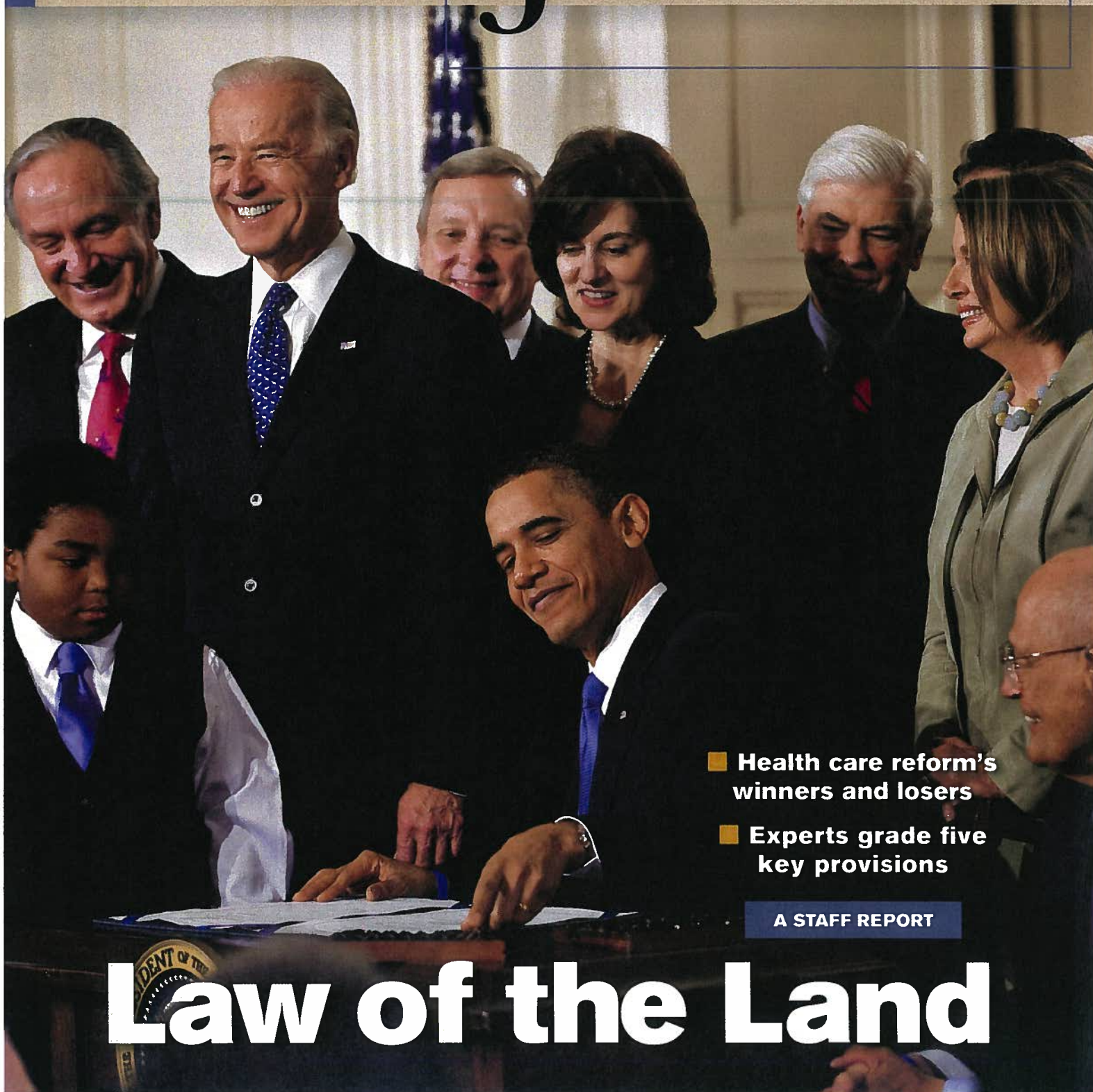


March 27, 2010

■ **The Dark Side  
Of India's Boom**

■ **Craig Fuller  
In the Cockpit**

# National Journal



- **Health care reform's winners and losers**
- **Experts grade five key provisions**

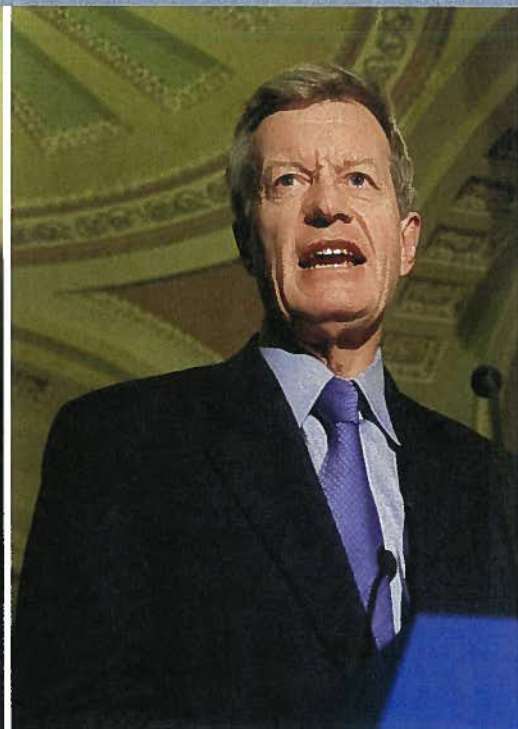
A STAFF REPORT

# Law of the Land

Cover  
Story

*National Journal* looks at the roles of 25 key players in the health care debate and how they might fare going forward.

# So, Who Won?



■ By Brian Friel, Richard E. Cohen, Alexis Simendinger, Kirk Victor, James A. Barnes, and Peter H. Stone

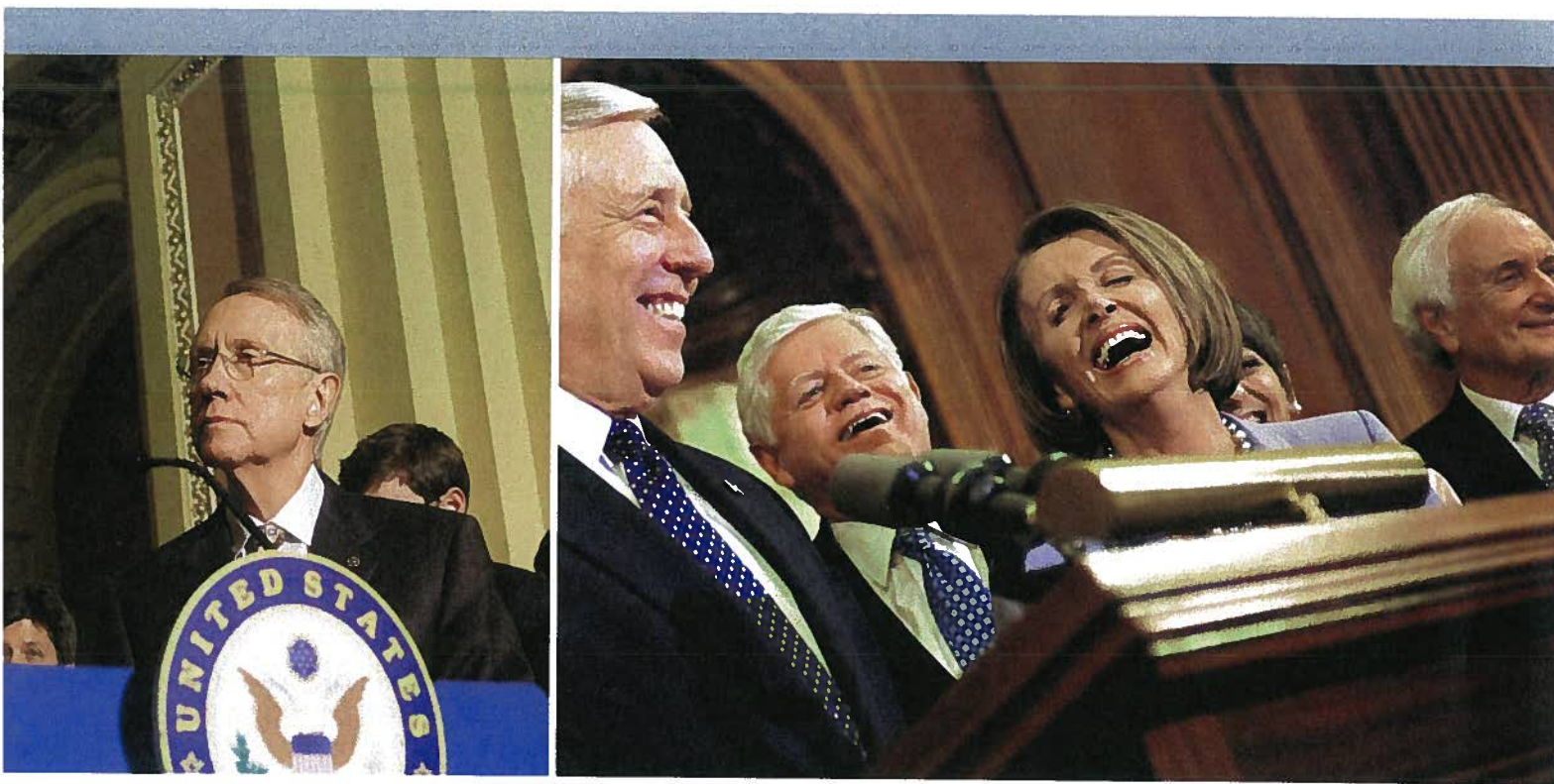
**T**he gripping health care reform story that unfolded in Washington over the past year had plenty of twists and cliff-hangers in every chapter. Who could have seen the Gang of Six coming, or the death panels, or the Blue Dog revolt, or the August town halls, or the Stupak amendment, or the Cornhusker Kickback, or the snowy Christmas Eve vote, or Scott Brown, or the Slaughter Solution? Remember the Rasputin-like

public option—dying, rising, dead, resurrected, alive, dead again.

As the suspense-filled saga played out, a wide cast of characters emerged and shaped their own roles, at the White House, on Capitol Hill, and among interest groups and outside opinion makers. They became heroes, villains, or bit players in the narrative, depending on what side you were on. Some adeptly seized the opportunity to shine while others stumbled. Some leveraged surprising new influence while others didn't quite step up. Some made names for themselves while others faded to the margins. Some preserved their positions while others squandered their clout. Some took considerable strides toward writing their place in history while others may have written the first line of their political obituaries.

Ultimately, the epilogue to this epic legislative battle will be written as politicians work to sell the law to the American people in coming months—or to bash it, as voters decide in the November midterm elections which party they want to control Congress in the debate's aftermath, and as bureaucrats and health care providers across the country implement the reforms in the years ahead. In the meantime, what follows is an analysis of the

■ **TWISTS AND TURNS:** Although Rahm Emanuel may have floated alternative health reform options, he ultimately executed President Obama's strategy; Max Baucus took forever to move a bill, but Harry Reid exhibited his usual tireless patience; and time will tell whether Nancy Pelosi has the last laugh in November.



Although the story reached its climax with House passage of the health care bill on March 21 and President Obama's signing of the legislation two days later, the final fate of the characters who populated the drama is not yet known. When we turn to the last chapter, what will be the plight of House Speaker Nancy Pelosi, or health insurance lobbyist Karen Ignagni, or the president himself? What now for Peter "Bend the Cost Curve" Orszag and John "No, You Can't" Boehner? That will have to wait for the denouement.

"This moment may mark a temporary conclusion of the health care debate," Rep. Paul Ryan, R-Wis., who became a leading voice on the issue over the past year, said on the House floor shortly before the final votes. "But its place in history has not yet been decided."

roles that 25 key characters have played thus far and their potential influence going forward.

## Obama Administration

■ It's no exaggeration to say that **Barack Obama** gambled the future of his presidency on winning passage of sweeping health care reform. "If they had lost, the Obama presidency would have taken a big hit," said Steve Elmendorf, a former top House Democratic staffer. "It would have been crippling." By persevering, Obama may have reached his audacious goal of achieving a transformational presidency. Not since Lyndon Johnson muscled through civil-rights guarantees has a presi-

dent succeeded in leading the charge for such major social legislation.

The president overcame multiple obstacles—political, legislative, and even his own miscalculations—to pass the measure, but through much of the struggle it was not certain that he and Democratic lawmakers would pull it off. Their task became especially daunting after Republican Scott Brown won the seat of the late Sen. Edward Kennedy, D-Mass., in January, ending the Democrats' 60-seat supermajority. Ironically, that setback galvanized Democrats to continue to press for

tentious issues, from immigration reform to energy legislation.

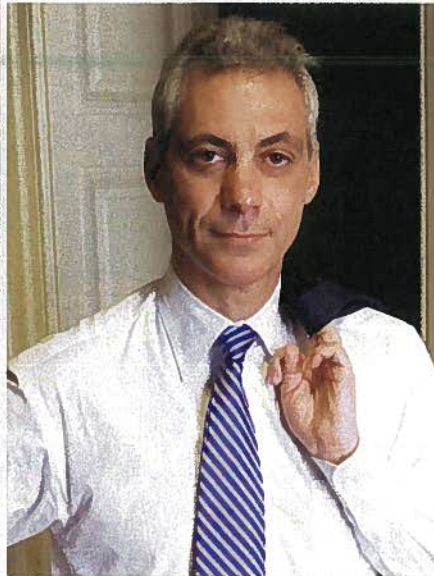
■ When the House tally reached the 216 votes needed to pass health reform, Obama, who was watching with close advisers in the White House's Roosevelt Room, raised his arm to give his chief of staff, **Rahm Emanuel**, a high five. It was a small gesture, but still, it gave Emanuel a chance to have the last laugh on his critics.

As the war over health reform built to a crescendo, the famously hard-charging and abrasive 50-year-old former Demo-



■ Obama

■ Emanuel



■ Sebelius

comprehensive reform rather than resign themselves to an incremental approach. "Thank God," said Andy Stern, president of the Service Employees International Union. "We have a president who could have taken a U-turn or gotten off the exit ramp with health care very easily, but he decided to stay the course."

Criticized as too deferential to Congress during 2009, Obama shifted gears after Brown's victory and engaged far more personally in winning over wavering lawmakers. The president convened a bipartisan summit and traveled outside the Beltway to promote the plan; during the week before the House passed the legislation, he either met with or talked with 92 lawmakers. Rep. Marcy Kaptur, D-Ohio, one of the anti-abortion holdouts who supported the bill only after negotiations with Obama, noted, "The fact that a president who may not completely share our views was listening to us and was willing to engage with us, that was deeply appreciated." Such one-on-one efforts belied the caricature of the president as aloof and suggested how he may proceed as he tackles a slew of other con-

cratic lawmaker had been hit with plenty of bad press. Commentators said he should be booted for lacking management skills and discipline, and for not serving Obama well as Republicans seemed to be winning the message war on health reform. In fact, Emanuel played a significant role in moving the legislation.

Rep. Bart Stupak, D-Mich., said in an interview that a week or so before the vote, Emanuel spoke with him numerous times to try to ease his concerns—and those of his half-dozen or so allies—that the measure would liberalize abortion rights. Ultimately, of course, they struck a pivotal deal. Stories also circulated that Emanuel advocated an incremental approach to health reform after the upset in the Massachusetts Senate race in January. But in an interview with *National Journal*, Emanuel said that it was his job as chief of staff to provide Obama with "the equities" of pursuing less ambitious options on health care. He then executed Obama's decision to seek comprehensive reform. Look for Emanuel, the former head of the Democratic Congressional Campaign Committee, to be

active in deploying White House resources to help Democrats in tough races in the midterm elections.

■ Health and Human Services Secretary **Kathleen Sebelius** played a largely invisible role during much of the drama over health reform, as the White House took the lead. “She wasn’t an independent actor so much as a supportive player,” said John Rother of AARP. Instead, Nancy-Ann DeParle, director of the White House’s Office of Health Reform, was the behind-the-scenes go-to contact for lawmakers.

that overhauling health care is “the key to our fiscal future.”

“Peter Orszag was the power behind the throne on health care,” said Darrell West of the Brookings Institution, where Orszag was once a senior fellow. “He used that issue where he has a lot of personal expertise to carve out a position of great power. That may help him exercise influence in other areas, because people in Washington respect power. And he has it.” Although Orszag clearly has the president’s ear—and confidence—at the White House, he also could write his own ticket for a new job elsewhere.

## House

■ A win is a win, especially when it’s historic. And House Speaker **Nancy Pelosi**, D-Calif., wrote her place in history with her aggressive and determined push for the most sweeping U.S. health reform legislation ever enacted. “Our speaker is the single most responsible person for this night’s success,” House Majority Leader Steny Hoyer, D-Md., a onetime foe, gushed after the vote. Ron Pollack, head of the advocacy group Families USA, added, “The speaker was the Rock of Gibraltar in this effort. She never wavered.”

Last year, Pelosi filled in the details of the proposal for which Obama had provided only broad guidelines. In the face of escalating intraparty divisions and public opposition, she prodded three committees in July and a narrowly divided

House in November to move faster than many Democrats preferred. She was pragmatic enough to insist on deals that she—as a San Francisco liberal—might have personally opposed, including stripping the public insurance option and adding abortion restrictions. And this week, she pulled off the seemingly impossible task of persuading her House colleagues to walk the plank a second time and approve the Senate-passed version of the legislation.

But Pelosi’s victory came with some second-guessing and potentially adverse fallout. Even close allies concede that the Democrats’ mistakes in handling the bill gave openings to GOP opponents. More significantly, many Democrats are worried they might lose control of the House in the November midterms. Some from competitive districts were chilled by Pelosi’s apparent willingness to sacrifice seats for the cause of health reform. “We’re not here just to self-perpetuate our service in Congress,” she said in a February 28 interview on ABC’s *This Week*. Whatever happens, expect Pelosi, who has a nifty present for her 70th birthday on March 26, to cite health care reform to

### Orszag



### Pelosi

In recent months, however, as the White House escalated its attacks on insurers, Sebelius emerged more prominently. Her newly aggressive stance played to her strength as a former Kansas insurance commissioner and governor. She directed HHS to examine skyrocketing premium increases, and the department issued a report that rendered a scathing verdict, encapsulated in its title: “Insurance Companies Prosper, Families Suffer.” In coming months, Sebelius will become even more visible as the chief implementer of the sweeping law—no small task, given its complexity.

■ **Peter Orszag**, a marathon runner, must be tempted to do a victory lap. No one has been more relentless in making the case that overhauling the health care system is essential to righting the country’s economic woes than the director of the White House Office of Management and Budget. Orszag championed health reform during his previous job as director of the Congressional Budget Office, and the 41-year-old policy wonk told *NJ* shortly after joining the Obama administration

explain why she eventually will exit the House as a champion.

■ As Pelosi's senior policy adviser, **Wendell Primus** is credited with masterfully coordinating the House's handling of health care reform. Education and Labor Committee Chairman "George Miller told me that I was at the point of the spear," Primus said in an interview. He worked with the three House committees of jurisdiction as they struggled to force their Senate counterparts to modify their Christmas Eve bill. Then they wrestled with program details, Senate parliamentary requirements, CBO scoring, and, finally, achieving a House

Andrews, 52, came back from near-oblivion after suffering a stinging setback in his 2008 primary challenge to Sen. Frank Lautenberg, D-N.J. "I really hate losing. But if I were a freshman senator, I would have been less involved on the bill." He doesn't rule out another statewide bid but warns that Democrats face an "intense" campaign battle this year.

■ Rep. **Bart Stupak**, D-Mich., became a national star among abortion opponents when he won House approval in November for a strongly anti-abortion amendment to the health care bill. But this week, some of those former allies were calling

## ■ Primus



## ■ Andrews

## ■ Stupak



majority. "As a staffer, you have to think ahead to the next moves if something else doesn't work," Primus said. "It was very challenging."

Primus, 63, has a deep legislative résumé, including 15 years as chief economist at the House Ways and Means Committee. Although his exhausting workload has left little time to ponder such matters, he said he might like to teach public policy courses. He clearly has gained more than enough material for a semester of lectures.

■ No task was too small for Rep. **Robert Andrews**, D-N.J., who emerged as a relentless worker bee in preparing and selling the House Democrats' bill. The chairman of the Education and Labor subcommittee that deals with health issues was reliable and selfless when Pelosi called on him to explain intricate details, douse fires, or bolster wavering colleagues. "I have tried to learn from as many members as I can what they care about," he said.

him names. On the House floor, one Republican hurled the insult "Baby killer" either at Stupak or at the Democratic bill, depending on whose account you believe. The conservative *Washington Times* editorial page called him a "coward" for getting "rolled by the big-city thugs from Chicago."

After insisting that the Senate's less-sweeping abortion limitations were unacceptable—and threatening, with a handful of other House Democratic holdouts, to derail the health reform effort—Stupak ended up voting for the Senate bill as part of a deal in which Obama agreed to issue an executive order clarifying a ban on federal funding for abortions. Stupak rejected suggestions that the deal was merely a "face-saving" device. "If the pro-choice people want to believe that, I don't really care," he said in an interview with *NJ*. The fact that Obama's order—unlike the Senate bill—explicitly referred to the long-standing Hyde amendment restrictions was a clear difference, he said.

Rep. Diana DeGette, D-Colo., who co-chairs the House's Pro-Choice Caucus, said that her side held firm this time, and

she cheered Stupak for joining them on health reform. “I am a stubborn Democrat, but I am still a Democrat,” Stupak responded. Back home, though, he faces a primary challenger. “Mr. Stupak’s dogmatic insistence on inserting his own religious views into the legislative debate and threatening to deprive his constituents of needed health care reform has eroded people’s trust in him,” Democrat Connie Saltonstall told *The Detroit News* this week. Republican Dennis Lennox said he also is exploring a run against Stupak, who he called a “Judas” who “threw the views of his constituents under the bus for 30 pieces of silver.”

Ohio, lose when the health care vote was tallied, critics this week were accusing him of losing ugly, because Republican lawmakers appeared to encourage some of the bad behavior by conservative protesters at the Capitol. And although Boehner and GOP colleagues took pride in their party unity, Democrats attacked them as the “Party of No” and contend that they overplayed their hand with unyielding opposition to health reform.

Boehner lost the legislative battle, but time will tell whether he and the Republicans win the political war by using the Democrats’ health reform drive to take away their majority



■ Ross



■ Boehner



■ Ryan

■ The health care debate battered and bruised Rep. **Mike Ross**, D-Ark., and his fellow members of the House Blue Dog Coalition. Now, their party’s majority depends on their political survival come November. “You take the 53 of us and subtract it from the Democratic majority, and we’d be in the minority again,” noted Ross, who voted no on March 21 along with 23 fellow Blue Dogs. Last July, Ross led a Blue Dog revolt in the Energy and Commerce Committee that softened the public option and delayed House floor action. “Liberal groups were beating me and some of my colleagues up last summer for trying to weaken or eliminate the public option,” Ross said, “and then when the president finally comes out with his own bill, it didn’t have a public option either.”

Looking ahead, he has a challenge for the president. “I hope he will work just as hard on addressing the deficit as he has at passing health care reform.”

■ Not only did House Minority Leader **John Boehner**, R-

in November. His allies dismiss the criticism and assert that recent elections and opinion surveys show that congressional Democrats have defied public sentiment. As he moves to the campaign trail, Boehner must manage Republican expectations while maintaining intensity through the long grind. Facing a possibly resurgent Obama, Boehner must also keep the diverse GOP flock and their “tea party” backers on message and hold their Democratic critics at bay.

Boehner, 60, has joined the call for repeal of the health reform law. But if he becomes House speaker, he more likely would focus on changing it or limiting its funds. “We will deal with the host of issues in a responsible way,” he said in an interview.

■ More than any other member of his party, Rep. **Paul Ryan**, R-Wis., managed to sail above the health care vitriol and attract the attention and admiration of figures as diverse as Obama and Orszag, and such GOP superstars as Indiana Gov. Mitch

Daniels and former Alaska Gov. Sarah Palin. In fact, Palin recently touted Ryan as a potential 2012 presidential candidate. The 40-year-old House Budget Committee ranking member proposed the most comprehensive conservative alternative to the Democrats' bill in his Patients' Choice Act and as part of his long-term "Roadmap for America's Future." "What Paul Ryan's plan does is really create a vision of where we could go with health care reform," said Grace-Marie Turner, president of the Galen Institute and a leading conservative health care thinker.

Still, some Democrats hope to clip Ryan's wings by using his proposals to rev up their base. "We know what the 'road map' says," Rep. Gwen Moore, D-Wis., declared recently. "Make Medicare a voucher and let it wither on the vine."

gether, which is almost the equivalent of Moses parting the Red Sea."

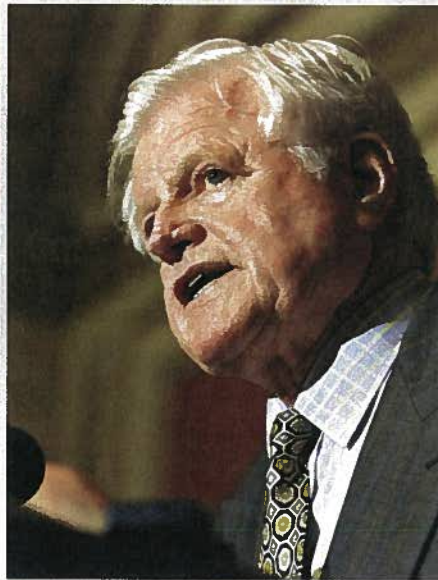
As the year dragged on, critics skewered Reid's tireless patience. Some Democrats said that he gave Finance Committee Chairman Max Baucus, D-Mont., too much time and too much rope to deal with Republican colleagues, who rejected the Democrats' efforts anyway. Some bashed Reid for flirting with a public insurance option he knew could not pass. But each of Reid's adaptations bowed to individual colleagues, any of whom could have scuttled a bill.

Reid persisted through the Senate "slog," as Obama termed it, even if his efforts were hardly heralded. The tactical but graceless majority leader dodged GOP opposition, cut deals to win 60 votes, and juggled the absences of the ailing Sen. Robert Byrd,



■ Reid

■ Kennedy



■ Baucus

## Senate

■ Washington's second-guessing was unrelenting as Senate Majority Leader **Harry Reid**, D-Nev., struggled last year to nail down crucial votes for health reform. Reid's task, arguably harder than Pelosi's as House speaker and conducted while he faced serious re-election risk at home, certainly wasn't pretty to watch. Yet Reid proved he could deliver, and on Christmas Eve no less, by catering to the self-involved and fractious senators on his team.

Sen. Arlen Specter of Pennsylvania, who became a Democrat in 2009, credited Reid, "a good friend," for enduring "months and months of serious monologue. Harry kept 60 people to-

D-W.Va., and the illness and then death of Sen. Edward Kennedy, D-Mass., whose legislative gifts Reid had once hoped to exploit. An awkward reconciliation process requiring just 51 votes rescued the reform effort after Massachusetts voters, in another rebuke, sent Reid one more Republican senator to deal with.

■ Before his death from cancer last August, Sen. **Edward Kennedy**, D-Mass., had only limited involvement in the Senate's health care negotiations because of his illness. Yet in the history books, he and health reform will always be linked, even if he'll never have a chance to witness a day when all Americans have health insurance. "I can't think of another instance where someone not being here had as much of an influence over the outcome of a legislative product," his friend, Sen. Christopher Dodd, D-Conn., told *NJ*.

The power of Kennedy's liberal politics seemed to dim when a Republican won his Senate seat in January and cut the Democrats' majority to 59. But Kennedy was also the iconic political force who knighted Obama with a key endorsement during the 2008 presidential race. "His legacy is solidified," said his son, retiring Rep. Patrick Kennedy, D-R.I. "There will be no question where he stands, and the enormity of the issues he worked on."

■ Some Democrats grouched that the cautious, plodding Finance Committee Chairman **Max Baucus**, D-Mont., seemed to take forever last year before conceding that Republicans weren't going to vote for health reform. But the laconic chairman pulled off what his liberal colleagues could not. He pro-

duced a strong, center-left committee bill in October that met the Obama administration's requirements, attracted 60 Senate votes in December, and with subsequent adjustments became law this week.

Committee ranking member Charles Grassley, R-Iowa, still defends Baucus, contending that the administration called a halt to the bipartisan talks. "When we started out, we were trying to get a bill that would pass with 75 or 80 votes, and that's where we were when the rug was pulled out from under all of us by the White House on September 15," Grassley told *NJ*.

Reid's recent decision to take jobs legislation out of Baucus's hands to move it more expeditiously raises some questions about the Finance chairman's future role. But his negotiating skills will undoubtedly be needed going forward.

■ Prickly conservative Sen. **Charles Grassley**, R-Iowa, labored last year as one of the six Finance Committee negotiators to fashion a bipartisan health reform measure before abandoning the effort, as liberals predicted he would. When Grassley, who is seeking his sixth term, went home last August to face restive constituents, he assailed Democrats for what he described as their Big-Government, high-tax, small-business-killing approach, and he predicted they would siphon away Medicare funding. He also warned Iowans about voluntary end-of-life counseling included in a House measure: "[We] should not have a government-run plan to decide when to pull the plug on Grandma."

Grassley told *NJ* last week that he has no regrets about his "most picturesque" assertion. But he sounded more circumspect when asked if he plans to join congressional Republicans who vow to repeal the new law. "I think I ought to wait until the people of Iowa speak," he said.

■ As long as Obama is president, he'll need moderate Sen. **Olympia Snowe**, R-Maine, even if he ultimately didn't need her support for health care reform. Snowe, who has spent decades working across partisan divides, is important to Obama as long as his agenda hinges on finding 60 Senate votes.

At the start of 2009, Snowe backed the president's stimulus legislation to inject \$800 billion into an ailing economy. On health care, she was among the six negotiators who spent months behind closed doors trying without success to reach a compromise bill. She explained her reluctant decision in October to vote to send what she saw as flawed legislation out of the Finance Committee by saying, "When history calls, history calls." By December, Snowe had returned to the GOP fold by voting no on the floor. In her opinion, Obama sided with his party base instead of working toward the "best policy."

"I said [to the president], 'You need us to pull you to the center.'... One party should learn from the other; you can't overreach," Snowe said in an interview. "We're getting, I think, far more expansive policy than the American people are pre-

■ Grassley



■ Snowe

pared to digest or think is practical in these economic times.” Obama, she predicts, is setting himself up to “learn the hard way.”

■ Congressional Budget Office Director **Douglas Elmendorf** navigated the health care debate with an umpire’s sense of

Plans. Initially, Obama was working with the insurers: He struck an agreement last May committing AHIP and trade groups representing hospitals, drug companies, and other health sectors to \$2 trillion in cost cuts over 10 years. Since then, however, nearly every group but the insurers made deals to avoid taking big hits in the final legislation. And the president and fellow



■ Elmendorf



■ Ignagni



■ Donohue

fairness and managed to survive with plaudits from both sides for producing reliable analyses. “CBO was the unquestioned voice of authority,” said Robert Reischauer, the agency’s former director, who noted that that wasn’t the case during President Clinton’s health reform effort. Elmendorf’s highest-profile moment came when he told the Senate Budget Committee last summer that the health bills at that time could actually worsen, not improve, the budget picture. “He was playing the role CBO is intended to play, which is shooting straight,” Reischauer noted.

After a year of producing complex budget estimates at every step of the legislative process, Elmendorf and his 250 staffers are tuckered out. “The almost-round-the-clock schedule maintained this past year by CBO’s current staff cannot be maintained much longer,” Elmendorf told House appropriators this month.

## Interest Groups

■ No one has taken more abuse in the health care debate than the insurance companies and **Karen Ignagni**, head of the leading industry trade group, America’s Health Insurance

Democrats decided last summer to start making insurers the villain in their political messaging. “Continuing that doesn’t get anybody covered, doesn’t get the program implemented, and doesn’t do anything to contain costs,” Ignagni said in an interview. “It’s rhetoric and that’s it.”

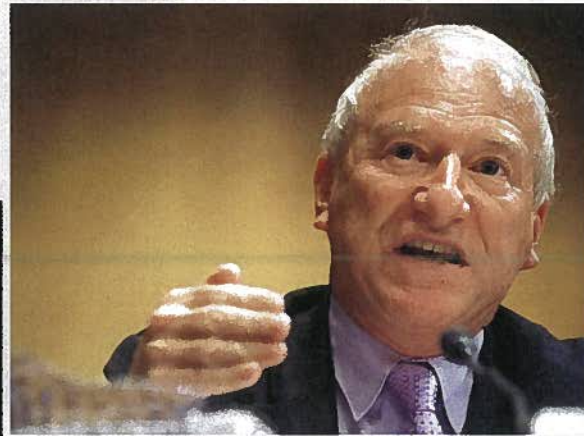
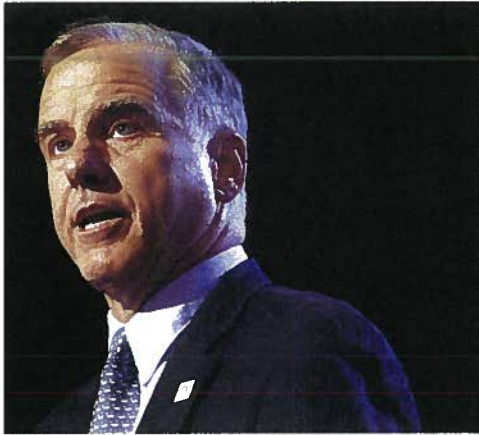
Things don’t get any easier now. Ignagni will be facing pushback from the right on the individual mandate and the costly coverage expansion that benefits insurers. She predicts that premiums could go up and the ranks of the uninsured could increase. She faults the legislation, but Democrats will likely continue to blame insurers. “We will be working very, very hard [with federal officials] to make sure this is a smooth transition,” Ignagni said.

■ The U.S. Chamber of Commerce and its pugilistic president, **Tom Donohue**, fought hard to defeat the health care law, spearheading two business coalitions that poured over \$100 million into ads. Donohue and the chamber look at least like short-term losers, but many business lobbyists applauded their gargantuan efforts. “The chamber gets nothing but high praise for their leadership in the health care fight,” said Jade West, the top lobbyist with the National Association of Wholesaler-Distributors.

Characteristically, Donohue has vowed to keep on fighting. In a March 22 e-mail to a group of top advisers and donors, he called the House vote a “disappointment for us” but quickly added that he sees “opportunities in the regulatory, legislative, legal, and political arenas to improve health care policy and minimize the harmful impacts of the overarching legislation.”

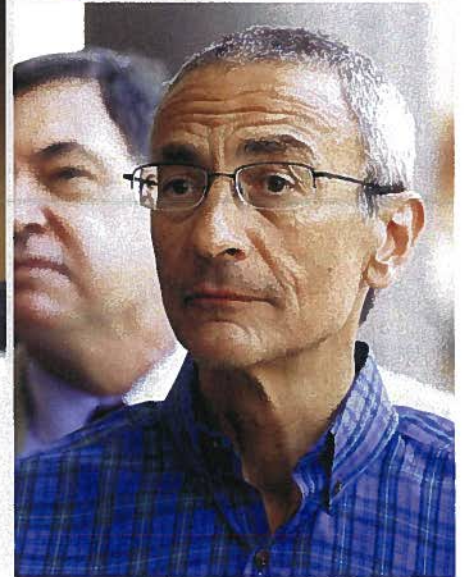
Stern said he was “very satisfied” that the SEIU helped lead the charge; but he noted that “there were a lot of things left on the sidelines, like the public option,” and if Congress revisits the measure, “we will certainly be there.” He said that his union members, half of whom work in the health care field, have a “unique role” in the law’s implementation and

■ Dean



■ Stern

■ Podesta



■ Liberal champion **Howard Dean** agitated vigorously for a public insurance option but was rebuked. The former presidential candidate and Democratic National Committee chairman mused that maybe it’s just as well that Obama didn’t select him as HHS secretary. “I would have had to leave the administration over this bill,” Dean said a few days before the House vote. “I think the reason I wasn’t on the inside is that it was very predictable that I was going to be much more reform-minded.”

Dean nevertheless believes that that the near-universal coverage the legislation calls for will inevitably lead Congress to adopt a public option. “There is potential for real reform down the road as a result of this bill,” said Dean, who will continue to press his case as a television commentator, a consultant to the Democracy for America advocacy group—run by his brother, Jim—and as a stump speaker for Democratic candidates this fall.

■ The Service Employees International Union and its president, **Andy Stern**, solidified their role as a legislative force during the health care debate. Frequently seen on the Hill and at the White House, Stern weighed in heavily on negotiations over a tax on high-cost “Cadillac” insurance plans, a funding scheme that labor groups strongly opposed, and he lobbied hard for the bill’s passage.

can serve as “aggressive advocates” for improving the quality of health care delivery. Another upshot: He acknowledges that the SEIU could gain a lot more members if, as he predicts, the law leads to the creation of 2.5 million to 4 million new health care jobs.

■ **John Podesta** burnished his credentials as one of Washington’s Democratic wise men. While leading the president-elect’s transition, Podesta prepped Obama for the health reform fight, drawing on lessons from his time as a congressional aide and as chief of staff to President Clinton. When Republicans opposed health reform, Podesta predicted that Democrats would proceed without them. When 60 Senate votes looked shaky, he said that budget reconciliation with 51 votes would be a fallback.

Look for Podesta to continue drafting policy at the Center for American Progress, coaching Obama’s top staff members, advising players outside of government, and counseling lawmakers and their staffs. He already has pivoted to another Obama commitment: energy and climate-change legislation. When Clinton appeared in the Capitol last week to urge Senate Democrats to take up that cause, who was the fellow at the back of the room? You guessed it.

## Outsiders

■ Governors and members of Congress in both parties now view **Atul Gawande** as an intellectual leader on health care. Gawande, who helped Bill Clinton shape his health care plat-

form and sees what sticks,” he said. “It’s going to try everything we know that might work.”

■ **Sarah Palin** again demonstrated her ability to command public attention early last August. In a 316-word post on her *Facebook* page, she used the controversial phrase “death panel”



■ Gawande

■ Gruber



■ Palin

form as a campaign aide in 1992, is a Boston surgeon and a staff writer at *The New Yorker*. His highly acclaimed article “The Cost Conundrum,” published by that magazine last June, shaped the national conversation.

Gawande explored the reasons behind the dramatically high health care costs in the border town of McAllen, Texas, and diagnosed a culture of over-testing and unnecessary medical procedures. In the process, he pointed the way to reform of the nation’s health care delivery system.

■ **Jonathan Gruber**, an MIT economist who served as another intellectual architect of the health care law, believes that the fate of our civilization is on the line as its implementation begins. “The only way we’re going to stop our country from becoming a latter-day Roman Empire and falling under its own weight is to get control of the growth rate of health care costs,” Gruber warned in a March 11 speech in Massachusetts. The professor helped craft that state’s health reform model and shaped policy thinking in the administration and Congress.

Gruber’s analysis will be in demand as the government mounts a variety of experiments to rein in health care costs. “This bill takes what I call the spaghetti approach—it takes a bunch of ideas that might work and throws them against the

to describe government bureaucrats who she maintained would ration care to the sick and disabled—including her son who has Down syndrome—if health care reform passed. Within a week, Obama and Democratic lawmakers were responding to the incendiary claim by the former Alaska governor and 2008 Republican vice presidential nominee. In the process, Palin further whipped up conservative “tea party” activists, who overtook congressional town hall meetings later that month and whose movement grew in strength as the debate played out.

“She seems to be able to capture the phrase [death panels] better than most other Republican leaders, so I think she helped herself” politically, said Doug Gross, an Iowa GOP strategist.

Palin didn’t exactly emerge as the leader of the party on the health care issue with her “quick raid” into the debate, in the view of Clark Judge, a former speechwriter for President Reagan. “When you get into the arena, you’ve got to stay for numerous rounds,” Judge said. But enunciating significant policy alternatives probably wasn’t what the potential 2012 presidential hopeful had in mind, at least not yet.

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## Cover Story

Experts assess whether the new health care reform law delivers on its promises.

■ By Marilyn Werber Serafini



# Grading Reform

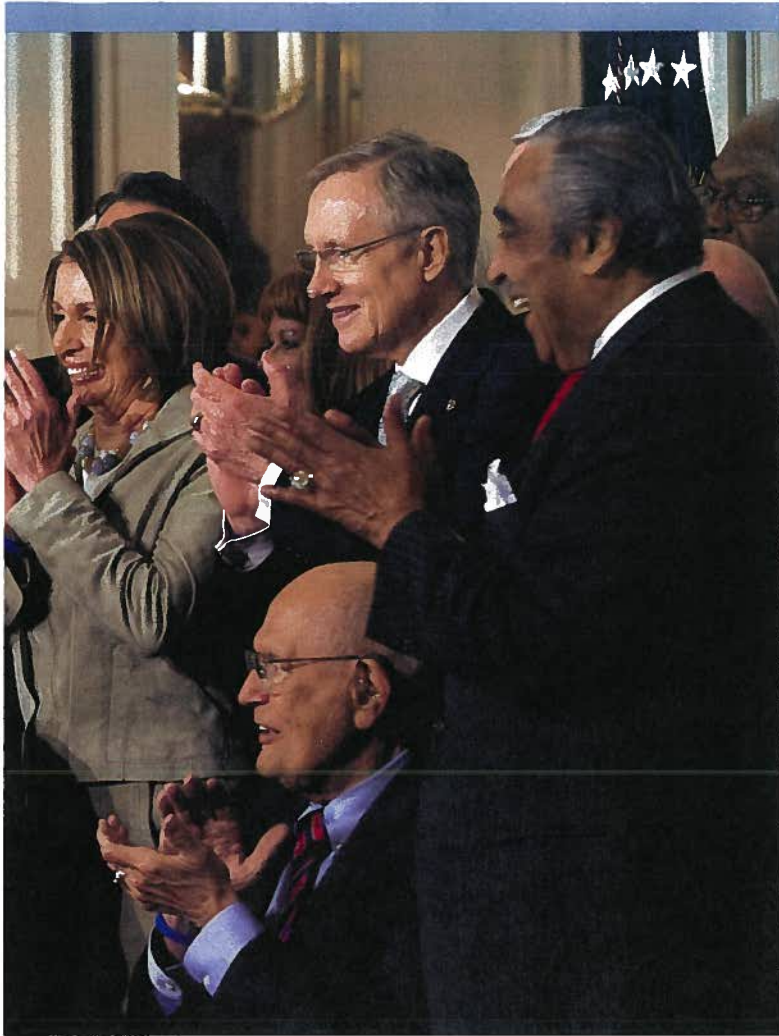
**T**he primary objectives of health care reform were clear long before Congress took up the issue last year: slow the growth of health care spending, insure more people, improve the quality of care—and do it all without busting the federal budget. *National Journal* this week asked 20 health care experts across the political spectrum how the

bill that President Obama signed into law on Tuesday measures up against those yardsticks.

The experts generally agreed that the new law comes close to achieving the objective of providing insurance to all Americans and does a fairly good job of making coverage affordable and available to consumers. But the experts also said that the law falls short of promises to lower skyrocketing health care spending, and they concluded that it doesn't do enough to improve the quality of health care.

*National Journal* posed the same questions to health care experts

in October 2007, when it asked them to grade the health care plans of six major Republican and Democratic presidential candidates, including Obama. Despite the twists and turns of health care reform over the past year, Obama received similar grades for his campaign proposal and the bill that became law this week—although this week's grades for improving the quality of health care were lower. The similar grades are notable, considering that the legislative process is messy and winning votes in Congress can require trade-offs far different from those needed to win votes in an election.



■ **SIGNED, SEALED, DELIVERED:** The bill that President Obama signed on Tuesday at the White House gets good marks for covering the uninsured.

Our judges gave each candidate's plan a series of numerical grades, from 1 to 10, depending on how close they thought it would come to achieving a given goal, such as covering the uninsured. A score of 10 indicated that the plan would come extremely close to reaching the goal, while a score of 1 meant that it would not come at all close.

*National Journal* tried to craft the survey questions to elicit objective assessments rather than partisan or ideological views. Regarding the uninsured, for example, we asked the judges how close each proposal would come to providing health insurance for all Americans. *NJ* did not want answers that reflected the judges' political leanings or personal views about whether a given plan was the best—or even a good—approach.

The judges are primarily from research organizations, universities, and think tanks. Twenty experts participated this year, compared with 10 in 2007. Most of the 2007 judges were part of this year's pool of experts.

The scores in the articles that follow are averages of the judges' marks for each facet of the new health care reform law. In assessing the law, most judges typically gave similar scores. For example, both liberal and conservative judges gave the law high marks for covering the uninsured, even though some experts oppose reaching that goal by mandating that individuals have insurance. And on the question of whether health care reform would hold down federal spending, conservatives and liberals alike gave the law lower scores because of the enormous price tag attached to the measure and other factors.

Starting with coverage for the uninsured, *National Journal* examines how the new law fared when judged on the five key criteria.

After consulting with health care policy experts, *National Journal* created a system in 2007 for rating the potential impact of the presidential candidates' health care plans on five broad categories: the uninsured; government spending; consumer costs; employer-based insurance; and quality of care.

RICHARD A. BLOOM

## ■ The Judges

- **Henry Aaron**, senior fellow, Brookings Institution
- **Joe Antos**, the Wilson H. Taylor scholar in health care and retirement policy, American Enterprise Institute
- **Stuart Butler**, vice president, Heritage Foundation
- **Tom Daschle**, former Senate Democratic leader
- **Karen Davis**, president, Commonwealth Fund
- **Paul Fronstin**, senior research associate, Employee Benefit Research Institute
- **Paul Ginsburg**, president, Center for Studying Health System Change

- **John Goodman**, president, National Center for Policy Analysis
- **Ed Howard**, executive vice president, Alliance for Health Reform
- **David Kendall**, senior fellow, Third Way
- **Jeffrey Levi**, executive director, Trust for America's Health
- **Elizabeth McGlynn**, associate director of the health program, Rand
- **Tom Miller**, resident fellow, American Enterprise Institute
- **Uwe Reinhardt**, professor of political economy, Princeton University

- **Robert Reischauer**, president, Urban Institute, and former Congressional Budget Office director
- **Leonard Schaeffer**, professor, University of Southern California
- **Donna Shalala**, president, University of Miami, and Democratic former Health and Human Services secretary
- **John Sheils**, actuary, Lewin Group
- **Grace-Marie Turner**, president, Galen Institute
- **Gail Wilensky**, senior fellow, Project Hope, and Republican former Medicare administrator

# A Big Step Toward Universal Coverage

Scores for the new law are similar to those for Obama's campaign proposal for covering the uninsured.

By Marilyn Werber Serafini

The Congressional Budget Office estimates that the health care reform law will provide coverage to 31 million of the 47 million Americans currently uninsured. Many of the people who won't be covered are illegal immigrants who are ineligible for federal assistance in obtaining insurance.

None of the 20 experts gave the law a perfect score of 10 for providing coverage, although all but two gave it high marks. Indeed, in this category, President Obama received the same grade that he did as a candidate.

During the campaign Obama recommended a narrower mandate requiring only that parents purchase insurance for their children; in contrast, the new law requires many adults to also get coverage. Most people without health insurance will have to pay one of two penalties, whichever is greater: either a fixed fine, starting at \$95 in 2014, rising to \$325 in 2015, and to \$695 in 2016; or a percentage of taxable income, starting at 1.0 percent in 2014 and rising to 2.5 percent in 2016.

People with annual incomes below 100 percent of the federal poverty line (\$10,830 for an individual and \$22,050 for a family of four) are exempt from the penalties.

The law will significantly expand Medicaid, the federal-state health care program for the poor, to as many as 13 million additional beneficiaries. Beginning in 2014, Medicaid eligibility will extend to people with annual earnings lower than 133 percent of the federal poverty line (\$14,440 for an individual).

Some judges took 1 or 2 points off their scores in this category because they advocated tougher penalties for failure to purchase insurance. Paul Ginsburg, president of the Center for Studying Health System Change, said, "I expect that the mandate will be refined in response to experience."

Ed Howard, executive vice president of the Alliance for Health Reform, called the law "a good start," and Jeffrey Levi, executive director of the Trust for America's Health, agreed. "Clearly, a significant group of people will be left out of this reform," he said. "But the addition of over 30 million Americans to the insurance roll is a monumental step of major proportions. But those who are left out will continue to need a safety net—hence the importance of the provisions expanding funding for community health centers and public health."

Gail Wilensky, a senior fellow at Project Hope who was Medicare admin-

istrator during the presidency of George H.W. Bush, noted that according to CBO estimates, "the percentage of people without insurance would drop from the current 15 percent to 5 percent, which is two-thirds of the way to universal coverage."

Elizabeth McGlynn, associate director of the health program at Rand, said that based on her think tank's microsimulation modeling, the percentage of uninsured would be reduced by 53 to 57 percent. She called that "a substantial improvement,"

although she added that it "would not achieve universal coverage." McGlynn concluded, "A large portion of the uninsured would be eligible for, but not enrolled in, Medicaid."

The Lewin Group actuary, John Sheils, said that his firm's model indicates that the law covers 60 percent of the uninsured population but only 43 percent of care

that is currently uncompensated. "Very-low-income people exempt from the mandate account for much of this," he said.

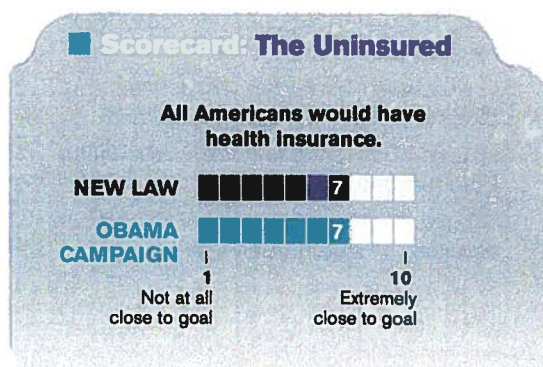
According to Joe Antos, an American Enterprise Institute scholar, the goal shouldn't be reducing the number of uninsured but increasing the number of people who have access to appropriate care. "There is nothing in the bill that assures this," he said. Over time, Heritage Foundation Vice President Stuart Butler cautioned, although almost all citizens and legal residents will get coverage, "it may not be of the type, cost, and quality that they would like."

Some conservative opponents argue that an insurance mandate is unconstitutional and sets a worrisome precedent for government power. More than a dozen states have already filed lawsuits challenging the constitutionality of the requirement.

Many health reform advocates are also concerned, but for different reasons. They worry that some people will ignore the mandate—especially those who are young and healthy and see little need for health insurance. America's Health Insurance Plans, which represents insurers, shares this apprehension. Insurers agreed early on to stop denying policies to people with pre-existing conditions and in poor health in exchange for universal coverage.

"I expect that the mandate will be refined in response to experience."

—Paul Ginsburg



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# Access to Care Isn't Guaranteed

Just because people have insurance doesn't mean they'll be able to find a physician who will treat them.

By Marilyn Werber Serafini

The experts gave the new health care reform law high marks for making coverage affordable and available for the sickest people (8 on a scale of 1 to 10), and good marks for ensuring that patient costs would not cause people to drop insurance, forgo needed care, or experience financial hardship (an average score of 7). The experts, however, issued somewhat lower scores for ensuring that patients have access to a broad range of providers and facilities (average score 6), and the scores were even lower for encouraging consumers to seek value for their money (average score 4).

Requiring people to buy health insurance doesn't necessarily mean that it will be available—and at a reasonable price. “There may be an ‘expectations gap,’ with the public expecting help with their health insurance to arrive much faster than it actually will,” Kaiser Family Foundation President Drew Altman wrote on the foundation’s website. Altman, who was not one of *NJ*’s judges, cited a recent Kaiser poll that showed that about half of respondents believed that in 2010 or 2011 people would begin getting help buying coverage and insurance companies would be required to take all comers.

But the timeline for implementation is slower. Starting in 2014, those with incomes below 400 percent of the poverty level (\$43,320 for an individual and \$88,200 for a family of four) can get tax credits to help with the cost of insurance premiums.

Consumer advocates argue that ending subsidies at 400 percent of poverty will leave many people who earn slightly more than that unable to afford premiums, and that many people just under 400 percent of poverty will find it difficult to pay their share of the premium.

Experts gave the highest marks for making coverage available and affordable for the sickest people, who now often find it difficult and

costly to obtain insurance. One expert said that the score would have risen even higher “but for the delay in the effective date for abolishing all pre-existing conditions.” The ban takes effect in 2014.

Scores were also moderately high for keeping people from dropping insurance, forgoing needed care, or experiencing financial hardship. Elizabeth McGlynn, Rand health program associate director, said that her organization has estimated that premiums in the large-group market will decline by about 2 percent and that premiums for people getting insurance through an exchange will decline by 3.7 percent. That will make coverage “more affordable relative to the status quo.”

Scores were mixed when *National Journal* asked whether patients would have access to a broad range of providers and medical facilities—a reflection of criticisms that some areas may experience shortages of doctors because of expanded insurance.

“The 16 million who get coverage through Medicaid are likely to face significant access problems,” said Project Hope senior fellow Gail Wilensky. “Medicaid recipients are reporting increasing difficulties now. Raising the reimbursement for primary-care docs to Medicare levels will help some.”

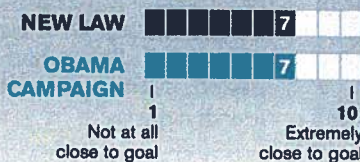
The lowest score in this category—from liberals and conservatives alike—was for encouraging patients to seek value for their money. Paul Ginsburg, president of the Center for Studying Health System Change, said that policy makers “missed a major opportunity to encourage value by postponing the ‘Cadillac tax’ until 2018.” He was referring to a provision that imposes an excise tax on high-end insurance premiums.

Heritage Foundation Vice President Stuart Butler said that the law provides some incentive for families to shop wisely in the exchanges. “But the critical incentive of a limited tax exclusion has been gutted and in practice will never take effect—Congress will keep ‘fixing’ it, like doc fees” and the alternative minimum tax, he predicted.

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## Scorecard: Consumer Impact

Increases in patient costs would not cause people to drop health insurance, forgo needed care, or experience financial hardship.



Coverage would be available and affordable for the sickest people.



Would encourage patients to seek value for money.



Patients would have access to a broad range of providers and facilities.



# Low Scores for Controlling Costs

Experts are dubious that health care reform will do much to rein in rising health care expenditures.

By Marilyn Werber Serafini

Bringing health care spending in line with the economy's growth rate has been a priority since Washington began talking about health reform decades ago. During the 2008 presidential campaign, judges gave Barack Obama's proposal a score of only 3 for controlling costs.

In rating the newly passed reforms, the scores were nearly as low. Former Medicare Administrator Gail Wilensky noted that the law will institute some "promising" pilot projects for coordinating medical care in Medicare and for testing ways to pay doctors and hospitals. Still, Heritage Foundation Vice President Stuart Butler said that the law will increase, not decrease, the growth rate of total health spending.

"While the bill contains provisions that may ultimately lead to reductions," Elizabeth McGlynn, Rand health program associate director said, her think tank's projections indicate that, "with the exception of payment reform options, most would have a relatively small effect on the growth rate in health spending."

The actuary for the Centers for Medicare and Medicaid Services "reports that health spending will continue to grow faster than the economy, even assuming that future Congresses cut Medicare spending as prescribed in the bill," American Enterprise Institute scholar Joe Antos contended, adding, "This objective is probably impossible to meet even over the long term given the aging populace."

Brookings Institution senior fellow Henry Aaron is more optimistic about the long-term forecast; and Ed Howard, executive vice president of the Alliance for Health Reform, said that "most of what is possible is at least put in place, but will take time to have impact."

Many health care economists had high hopes for a so-called Cadillac tax to discourage employers from offering overly generous benefits. With less coverage, the theory goes, people will have to pay more out of their own pockets and thus become thrifter about purchasing

medical services. But the final law watered down the tax and delayed its implementation. The tax on high-end insurance plans will apply to health plan premiums greater than \$10,200 for individual coverage and \$27,500 for families; it won't kick in until 2018.

Scores were somewhat higher, although mixed, when *National Journal* asked whether the federal government will get its money's worth from the law. "In terms of government spending per net newly insured individual, the expected value of the services obtained should exceed the cost to the federal government," McGlynn responded.

Butler, however, argued that the law is based on a "very high taxpayer cost for coverage expansions that could have been achieved at much lower cost." In scoring the law on its cost, Butler wanted to know whether zero was an option. "It has been 'funded' with new taxes and 'savings' that will not materialize. It is thus actually being funded with debt obligations on future generations."

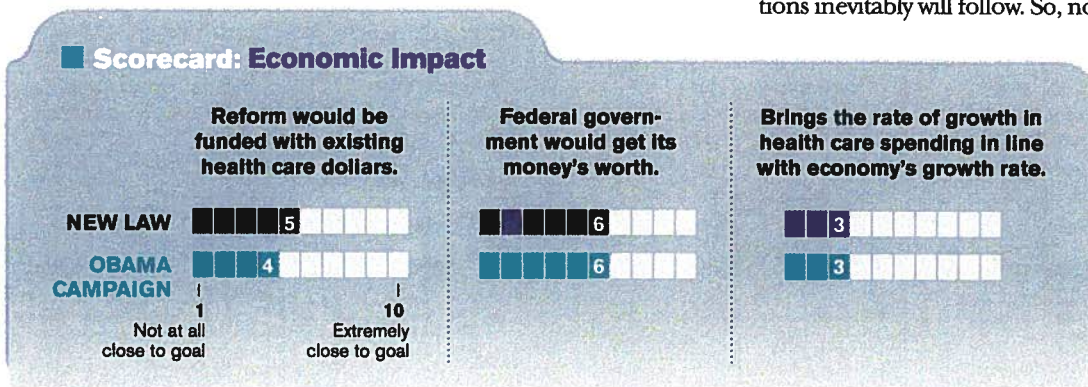
Grace-Marie Turner, president of the Galen Institute, particularly worries about Medicare savings, which mostly come from decreasing payments to the Medicare Advantage program.

One-quarter of Medicare recipients get their insurance coverage from health maintenance organizations, preferred provider groups, and even some private fee-for-service plans as part of Medicare Advantage. But the program has been controversial because the government pays participating insurers about 14 percent more per beneficiary than it pays for the care of seniors in Medicare's traditional fee-for-service program.

"Richard Foster, Medicare's chief actuary, warned Congress that making the deep cuts to Medicare contained in the Senate bill 'represent an exceedingly difficult challenge' and, if sustained, would cause one out of five hospitals and nursing homes to become unprofitable," Turner said. "Congress is highly unlikely to allow this to happen, requiring even more tax dollars and deficit spending. This legislation is not paid for, even with half a trillion dollars in cuts to Medicare and half a trillion in new taxes. Political pressures will intensify to provide ever larger subsidies to more and more people and to impose strict price controls on providers. Coverage restrictions inevitably will follow. So, no, reform is not funded with existing health care dollars."

Paul Ginsburg, president of the Center for Studying Health System Change, countered that the government would have cut Medicare Advantage costs even if reform legislation had not passed, "although perhaps less sharply."

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# Will Employers Still Offer Insurance?

Some businesses could decide that it's cheaper to pay a fee to the government than to cover workers.

By Marilyn Werber Serafini

**M**uch of the push-back that ultimately doomed President Clinton's health care initiative in 1994 stemmed from people's fear that they would have to give up their employer-provided health plan and could end up worse off. Polls consistently show that Americans who have employer-based health insurance like it and don't want to lose it.

*National Journal's* panel of experts was split over whether employers now offering insurance will continue to do so under the new law and whether the law will cause employers financial hardship. Not surprisingly, conservatives were less confident than liberals that the impact on employers will be minimal.

Under the law, most employers are required to maintain some role in their workers' health insurance. Those with more than 50 workers who don't offer health care coverage now will have to pay \$2,000 per employee to the government. Companies will not be assessed a fee for the first 30 workers on their payrolls. Some experts warned that the penalty is too stiff, while others said it will not be burdensome and is still cheaper than offering insurance.

Several participants maintained that the requirements' effects may be quite different on small and large businesses. "Larger firms will continue to provide health care benefits," said Leonard Schaeffer, a professor at the University of Southern California who specializes in health policy and economics. "However, reform may accelerate the current trend for small employers to drop coverage, even though they can purchase via exchanges, and rely instead on employees to seek insurance directly from exchanges." He cautioned that the \$2,000-per-employee penalty for failure to offer insurance may not be large enough to keep small firms from dropping coverage.

Joe Antos, an American Enterprise Institute scholar, also pre-

dicted that many smaller employers would opt to pay the "minimal penalty. Large employers will continue to offer coverage because they will be able to offer a better and more convenient deal to many of their employees than the exchanges."

Lewin Group actuary John Sheils estimated that 18 million people with coverage through their jobs will lose it because employers will conclude that it will be cheaper to let workers

buy insurance with subsidies in the exchange. The U.S. Chamber of Commerce projects that 10 million people could lose their employer-sponsored health plans. Tax credits will be available for small employers, but the chamber argues that they will be ineffective and temporary. The chamber characterizes the new requirements as job killers

**“Reform may accelerate the current trend for small employers to drop coverage.”**

—Leonard Schaeffer

that will lower wages and stymie economic growth.

Elizabeth McGlynn of Rand, however, forecasted a reversal—or at least a slowing—of the trend of employers dropping insurance or covering less of its cost. The law, she said, will “likely arrest those declines and help keep employer-offered rates and contribution percentages steady.”

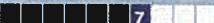
Most experts said that the law will not cause employers financial hardship. If the penalty effectively dissuades small employers from offering insurance, they will benefit by shifting their employees to the exchange, Antos said, thereby reducing their long-term financial risk. And Sheils noted that the law contains no penalty for those employers who fail to provide insurance to part-time workers, “which takes the pressure off of firms with a large part-time workforce.”

Massachusetts enacted an employer mandate in 2006 as part of near-universal health care legislation, and employers, for the most part, haven't complained about any new significant burden. Still, employers raise the slippery-slope argument that any new mandates on them could open the door to other, more significant requirements.

Schaeffer suggested that employers will be most hurt if the reforms fail to curb rising health care costs: “If health care costs are not controlled ... employers could face higher costs than in the absence of reform because they are required to provide a minimum level of ‘creditable’ coverage whose benefit levels and costs are likely to climb.”

## Scorecard: Employer Health Care


Employers offering insurance would continue to do so or maintain a financial commitment through some form of coverage.

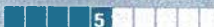
NEW LAW  7

OBAMA CAMPAIGN  8

1 Not at all close to goal | 10 Extremely close to goal

Proposal would not cause employers financial hardship.

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# Minor Impact Seen On Quality of Care

Experts are skeptical that the new law will give medical providers the tools to improve care or follow best practices.

By Marilyn Werber Serafini

Many of *National Journal's* health care experts are disappointed that the new law won't do more to improve the quality of health care. "The main focus of the legislation is on coverage expansion, not on improving quality or consumer decision-making," said Elizabeth McGlynn, associate director of the health program at Rand. "The bill contains provisions that would increase the information available to consumers; however, there are no direct incentives for consumers to use that information or to change the decisions they would have otherwise made."

The key, said Paul Ginsburg, president of the Center for Studying Health System Change, is implementing research into medical effectiveness. The new law funds research on so-called comparative effectiveness to evaluate the success of various medical treatments.

But American Enterprise Institute scholar Joe Antos worries that even the most-sophisticated consumers will have trouble interpreting and applying comparative-effectiveness results. "Sensible consumers will continue to rely on the advice of their doctors, which depends on the community standard of practice, the patient's specific circumstances, how services are paid for, and other factors. Patients are increasingly also seeking information on the Internet, which can lead some to demand inappropriate treatments."

Jeffrey Levi, executive director of Trust for America's Health, shares Antos's concern. "It's one thing to do the comparative-effectiveness research and quality assessment; it's another for consumers to take that information to heart and apply it to their own situations."

Quality may also differ for those getting insurance through an exchange and those in employer-sponsored plans, said Heritage Foundation Vice President Stuart Butler. Those in exchanges will have "a lot more choice and information," he said, predicting that employers will react to extra fees by restricting coverage and shifting costs.

Few experts were optimistic that doctors, hospitals, and other medical providers will gain the tools to improve care using best practices. "The bill promotes comparative-effectiveness research but does nothing to increase adherence to guidelines," said Lewin Group actuary John Sheils. "Adherence is the problem. There is overwhelming evidence in the literature showing that doctors do not follow guidelines."

Former Senate Majority Leader Tom Daschle noted that changes resulting from the research will not come "for some time." And even when the results of comparative-effectiveness research are more readily available, "probably past the 10-year mark," according to Antos, "their appropriate application depends critically on the specific patient's circumstances. Judgment will remain the driving factor, unless future Congresses attempt to impose uniform standards on medical practice."

Grace-Marie Turner, president of the Galen Institute, worries that comparative-effectiveness studies "are historically out of date long before the studies are finalized." What may have a greater effect on quality of care is the funding that President Obama included in last year's economic stimulus law to encourage doctors to adopt electronic medical records. "Considerable work must be done to help physicians who are in solo and small group practice use emerging tools," she said.

Although former Medicare Administrator Gail Wilensky called the law's direction positive, she stressed that much depends on what happens with pilot and demonstration projects that the law establishes for Medicare. The law authorizes pilot projects to test so-called accountable care organizations and the bundling of payments to medical providers. The idea is to get medical providers to better coordinate patient care. The government and private insurers, in turn, could then more effectively base payments on performance.

The experts were somewhat skeptical that the reforms will encourage medical providers to compete for patients based on quality and price. Conservatives were especially critical, but liberals didn't give high scores either.

Competition will change, Butler said, but not to meet that goal.

"In Medicaid, Medicare, and in the more regulated private system, the incentive will increase to compete by cutting costs and avoiding certain patients to achieve a reasonable return amid tighter fee schedules," he said. ■

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