



## The Committee on Energy and Commerce

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### Internal Memorandum

April 17, 2012

To: Energy and Commerce Committee Republican Members

Fr: Subcommittee on Oversight and Investigations Majority Staff

Re: Investigation of negotiations and agreements between White House and health care industry stakeholders

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The purpose of this memorandum is to update you on the Committee's ongoing investigation into the potential agreements made by the White House and health care industry stakeholders prior to passage of the Patient Protection and Affordable Care Act (PPACA).

The PPACA was enacted in 2010 after more than a year of partisan debate, secret negotiations, and public frustration. It was a highly partisan endeavor, muscled through Congress without a single Republican vote. The law is also the result of a process that failed to respect the equality of the Congressional bodies. It was constructed with very little input from the House of Representatives, excluding Republicans and Democrats alike. Since passage, the law has grown less popular and more costly as the budgetary tricks used to secure a favorable financial outlook continue to expire. Meanwhile, the Supreme Court will soon rule on whether the law is even constitutional. Since the beginning of the 112<sup>th</sup> Congress, the Committee on Energy and Commerce has attempted to uncover how such a flawed law was enacted to better understand PPACA and draw lessons for the future.

The PPACA was largely a creation of the White House Office of Health Reform. On February 18, 2011, we began our investigation by asking the Office of Health Reform for information on the meetings and negotiations they held with the private sector, as well as any agreements that may have resulted from these discussions. While the President had promised to televise all of the negotiations regarding health care legislation to the American people, very little was known about the actions of the Office of Health Reform and the secret negotiations with various interest groups. Aside from a few carefully managed forums or press conferences, most of the discussions that led to the PPACA were shielded from public view. Similarly, the Committee's attempts to obtain information from the White House have been fought by the Office of the White House Counsel. The majority of the Administration's limited productions to the Committee have consisted of press releases from public events and incomplete calendars and visitor logs.

Because the Administration was unwilling to reveal any of the substance of Office of Health Reform discussions with interest groups, the Committee on April 19, 2011, sent letters to 12 of those groups requesting information on their meetings, negotiations, and possible agreements with representatives from the Office of Health Reform and the Administration. The responses have shed a great deal of light on the process that led to the PPACA and confirm that further information is needed from the White House itself.

Our investigation has uncovered that the vast majority of the negotiations over the substance of the PPACA took place behind closed doors, and that the public events attended by the President and others were merely political theater designed to give the impression that the law was both widely supported and inevitable. In truth, behind the scenes the White House was carefully managing the responses of various stakeholders, agreeing to certain policy positions in exchange for commitments of public support or advertising, and threatening to use the bully pulpit of the Presidency to punish any of those stakeholders who dared to oppose the Administration.

We have also learned that the effort to run advertisements supportive of any health care legislation may have been far more coordinated than publicly known. While the President has both mocked special interest ads and called them a threat to democracy, we have uncovered evidence indicating that third party advertisements supporting health care legislation may have been done at the behest of a high ranking Administration official.

Our investigation also aims to uncover basic facts about how this law was developed:

- Were “deals” made between the Administration and outside stakeholders that exchanged specific policy outcomes for public support of the law?
- Who made these deals, and to what extent was Congress excluded?
- What specifically was negotiated by the White House and outside interests? What policies are now law as a result of these negotiations, and what did the White House obtain in exchange?

After months of investigating, with information sought from both the White House and the outside interests involved in these negotiations, we are closer today to understanding the process that resulted in this law. Unanswered questions remain, which is why our investigation continues. We intend to continue reporting back to you as our investigation proceeds and we find answers to the questions posed above. If you would like more information on this investigation, please Committee staff at (202) 225-2927 to discuss this matter.