

## When to Fight

### The Importance of the July 30<sup>th</sup> Congressional Progressive Caucus Letter

“If the United States cannot take care of its sick citizens like me, what is the country all about?”<sup>1</sup> asked Tim Kirker. Tim Kirker had a flesh-tone patch on his right eye and a graying horseshoe mustache. Mr. Kirker had been a painter, until the symptoms of primary progressive multiple sclerosis started to reveal themselves. He wore glasses, and read from a document that was held in front of his good eye by the woman seated next to him. During his testimony, he glanced at the audience four or five times—the audience of health care professionals, Hill staffers, and summer interns that would rise after his conclusion and clap for his eloquence. As Mr. Kirker spoke of how his body was battling the disease, how his mind had nearly surrendered, and how the clinic supporting him in Wilmington, North Carolina was losing its fight for additional funding, I couldn’t help but think that there are only so many fronts on which one can wage a war. Mr. Kirker was desperately hoping that either his illness, or his insurance company, or his government would show mercy. His story and struggle commenced, for me, at least, a summer devoted to achieving meaningful health care reform and the battle over a public insurance option within the Democratic Party.

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<sup>1</sup> Tim Kirker, National Academies of Practice Health Care Briefing, (2 June 2009).

On July 30th, 2009, 57 members of the Congressional Progressive Caucus (CPC) signed a letter to Speaker Pelosi and Chairmen Henry Waxman, George Miller, and Charles Rangel demanding that health care reform include a strong public option. A public option is a government-run health insurance plan that would deliver affordable and effective care to the individuals enrolled in it. It is included in H.R. 3200, America's Affordable Health Choices Act, which was marked-up in the Energy and Commerce, Education and Labor, and Ways and Means Committees. The CPC letter was in direct response to Chairman Waxman's recent agreement with members of the Blue Dog Coalition in the Energy and Commerce Committee. The letter was the inevitable culmination of the CPC's discontent and frustration after enduring weeks of the Democratic Leadership's concessions to the Blue Dogs. In the Leadership's efforts to produce a "passable" health bill, the original plans for revolutionary reform were drastically watered down. The threat that the final draft of legislation would not contain a strong public option propelled Progressives to take action and make their own demands.

This summer, I interned for Representative Jerrold Nadler, a fierce proponent of liberal ideals and a prominent member of the Congressional Progressive Caucus. Congressman Nadler was one of the first members to sign the CPC letter. His relentless support of a public option showed he possessed the sort of fortitude and determination necessary to enact real reform. On July 29, when he heard about the deal struck in the Energy and Commerce Committee, Congressman Nadler promptly remarked, "Waxman made a deal that is unacceptable."<sup>2</sup> He continued, "We signed a pledge to reject any plan

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<sup>2</sup> Jerrold Nadler, "Liberals gag over health deal," Glenn Thrush, 29 July 2009, *Politico*, <<http://www.politico.com/news/stories/0709/25597.html>> (5 September 2009).

that doesn't include a robust public option, and this plan doesn't have a robust public option."<sup>3</sup> In his op-ed for *The Hill* newspaper on June 10<sup>th</sup>, Congressman Nadler had articulated his beliefs on what constituted a "robust public option."<sup>4</sup> A strong plan would: be effective immediately, without any "trigger proposal" that could delay or prevent its implementation; be available to those even with employer-provided coverage; and use "Medicare's existing infrastructure" to keep "overhead costs low."<sup>5</sup> By including these provisions in the health care bill, Congress could guarantee that all Americans receive the coverage they deserve without the burden of exorbitant premiums.

The public health insurance option, as it is described in the original version of H.R. 3200, would only grant care to Americans *without* employer-based coverage. Still, as the bill's text denotes, it would ensure "choice, competition, and stability of affordable, high quality coverage throughout the United States."<sup>6</sup> The government plan would be offered in a health insurance exchange, a marketplace where individuals could purchase coverage. Individuals would have the right to choose between the government plan and other private insurance options, which would all be required to offer a minimum standard of care.

The deal struck in the Energy and Commerce Committee to mollify the Blue Dogs, a group of fiscally conservative House Democrats who pride themselves on

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<sup>3</sup> Nadler, 5 September 2009.

<sup>4</sup> Jerrold Nadler, "The Need for a Robust Public Option," 10 June 2009, *The Hill*, <[http://www.house.gov/nadler/pdf/Op-Ed\\_Need\\_for\\_Robust\\_Public\\_Option.pdf](http://www.house.gov/nadler/pdf/Op-Ed_Need_for_Robust_Public_Option.pdf)> (5 September 2009).

<sup>5</sup> Jerrold Nadler, 10 June 2009.

<sup>6</sup> Text of H.R. 3200, *The Library of Congress Thomas*, <<http://thomas.loc.gov/cgi-bin/query/z?c111:H.R.3200:>> (5 September 2009).

“appealing to the mainstream values of the American public,”<sup>7</sup> would ensure the failure, or debilitating weakness, of the public option. In its attempts to appease the centrists of the party, the Democratic Leadership betrayed and angered its true liberal core. “We regard the agreement reached by Chairman Waxman and several Blue Dog members of the Committee as fundamentally unacceptable,”<sup>8</sup> states the CPC Letter. “This agreement is not a step forward toward a good health care bill, but a large step backwards.”<sup>9</sup>

As a part of the agreement, states would be allowed to set up “nonprofit cooperatives to offer coverage to individuals, families, and small businesses.”<sup>10</sup> The deal also stipulated that the public plan would not be able to use Medicare reimbursement rates to pay doctors and hospitals for services. Instead, it would have to “negotiate rates with health care providers, as private insurers often do.”<sup>11</sup>

In response to the agreement, the CPC Letter asserts: “Any bill that does not provide, at a minimum, for a public option with reimbursement rates based on Medicare rates—not negotiated rates—is unacceptable.”<sup>12</sup> The Progressives’ argument against negotiated rates is simple: such rates would increase both the cost of the public option and the burden on the taxpayer. A bill that requires the public plan to use negotiated rates

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<sup>7</sup> The Blue Dog Coalition, <<http://www.house.gov/melancon/BlueDogs/>>, (5 September 2009).

<sup>8</sup> Members of the Congressional Progressive Caucus, “Letter to Speaker Pelosi & Chairman Waxman,” 31 July 2009, *Congressional Progressive Caucus*, <<http://cpc.grijalva.house.gov/index.cfm?ContentID=481&ParentID=0&SectionID=66&SectionTree=66&lnk=b&ItemID=479>> (5 September 2009).

<sup>9</sup> CPC, “Letter to Speaker Pelosi & Chairman Waxman,” 31 July 2009.

<sup>10</sup> David Herszenhorn and Robert Pear, “House Democrats End Impasse on Health Bill,” 29 July 2009, *The New York Times*, <[http://www.nytimes.com/2009/07/30/us/politics/30health.html?\\_r=1&scp=6&sq=waxman%20deal%20with%20blue%20dogs&st=cse](http://www.nytimes.com/2009/07/30/us/politics/30health.html?_r=1&scp=6&sq=waxman%20deal%20with%20blue%20dogs&st=cse)> (5 September 2009).

<sup>11</sup> Herszenhorn and Pear, 29 July 2009.

<sup>12</sup> CPC, “Letter to Speaker Pelosi & Chairman Waxman,” 31 July 2009.

would also “do nothing to achieve the goal of ‘keeping insurance companies honest,’ and their rates down.”<sup>13</sup> To counteract these higher costs, the government would be forced to “reduce subsidies to low- and middle-income families”<sup>14</sup> to purchase insurance. Consequently, the counterproductive agreement between the Blue Dogs and Chairman Waxman would “result in the public, both as insurance purchasers and as taxpayers, paying ever higher rates to insurance companies.”<sup>15</sup>

“We simply cannot vote for such a proposal,”<sup>16</sup> the CPC Letter concludes.

I was eager to see how Congressman Nadler’s district would react to the CPC Letter. What tone would callers take? Would they be appreciative? Accusatory? Demanding? The issues that people called about usually came in waves—and each attracted a certain sub-section of the American populace—but our office had received a steady stream of health care-related calls throughout the summer. It seemed that most constituents supported a “single-payer” system or “676,” but “would settle” for a “strong public option” (reminding me that the public option was already considered a compromise by many liberals). I wondered if constituents would applaud the Congressman’s strong position, or call him out for obstructing the passage of a perfectly satisfactory bill.

A significant portion of my day was always spent answering the telephone, listening to the passionate opinions of the Congressman’s idiosyncratic constituency, and transcribing the highlights of their oftentimes lengthy and self-indulgent soliloquies onto

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<sup>13</sup> CPC, “Letter to Speaker Pelosi & Chairman Waxman,” 31 July 2009.

<sup>14</sup> CPC, “Letter to Speaker Pelosi & Chairman Waxman,” 31 July 2009.

<sup>15</sup> CPC, “Letter to Speaker Pelosi & Chairman Waxman,” 31 July 2009.

<sup>16</sup> CPC, “Letter to Speaker Pelosi & Chairman Waxman,” 31 July 2009.

“Constituent Comment Forms.” I also had to politely hear the concerns of those Americans who, for some reason (civic duty? boredom?) had felt compelled to call the Congressman from New York’s Eighth District and complain about his position on the release of torture photos. These were frequently the people who, when asked if they were constituents, would declare defensively, “I’m an *American citizen*” (I was consistently tempted to tell them that, in the office of a Congressman for whom they would never vote, this line did not bear quite the same “Civis Romanus Sum” effect that they had intended). Thus, I tended to judge the success of any given day by how well I had engaged with callers, how few times I was verbally abused, and how often I was able to give a genuine, succinct answer to someone’s question.

It turned out that there was an exceptionally positive constituent response to the CPC Letter. On July 30<sup>th</sup>, our office was bombarded with phone calls from constituents asking Congressman Nadler to sign the letter and stand up for a strong public option. Evidently, MoveOn.org had emailed its subscribers, urging them to call their Representatives in support of the letter. I was able to tell the constituents that the Congressman had already signed the CPC Letter, which prompted one woman to respond: “Oh, I knew he would. He always does the right thing.”

It remains to be seen whether House liberals will continue to stand firm for the public option and do the “the right thing.” The debate over the public option illuminated the delicate balance between compromise and resolve that is intrinsic to the workings of Congress. When should Congressmen stand and fight? When should they settle and adapt? Although it is neither pragmatic nor helpful for our elected officials to be consistently obstinate, we do want them to have a backbone—to courageously stick to

their principles in the heat of an intense struggle. The constituents who called that day—granted, these were people who had willingly joined MoveOn.org’s mailing list—were thrilled that their Congressman had stood firm for a strong public option.

There are 256 Democrats in the House. 218 votes are needed to pass a bill. If the majority of Progressives maintain their position, they could ensure that no bill passes the House without a robust public option.

The public option is, admittedly, just one aspect of H.R. 3200. There are many other features of meaningful health care reform in the bill, such as prohibiting insurance companies from rescinding “health insurance coverage without clear and convincing evidence of fraud”<sup>17</sup> or denying anyone coverage based on a pre-existing condition. But the CPC’s specific commitment to the public option symbolizes its members’ dedication to the 47 million uninsured Americans—to people like Tim Kirker—who have no other options.

Mr. Kirker was one of the patients who spoke at a briefing I attended on June 2<sup>nd</sup>, 2009. Sponsored by the National Academies of Practice, the briefing discussed the necessity of a public option, home-based care, and general health care reform. Mr. Kirker’s heartbreaking testimony stayed in my mind throughout the summer.

Mr. Kirker talked about how he had lived and lost the “American dream.”<sup>18</sup> Once doctors discovered he had MS, Mr. Kirker watched his world fall fast apart. The illness debilitated him; his wife left him; he lost his job and his insurance. He considered himself a burden, and sank into depression. “Whether it was suicide, or dying from

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<sup>17</sup> Text of H.R. 3200, 5 September 2009.

<sup>18</sup> Kirker, 2 June 2009.

disease,” said Mr. Kirker, his voice trembling in sync with his hands, “it appeared I had reached my end.”<sup>19</sup>

“If I lose my medication assistance, access to nurses and physicians or counselors,” said Tim Kirker, “the one thing I currently have, which is hope, will leave me.”<sup>20</sup> When Mr. Kirker spoke, his voice was saturated in warmth, and soft, patient humility. He assumed a steady pace, except when tears broke his rhythm. As he began to cry, his words lost their momentum. They broke apart mid-air—they came out as fragile clusters of syllables, timed to each exhalation, that split on impact. But, he always regained his pace—demonstrating a sort of bravery and resilience we hoped would transfer to his central nerve system.

Through his choice of words, it became clear that Mr. Kirker was trying to prove something. He was trying to prove that he was self-reliant (because to appear as anything besides an enthusiastically self-sufficient citizen would go against all of America’s core values). He wished he could afford his medications, which typically cost more than \$2,000 per month—he wanted to take care of himself. He was not asking for favors; he was simply asking for a chance at survival.

Mr. Kirker reminded me that most people suffering in this country have tried to be good, hard-working Americans—*are* good, hard-working Americans—and that being sick and without insurance is not a testament to someone’s moral code or work ethic, but rather a matter of tragic misfortune. There was a line that was repeated at many of the health care briefings I attended: “Most people are one serious illness away from bankruptcy.” In most cases, the only thing separating us from a horrible illness and

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<sup>19</sup> Kirker, 2 June 2009.

<sup>20</sup> Kirker, 2 June 2009.

financial ruin is luck. The people who are unlucky, who get sick, are not asking that the government heal all their wounds, just that the deck not be stacked entirely against them.

The month of August brought town hall meetings, a combative tone of callers, and a lot of misdirected fear about government's intentions—as evidenced by the surplus of Nazi/Socialist/“Führer Obama” faxes and the woman who shouted into the phone that she did not want “a government take-over of Medicare.” The debate over health care became a debate on government's fundamental role in society. I believe that government has a tremendous capacity to help citizens like Tim Kirker, and a responsibility to do so. If the CPC's relentless support of a strong public option ensures that one more American receives the quality care he deserves, that one less family finds itself desperately scraping to pay its insurance premiums, then I hope the Progressives will continue to stand firm.

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