



# How the MPM through a Legal Approach Contributed to the ACA

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## Abstract

The American Health Care System continues to be a divisive problem. In the 1960s, Medicare and Medicaid were created to fund healthcare for the aging and the poor. In 2010, the ACA was passed to compel all citizens to purchase health insurance. Today, nearly 90% of Americans have health care coverage [1] but there is widespread disagreement with this approach that continues today.

## Introduction

Having health care insurance coverage is necessary for people who are sick, hospitalized or chronically ill. Government programs for healthcare came into existence during the 1960s. Medicare provides support for those citizens over the age of 65 and Medicaid provides support to those citizens with low incomes. Since that time, many American businesses phased out paying the premiums of healthcare insurance for their employees, forcing Americans to pay for their own healthcare insurance, if they wanted it. However, healthcare insurance is not cheap. Technological advances like ultrasound, dialysis, MRI and CT scans, as well as the development and implementation of new drugs, surgical procedures and electronic devices have made tremendous progress in diagnosis and treatment while increasing the costs of hospital services. Additionally, the increased costs of medical education, real estate and unionization of medical workers, added to the normal rate of inflation, have all contributed to the growth of hospital bills. In the 1990s, President William Clinton proposed a healthcare bill

to address the costs of healthcare, but it did not succeed in the legislature. It was during the 1990s that NPM, the New Public Management, was making its mark. A new refocusing of energies on the customer, marketization, achieving results, deregulation and flexibility are the some of the cornerstones of this approach and NPM provides the main guidelines of most administrations today [2]. The main concept was to bring private sector profit thinking into the public sector. With this approach growing in strength over the last twenty years, and the absolute necessity of lowering the crippling costs of healthcare in America, President Barack Obama succeeded in having the Affordable Care Act (the "ACA") passed in 2010, despite some objections from members of Congress and the Senate, as well as at least 20 state governors who have chosen not to participate in the voluntary portions of the ACA.

The ACA provides assistance for low-income individuals and families to purchase private health insurance and not depend solely on Medicaid. It is not available for those Americans on Medicare,

but it does cover people with pre-existing conditions. The ACA does penalize those Americans without medical insurance because the goal is to have all Americans insured. Most industrialized nations have some form of universal health care stemming from the belief that health care is a right. These ideas stem from an innate desire to do no harm and to stop suffering, but can easily be seen as an outgrowth of NPM, putting people first and trying to effectively control the costs of the country's medical insurance problem in a financially responsible way and a fiscally effective manner. Ignoring the medical needs of humanity is similar to ignoring the suffering of humanity, regardless of income level. However, implementing this on a legal level has proved daunting but not impossible. It took extensive negotiation between President Obama and the legislature in the careful composition of the ACA. Challenges to parts of the law subsequently resolved in the Supreme Court display the judicial process at work in finalizing the constitutionality of this important law but the process of constructing this bill was a legislative triumph.

ACA is an offering additional opportunity to get health care insurance, if the family's annual income is below a certain level. Foreigners do not qualify for the medical services, so they will need health insurance coverage. The influence of the NPM has helped guide the President to focusing steadfastly on this singularly important issue while retaining true adherence to the principles of the NPM.

"Apart from undocumented immigrants, the ACA recognizes all people's need for health care – and on surprisingly equal terms" [3]. Here is a prime example of putting people first. For many poor people now able to obtain health insurance, the salvations of the ACA are the removal of the threat of medical bankruptcy and the access to health care when illness threatens a family member. The ACA allows customers to obtain health insurance through adjustable rates and exchanges so they can choose which plan fits them best on their budget. Once the uninsured customer has obtained a health care insurance plan, the government should additionally save an enormous amount of money by not paying for medical costs through Medicaid of the uninsured. These key features highlight the impact of the NPM.

New public management (NPM) is a set of constructs emphasizing a customer driven platform, fiscal responsibility, market exploration and effectiveness, and a private sector mentality toward efficiency. It focuses on defined standards for quality, clarity of goals and teamwork, and an evaluation of products output versus bureaucratic procedures.

Health care has been an expensive undertaking on the government ever since the laws which created Medicare and Medicaid in the 1960s. Hospitalization, diagnosis tests, emergency room visits, nursing home stays, rehabilitation services, home health services and doctor visits are expensive without health insurance coverage. Without an ideal 100% insured population, the costs of Medicare and Medicaid might eventually bankrupt the country. The slow prevailing attitude created by the NPM has affected the composition of the ACA. Through the ACA, customers

have the flexibility of purchasing the appropriate healthcare plan, displaying capitalism and competition in action. NPM emphasizes steering, not guiding. The ACA has steered a multitude of Americans into buying insurance, which maintains the present system in a most efficient way. Everything within the entire healthcare system (doctors, emergency rooms, hospitals) remains the same, but now the uninsured have been incorporated into it with a long slow sweep of Uncle Sam's hand. The diminishing numbers of uninsured Americans is a great sign of success. The ACA did not create a gigantic new bureaucracy, but instead has simply provided the means to insurance in a decentralized way without the bulk of bureaucratic waste.

More than enough evidence shows how remarkable the ACA aligns with NPM in so many ways. NPM stresses sensitivity to changes in the marketplace, "steering instead rowing", and "how government should work, not what it should do" [2,4]. Also, not everyone has equal opportunities to access the health care coverage. According to Kaiser family Foundation [5], the number of uninsured nonelderly Americans in 2014 was 32 million, a decrease of nearly 9 million since 2013. Additionally, 48% of uninsured adults can't afford health insurance, poor families in the states which did not expand Medicaid have no coverage, and undocumented immigrants are not allowed to access to Medicaid. The majority of people who are uninsured are working families, over 8 in 10 were in a family with a worker, and over 5 in 10 have a family income 200% below the poverty level [5]. Unequal access to health care coverage continues despite the ACA [4,6]. Uninsured people are less likely to receive prevention care and this can lead to major health issues in the future. 36% of low and middle-income uninsured adults have problems paying for medical care. This leads to medical debt and more medical problems for the uninsured. The ACA is trying to get people insured so that when an illness occurs, people are covered.

The legislative history of the ACA is long and complex. President Obama spent many hours carving, shaping and honing the law over many months so that the end result would garner a sufficient number of votes in the Senate to pass. In a country as large and as complex as the United States, achieving a consensus on such a controversial subject as healthcare proved impossible for President Nixon and President Clinton. Neither of those Presidents was faced with the enormous national debt created by the growth of Medicaid and Medicare. As this objective was the centre piece of President Obama's campaign, it was necessary to accomplish it. From within his own party, President Obama needed full support for passing the law. "Although most pathbreaking social legislation of the past—and, indeed, all major initiatives during the previous administration—had relied on deficit spending, the conservative Democratic votes required for passage required that it include full financing" [3]. Additionally, there was the need to include as many Republicans if possible. "And because Republicans gained the ability to block passage of ordinary legislation in the Senate partway through the process, the legislation had to be written without the benefit of a conventional conference committee, with any modifications to the Senate-passed version having to meet the arcane and rigorous restrictions of reconciliation." (p. 876).

As usual with any bill, there will be detractors who do not want their income reduced. "With the Republican Party, a number of powerful industry groups, and some single-payer advocates seeing its passage as disastrous to their interests and its implementation even more so, no plausible concern has gone unarticulated for lack of resources." (p. 877). No Republican Senator voted for the ACA. However, President Obama did achieve the required 60 votes at last by courting Independent Senator Joe Lieberman from Connecticut, as well as other Democratic Senators, and making the final compromises that would secure passage of the bill. However, the controversy continues with the possibility of a Republican White House win in 2016. "Conversely, even if an anti-ACA Republican wins the White House in 2016 and sweeps in a broad array of Republican congressional candidates with him or her, Democrats will retain more than enough votes in the Senate to filibuster the ACA's repeal." (p. 878).

As of now, however, there is no ACA repeal happening in the government. While certain parts of the ACA were delayed and are now becoming effective, including the employer mandate, criticism continues to mount [7]. These legal delays of implementing portions of this law were necessary to allow the complexity of the law to be understood gradually and to make sure they were properly administered [4]. With a country as large as the United States, a health care system complicated by Medicare and Medicaid, and a new law as complex as the ACA, additional time to allow it to be implemented is not detrimental to the law, but allows it to be slowly and gracefully accepted and hopefully faithfully followed. While not all of its outcomes can be predicted, "The only certainty is the impact the PPACA will have in ameliorating the suffering of some of the most disadvantaged citizens in the United States" [8].

While the ACA has only been in existence for a few years, there has already been a marked decrease in the number of uninsured Americans [5]. Within the next few years, and with a Democratic pro-ACA President elected in the fall of 2016, the full benefits and/or the unforeseen drawbacks of the ACA will become apparent.

### Acknowledgment

None.

### Conflict of Interest

No conflict of interest.

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