Legislation & Health Policy . . . Revisited

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Goal

• Develop an increased understanding of government structures and processes as they apply to health care policy and advocacy.
Health Policy – What is it?

• Actions taken by government bodies & other societal actors to attain specific population health-related goals.

• Includes:
  • Laws
  • Regulations
  • Government agency guidelines
  • Position statements
  • Resolutions
  • Judicial decrees
  • Budget priorities
  • Others . . .

• Health policy is both an *entity* and a *process.*

*Milstead, 2016*
As an Entity . . .

- The formal, tangible outcome of policy process, e.g.
  - Law
  - Regulation
  - Recommendations (not enforceable)
Health Policy: As a Process

• The (decidedly nonlinear) course of action taking place between:
  • Awareness of a public health issue; and
  • The enactment of a policy to address that issue.

• Process stages*
  • Agenda setting
  • Legislation & regulation
  • Implementation
  • Regulation

*Milio (1989)

Image source: sustainablebrands.com - Lobbying for Good . . .
Focus on Legislation . . .

• Laws enacted by a legislative body (e.g. Congress or a state Legislature) and;
• Is the route to production of public health policy
  • Law; which also generates . .
  • Regulations
A Civics 101 Review: The 3 Branches of Government

- U.S. Government – “the Federal Model”
  - Mirrored by state of Ohio
- Divided sovereignty/balance of power concept
- 3 branches with independent authority
- Certain powers reserved for the states per 10th Amendment of Constitution

<table>
<thead>
<tr>
<th>Executive: Enforces Laws</th>
<th>Legislative: Makes our Laws</th>
<th>Judicial: Interprets our Laws</th>
</tr>
</thead>
<tbody>
<tr>
<td>U.S. – POTUS &amp; Vice President</td>
<td>Lawmaking body</td>
<td>U.S. SCOTUS</td>
</tr>
<tr>
<td>OH – Governor</td>
<td>U.S. – Congress</td>
<td>OH – Supreme Court of Ohio</td>
</tr>
<tr>
<td>“Power of the Pulpit”</td>
<td>• Senate</td>
<td>• Typically appointed</td>
</tr>
<tr>
<td>• Sets national/ state agenda</td>
<td>• House of Representatives</td>
<td>• Judges elected in Ohio</td>
</tr>
<tr>
<td>POTUS Initiates budget process as a “request” to Congress</td>
<td>OH – Legislature</td>
<td>• Role is to resolve conflict at highest level</td>
</tr>
<tr>
<td>OH Governor establishes budget priorities, but OBM initiates</td>
<td>• Senate</td>
<td></td>
</tr>
</tbody>
</table>
U. S. Congress

- Bicameral Congress: A House of Representatives & a Senate
  - Established by Article I of the Constitution

- Balances popular majorities, with interests of the states
  - House: 435 members, from the population-based districts, 2 year terms
  - Senate: 100 members, 6 year terms
    - 1/3 chamber up for election in each cycle
Differences in House & Senate

U. S. Congress

- Fundamentally equal in roles/functions
- The numbers/representation differ
- Only the House can introduce revenue legislation
- Only the Senate can confirms Presidential nominations and approves treaties
- Process legislation differently:
  - House rules/practices allow for quick passage
  - Senate rules/procedures favor deliberation
- Party leaders set policy agenda – elected by their own caucus or conference (party)
  - Speaker of the House
  - Majority Leader (Senate)
Ohio Legislature

- Also Bicameral
- Ohio Senate: 33 members
  - Senators serve 4 year terms
  - Limited to 2 terms
- Ohio House: 99 members
  - Representatives serve 2 year terms
  - Limited to 4 terms
- Ohio General Assembly (GA) is a 2-year period
HOW A BILL BECOMES A LAW: HEALTH POLICY AS A PROCESS
U. S. Congress: How a Bill Becomes a Law

• Bill is introduced
  • Placed in the Clerk’s “hopper” in the House
  • Presenting to a clerk at the Presiding Officer’s desk in the Senate
• Assigned a number
• Referred to a committee
  • By the Speaker of the House or Majority Leader
  • Majority Leader (U.S.) or President (OH) of the Senate
• Bill considered by the bipartisan committee
  • Majority party chairs the committee and holds a majority of seats (votes)
  • Minority party has fewer votes; its leader known as the committee Ranking Member
A bill may move through more than one committee, if provisions are within/under jurisdiction of another committee

- May be considered by a subcommittee
- During a bill’s time in Committee, hearings are held
  - Proponent; opponent; interested party

Committee votes to report the bill “out” to the full House or Senate (if), then . . .
- Staff write a section-by-section analysis, w/ all changes in existing law noted
U.S. Congress: Other Processes

• Hearings
  • To provide expert witness on bills under consideration
  • Political purposes
  • To raise awareness

• Markup
  • Committee members scrutinize/discuss bill/offer amendments
  • After hearings complete, bill considered in a session known as the “mark-up” session
  • Amendments offered; committee votes to accept/reject changes

• Discharge Petition (U.S. House)
  • If members believe a bill is being held up in Committee
  • Needs 218 or more Members of the House to “discharge” the bill to the floor for a yes/no vote (a month after petition to get votes).
U.S. Congress: Other Processes

• Riders
  • Bills known as “moving vehicles”
  • Amendment/provision added to a bill called a “Rider”
  • Riders can be an entire bill, related or unrelated to original bill
• After passage by one body
  • Bill sent to the other body;
  • May or may not be debated and voted on
  • If voted on, sent to President for signature
• Conference Committee
  • House/Senate meeting of selected Reps and Senators appointed to resolve differences in a bill
  • Resolved bill sent (usually) to House for a vote, then to Senate for a vote
  • Bill must be agreed to by both chambers in the same form before it can to be sent to President for signing
How a Bill Becomes a Law in Ohio

* Indicates where bill may die

- Legislator becomes aware of need for legislation;
- Requests *Ohio Legislative Service Commission* (LSC) to draft proposed bill, or submits draft for review
- LSC drafts proposed bill for introduction to either house
  - Depends on whether sponsoring legislator is a Senator or Representative

<table>
<thead>
<tr>
<th>If House Bill</th>
<th>If Senate Bill</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Bill filed w/ House Clerk, numbered, “1st consideration” (read by title), &amp; referred to House Rules &amp; Reference Committee</td>
<td>• Billed w/ Senate Clerk, numbered, “1st consideration” (read by title), &amp; referred to Senate Reference Committee</td>
</tr>
<tr>
<td>• House Rules &amp; Ref Committee reviews, recommends standing committee assignment</td>
<td>• *Senate Ref Committee reviews, recommends standing committee assignment</td>
</tr>
<tr>
<td>• Second Consideration, bill referred to standing committee</td>
<td>• Second consideration, bill referred to standing committee</td>
</tr>
</tbody>
</table>
How a Bill Becomes a Law in Ohio

* Indicates where bill may die

- *Standing committee holds public hearings
  - May amend, combine, substitute bill; may refer to subcommittee; may postpone
  - Defeats or favorably reports bill
  - May be discharged for further consideration
- *House Rules & Reference Committee or Senate Rules Committee re-refers; takes no action; schedules bill for third consideration (floor action)
- *Third consideration – debate on floor and vote
- If passed in first house, bill sent to second house where process is repeated
How a Bill Becomes a Law in Ohio

* Indicates where bill may die

• If passed in second house with no changes, bill goes to presiding officers for signature
  • Signed by Speaker of House and President of Senate
• If passed in second house with amendments, bill returns to first house for concurrence
• *If first house does not concur, conference committee may be appointed
  • 3 members from each house; makes changes; reports back to both houses

If both houses accept conference committee report, goes to presiding officers for signature

*If both houses do not accept report, the bill dies
How a Bill Becomes a Law in Ohio

* Indicates where bill may die

• If houses concur, and bill signed by presiding officers . . .
• Act presented to Governor

Signed by Governor
Filed w/ Secretary of State for final enrollment; effective 91 days after filing.
Emergency, current appropriation, & tax legislation effective immediately.

If Governor does not sign or veto within 10 days after presentation (excluding Sundays) act becomes law w/o Governor’s signature

Filed w/ Secretary of State for final enrollment; effective 91 days after filing.
Emergency, current appropriation, & tax legislation effective immediately.

*Vetoed by Governor, returned to originating house w/ veto message

Vote of 3/5 of members from each house necessary to override veto

How a Bill Becomes a Law: State (Typical)

How a Bill Becomes a Law

Legislator writes bill and presents it to the House of Representatives.

House committee studies the bill.

A hearing is held.

House committee members vote and give the House a recommendation.

House of Representatives votes.

Legislator writes bill and presents it to the Senate.

Senate committee studies the bill.

A hearing is held.

Senate committee members vote and give Senate a recommendation.

Senate votes.

If passed by both Houses,

Bill is sent to Governor.

If Governor signs, bill becomes law.

If Governor vetoes the bill,

Bill is sent back to both houses for a vote. Bill becomes law if passed with 2/3 majority.
How a Bill Becomes Law

As Introduced
As Amended in Committee
As Amended on Second Reading
As Enacted
As Funded by Joint Budget Committee
As Implemented by the State Agency
As Reported by the Media
As Understood by the Public
What Was Actually Needed
After Legislation is Passed

- Legislative Committees may provide legislation . . .
  - Oversight;
  - Evaluation; and/or
  - Investigation, if warranted.
Other Forms of Health Policy: Regulation (i.e. “Rules”)

- Sources:
  - Executive Branch Departments/Agencies and Boards
- Also a public process
- Regulations have force and effect of law
- Exist at every level of government
How Regulations are Made

• Legislation grants executive branch agency rule-making authority
• Rules are drafted by agency staff
  • Often with input from stakeholders
• Public comment period, oral or written comments
  • *During agency hearing; or
  • When rules come before Joint Committee on Agency Rule Review (JCARR)*
• Revisions made
• Final filing
• In effect usually 90 days following final filing

*Next slide*
Joint Committee on Agency Rule Review (JCARR)

- Do rules exceed agency’s statutory authority?
- Do rules conflict with an existing rule of that or another state agency?
- Do the rules conflict with legislative intent?
- 3 additional detail questions
- If a rule violates one or more of the 6 questions, JCARR could make a recommendation to the GA to invalidate the rule
Currently showing on OBN home page: 2016 Proposed Rules. Hearing Nov 16; anticipated ED February 1, 2017 Changes to:

- Ch 5 Nursing Education
- Ch 7 Exam & Licensure
- Ch 13 Delegation (to make consistent w/ SB110 APRN Delegation of Meds)
- Ch 27 Cert Med Aide
Range of Executive Branch Departments & Agencies: *(Exist at these levels)*

Federal  
State  
Local
## Government Agency Examples

<table>
<thead>
<tr>
<th>Federal</th>
<th>State</th>
<th>Local/Municipal</th>
</tr>
</thead>
<tbody>
<tr>
<td>Department of Health &amp; Human Services (HHS)</td>
<td>State Health Departments:</td>
<td>County Health Dept</td>
</tr>
<tr>
<td>• AHRQ</td>
<td>• Health &amp; Human Services</td>
<td>City Health Dept</td>
</tr>
<tr>
<td>• CDC</td>
<td>• Cabinet level agencies</td>
<td></td>
</tr>
<tr>
<td>• CMS</td>
<td>• Mandate own health policies/regs, in</td>
<td>Responsible for:</td>
</tr>
<tr>
<td>• FDA</td>
<td>accordance w/ federal</td>
<td></td>
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<tr>
<td>• HRSA</td>
<td>• Matching funding, combined federal/state,</td>
<td></td>
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<tr>
<td>• More . . .</td>
<td>e.g. Medicate and State Children’s Health Insurance Program</td>
<td>• Regulating health issues w/</td>
</tr>
<tr>
<td>Department of Labor:</td>
<td></td>
<td>wide-spread effects, e.g. property,</td>
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<tr>
<td>• OSHA</td>
<td></td>
<td>health &amp; sanitation, retail food</td>
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<tr>
<td></td>
<td></td>
<td>safety, construction/disposal</td>
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<tr>
<td></td>
<td></td>
<td>waste, enforcing health codes</td>
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<tr>
<td></td>
<td></td>
<td>• Focused services, e.g. free</td>
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<tr>
<td></td>
<td></td>
<td>clinics, HIV/AIDS testing,</td>
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<tr>
<td></td>
<td></td>
<td>immunizations, WIC, etc.</td>
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</tbody>
</table>
Health Policy also subject to influence by:

- Professional/organization associations representing interests of:
  - Health care organizations
    - e.g. health care systems, or their representative organizations, e.g. OHA
  - Health professions associations
    - E.g. ANA, nursing specialty associations, AMA, etc.
  - Health professions educators’ associations
    - e.g. AACN; NLN
  - Pharmaceuticals/”big Pharma”
  - Other organizations with interests in health care
- Private citizens/citizen-interest organizations
  - E.g. AARP
- Organizations that are a “mix” of independent w/ government support
  - E.g. U.S. Preventative Services Task Force
Exemplars: Recommendations

• Sources: Mixed (independent w/ Gov’t support) or non-governmental
• Examples
  • Institute of Medicine Report Recommendations (non-governmental)
  • U.S. Preventative Services Task Force
    • Independent, volunteer panel of national experts (serve 4-year terms) in prevention and EBM, that receives admin support from Agency for Healthcare Research & Quality (AHRQ)
    • Makes recommendations about clinical preventive services
    • All recommendations published in peer-reviewed journals
    • Task force assigns each recommendation a letter grade (A, B, C, or DO) based on strength of evidence & balance of benefits/harms of a preventive service.
Exemplars: Clinical Practice Guidelines & Organizational Standards

- **Non-government organizations** (e.g. national health associations, health professional associations) that develop statements, practice guidelines, etc.
  - Take on status as “national standard”
  - E.g. the Eighth Joint National Committee (JNC8) developed the 2014 Guidelines for managing HTN; endorsed by national professional associations as National Clinical Practice Guidelines

- **Private agencies** create policy that have an *impact* on the health of the public
  - E.g. The Joint Commission
    - Their standards affect their accredited organizations; but
    - National Patient Safety Goals *establish benchmarks* that “approach” public health policy
    - Sentinel Event reporting used for QI across country
  - Enforceable only by the private agency; *do not have force and effect of law*
How can nurses influence the process?

• Know your Congressional representation: in U.S. Senate . . .
  • [http://www.senate.gov/general/contact_information/senators_cfm.cfm](http://www.senate.gov/general/contact_information/senators_cfm.cfm)
    - Choose a State"
How can nurses influence the process?

- And in the U.S. House
- Zipcode + 4 (or you’re likely to get more than one Representative on-screen)
How can nurses influence the process?

- Know your Ohio Senator and Representative
- https://www.legislature.ohio.gov/
How can nurses influence the process?

• Make contact with your Ohio Legislators and U.S. Congress people
  • Let them know you are their constituent and a nurse;
  • Talk to them about the issues you know; ask them where they stand; look at their bill sponsorship record and their voting record;
  • Be able to articulate nursing’s uniqueness (we are not “medicine”)
  • If there is an issue important to you, your practice, and your patients, who are citizens of the state of Ohio and their constituents, be prepared with supporting evidence; and
  • Know nursing’s health policy agenda . . .
How can nurses influence the process? And… join your professional association(s)!

• The benefits of membership in a professional association with regards to health policy include:
  • Awareness of issues that affect you, your practice, and your patients;
  • Awareness of the organization’s policy agenda
    • Usually consistent with the “larger” national nursing policy agenda;
    • Even if specific to a specialty organization; and
  • When professions speak from a consistent voice, that voice is heard more clearly.
Is Public Health Policy Evidence-based?

- Yes, No, and Maybe
- Evidence can be used to *inform the policy dialogue*
- Legislators may be open to the science/evidence, however it must be:
  - In context
  - Balanced within the political environment
  - Considered relative to timing, e.g. the legislative calendar, other items on the legislative agenda, budget cycle, other state/national agenda items
  - Accurate, convincing, based on a *body* of evidence (i.e. not one article)
  - Focused on the constituent/consumer (not “self-serving” to the “special interest” group)

Loversidge, 2016
How can nurses influence the process?

What is my role in all this?

• You’re an activist! You are very curious about how health policy is made. You are a “joiner” by nature, can’t wait to become a part of a committee for your professional organization, & can’t wait for next year’s “Nurses Day at the Statehouse.” You are ready to make contact with your legislator to introduce yourself and offer your views on nursing and health care.

• You’re immersed in a clinical environment, expect you always will be. You may even been somewhat resistant, and/or “apolitical.” You haven never tuned in for a State of the Union address, or watched a presidential debate.

• Somewhere in between.

• The message: There is something here, and a place, for all of you!
References

  • This is a website that links to the 9 steps in the legislative process, from introduction, to presidential actions. Links to both narrative and short videos.
  • A Flow Chart
  • Narrative with text boxes