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How to Keep Your Boss off Bad Policy

An Empathetic Approach

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You know the feeling all too well. Every year, every month, every week – different constituents with different priorities will tell you why their concerns demand action now. They'll tell you why their one priority ask is the most important ask your boss will get; sometimes they'll tell you people will die if you don't get your boss to cosponsor this one bill. They aren't always wrong, and their causes almost always involve circumstances that are sympathetic. It's one thing that makes navigating health policy so tricky.

But how do you balance the need for sustainable policy that benefits Americans in the long run with the potentially righteous, but often narrower, causes of specific constituents or interest groups? How do you respond to someone in the throes of real crisis and real pain beyond a simple no? How do you ensure that policies promoted as solutions don't have unintended consequences that undermine good health policy?

Doing so effectively doesn't necessarily require esoteric knowledge of health policy law. Instead, three basic skills can help you keep your boss off misguided policy: empathy, process, and creativity.

Empathy – Understanding Their Goals

What Does This Person Want? How Can My Boss Serve Them?

Health policy differs from other issue areas in one distinct manner: it is *always* personal. It may not feel that way when sitting across the table from a K-Street lobbyist, but the policies at issue are almost always important to someone in your boss' district,

KEY TAKEAWAYS

Health policy is **always personal.** *The key to success is to position your boss to lead with empathy.*

The most successful process for developing targeted and useful policy is to **ask the right questions.** *Who does the legislation affect? How is it paid for? Is there a real need?*

Policy solutions will need to be **creative** *to address the needs of your constituents while limiting redundant legislation and spending.*

occasionally even matters of life and death. The key then is to always position your boss to lead with empathy, not simply to appear empathetic. This makes it your job to take an empathetic approach to policy.

To begin, ask the question – what do the constituents involved really want?

- Do they want more support or awareness for a particular disease?
- Do they want to increase access through regulatory reform?
- Do they want a cure through more research and development?
- Do they simply want to know if your boss cares about their community? How directly has this issue affected the constituent?
- Is their ask from the perspective of the industry, the payer, the provider, or the patient?

In asking these questions, you can better prepare your boss to serve their constituents' real needs. Knowing whether the ask comes from a key industry in your district, a VIP constituent, or a provider network that employs a large swath of your district can better attune you to their real interests.

For example, a hospital lobbyist may present an issue about a key grant program and the number of jobs it supports in the district. Is the underlying issue the program or a workforce shortage that affects a broader population? Is the ask coming simply because it affects their bottom line, or are there moral implications to consider?

Once you empathize with the constituent or understand the real driving interest, you can better understand the scope of the problem.

Process – Asking the Right Questions

The key to being an effective policy staffer is not simply a commanding knowledge of the law. Such a command starts with the fundamentals. Health policy, like any other issue, requires organization and process. The fundamentals of health policy begin with asking the right questions. Broadly, that means knowing the who/what/why/how of the issue broadly.

But specifically, keeping your boss focused on solutions that work and adhere to principles that can be repeated starts with asking the right questions. This can help clarify the need for a particular suggested solution and point you towards paths that may lead to better solutions. It may also help you say "no" to a proposed solution with grace and offer an empathetic alternative.

Who Does the Legislation Affect?

The first step in understanding the implications of any policy is understanding who the policy affects. These simply questions can help clarify the stakeholders involved and their interests:

- Who is supporting and/or pushing the legislation? Why?

- What evidence is available that the legislation would be effective? Is the source neutral or was it produced by the advocate or their contractor?
- Who opposes the legislation? Why?
- Have the current or past administrations provided technical assistance or weighed in on the legislation? Have they testified?
- Have the committees of jurisdiction weighed in and what is their position?
- Has the legislation been considered in past Congresses? Who supported and who opposed? Have they explained why in any legislative hearings or floor remarks?

How Is It Paid For?

Once you understand who is affected by the legislation, it is important to understand the effect that legislation has on taxpayers more broadly. If your boss is a fiscal conservative, these questions may be the beginning and the end.

- Does the legislation have any available cost estimates? Are there non-governmental costs to consider, such as unfunded mandates or burden increases?
- Does the bill increase spending? If so:
  - Does the legislation authorize new mandatory (e.g.., Medicare or Medicaid) spending or discretionary (e.g., NIH, CDC) spending?
  - If discretionary spending:
    - Does the legislation also eliminate or reduce a discretionary program(s) or report of equal or greater size (thus providing an "offset")?
    - Does the legislation include indefinite ("such sums") authorizations?
  - If mandatory spending:
    - Is the legislation fully offset by at least an equal reduction in current mandatory spending?
    - For Medicaid, what are the costs to the states (in addition to the costs to the federal government)?

- Does the legislation authorize appropriations without including a sunset provision?

Red Lines

Every member has these. This section offers a potential starting point in understanding whether the proposed legislation is a non-starter for your boss.

- For Medicare, what impact might this proposal have on the program's long-term solvency?
- Does the legislation include any mandates on states or private entities? Does your boss prioritize federalism concerns?
- Does the legislation expand the size or scope of any federal agency? If so, which agency?
- Is the legislation specific to one disease? If your boss signs on to this legislation, does it necessitate he/she signs on to other, similar legislation?
- Does the legislation authorize any kind of federal public health surveillance activities? Are there privacy concerns?
- Does the legislation include any language that might conflict with other values (e.g., social issues)?

Is There a Real Need?

All too often, programs or policies offered are duplicative of other federal programs. Sometimes suggested programs or policies actually work against the intended outcome. The following questions can help you clarify whether the legislation is a real solution.

- Does the legislation create a new program or report that is duplicative of an existing one? If so:
  - Which program does it duplicate?
  - Is the existing program authorized or unauthorized?
  - Does the existing program receive funding?
  - If the program is new, does it include any mandates or conditions on federal grant funding?

- If the legislation expands coverage under Medicare or Medicaid, does the payer (i.e., Medicaid or Medicare) in question already cover this? If not, why not? Are there alternative and comparable services it does cover?
- For traditional Medicare coverage policies, to what extent do private Medicare Advantage plans or commercial plans cover these products or services? If not typically covered, why not?

Additional Considerations

Finally, health care programs are often complex. It is worth taking the time to understand possible unintended consequences. The following questions can help you clarify other effects the policy may have.

- For Medicaid, if Medicaid doesn't cover it, are you proposing to make it optional for states to cover it or mandatory? If it's already optional and you want it mandatory, why don't states already cover it voluntarily?
- For Medicaid, are you proposing an FMAP (federal matching rate) increase? Is it because you want to incentivize uptake, the service in question is too expensive, or some stakeholder believes they need more money to continue providing adequate services?
- For Medicare, could this policy be tested in a more limited fashion (e.g., a demonstration project or within the confines of an existing payment model) before applying to the entire Medicare program?
- For Medicare, does the policy artificially incentivize certain behaviors? Is that the intended effect? Does it affect the quality of care for beneficiaries?
- Does the policy necessitate your boss's support of other policies or programs for similar problems?

Finally, when talking with a stakeholder, always look for missing context. For example, in 2014, every research university was proclaiming to the Hill that we

were in desperate threat of being lapped by China in medical research. They noted China had increased their public biomedical research budget by almost 250% in the past 5 years while the United States had increased their spending by less than 2% during the same time period. If you spent the time to look up the study they were referencing, you would have seen that from 2007 China increased publicly funded biomedical research from $0.6 to $2.0 billion in 2012. However, the same study said the United States spent $48.9 billion in 2012.

Creativity – Finding a Workable Solution

Once you understand the scope, your job turns to understanding what possible solutions are out there. Is the legislation at hand a real solution, or are there better ways of meeting the demand? Could the proposed legislation make the situation worse or less workable for future solutions (*e.g.*, speeding up program insolvency)?

Example A: Let's take a workforce issue. A company in your district supports a tax credit to onshore jobs creating medical devices. According to the lobbyist sitting across from you, 75% of these jobs have gone to China in the last 20 years. Your boss, however, opposes all special-interest tax credits. Simply saying no may be an option. However, as the wily staffer that you are, you know your boss also supported full and immediate expensing provisions in the past. If, instead, you allowed companies immediately to deduct the full cost of new investments (e.g., medical device factories), you could address both the broader issue and offer a solution to your constituent more in line with your boss's principles.

Example B: The same could hold true for disease-specific research initiatives. Are there better ways to allow the private sector to innovate in these spaces rather than authorizing new federal spending? Are there tax burdens on innovators that could free up capital for these purposes? Are there regulations that could be eased? Are there solutions that affect this issue that are outside of the typical "health policy" box? Simple questions can put your boss in a position to both address the need (if not the specific ask) while empathetically responding to their constituent.

Conclusion

Health policy is intricate, but it doesn't necessarily have to be difficult. The key to keeping your boss off bad bills is a matter of asking simple questions, asking them often, and putting in the work to provide answers that make sense for your boss even when they aren't the easiest response.