



# The Health-Care Paper Trail

*As the Hillary crowd prepares to make another run at health-care reform, a newly released cache of confidential memos reveals what the first plan really involved.*

by Byron York



Remember “managed competition”? “Employer mandates”? “Health insurance cooperatives”? As recently as six months ago, the buzzwords of health-care reform dominated the agenda in the White House and on Capitol Hill. Now they seem almost archaic. But the Clinton Plan is not as dead as it seems. The first lady hopes to use her original work to overhaul smaller portions of the health-care system, beginning with a plan to mandate insurance for all children. “I regret very much that the efforts on health care were badly misunderstood, taken out of context and used politically against the administration,” Hillary Clinton told the *New York Times* recently, lamenting the “misunderstanding” but not the reform plan itself.

The new campaign comes as Americans get their first (limited) look into how Mrs. Clinton’s Health Reform Task Force worked. Thanks to a lawsuit that forced the White House to give up at least some of its records, more than 250 boxes of proposals, memos, scribbles, and endless charts and tables are open for inspection at the National Archives in College Park, Maryland.

The White House gave up the materials only after an ugly legal fight. At issue was the 1972 Federal Advisory Commissions Act, which required that groups that included outsiders as well as federal government employees had to meet in public. It was designed to prevent interest groups from exercising undue influence in secret. In February 1993, the Association of American Physicians and Surgeons challenged the administration’s decision to hold closed task force meetings, and to withhold the names of hundreds of participants—

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many from outside groups. When then-White House counsel Bernard Nussbaum refused a Freedom of Information Act request, the group filed *Association of American Physicians and Surgeons v. Hillary Rodham Clinton et al.* In depositions, chief health-care aide Ira Magaziner told the court that the secrecy was proper because all members of the reform effort were government employees. U.S. District Judge Royce C. Lamberth called those statements “misleading at best.” He gave the Clinton administration a choice: make the papers public or defend the secrecy in court. The White House caved. Later, Lamberth asked the U.S. attorney in Washington to investigate whether criminal charges should be brought against Magaziner. And the boxes arrived at the National Archives.

For all their importance, the papers have been virtually ignored by the press, which has paid more attention to the custody battle than to the documents themselves. It’s easy to see why. They are as disorganized as the task force itself. Thousands and thousands of pages were tossed haphazardly into cardboard boxes and sent off to the Archives. There are clear gaps in the material; some key figures sent almost no papers, while others sent quite a bit. Still, through all the chaos, a few pictures emerge, glimpses of what went on as the Clinton White House planned what was to be its greatest triumph.

### Ira Knows Best

The clearest picture is of Magaziner. How did he design a system that allowed so many terrible ideas to go so far? The papers suggest he did it by simply throttling anybody who didn’t see things his way. Although task force press releases often described the group as “inclusive,” a look at the papers shows it included few people who disagreed with Magaziner, because disagreeing with Ira Magaziner could be a very unpleasant experience.

Take the issue of price controls, which Magaziner favored and the president’s economic team opposed. On February 22, 1993, Magaziner met with the Cluster Group on Short-Term Cost Controls. “Last night’s meeting was to consist of a series of short presentations to Ira Magaziner outlining the options our group is evaluating for short-term cost containment,” wrote Treasury Department official James Ukockis in a memo to his boss the day after the meeting:

A short time into the meeting it became clear Mr. Magaziner had an entirely different agenda. In response to a presentation covering cost savings options possible under Medicare, he

became impatient when informed they involved savings of only tens or hundreds of millions of dollars. . . . He again became impatient during my presentation on price controls. He was not interested in a balanced evaluation of the option. What he wanted was for someone to make the “best possible” case for a specific price control program. . . . Mr. Magaziner then began an impassioned presentation of his own. . . . It was his position “the President must do something, *there is no choice.*”

With responses like that, it was hopeless to tell Magaziner that there were fundamental problems with health-care reform. It’s not that the working groups didn’t discover the intractable contradictions in Magaziner’s approach: you couldn’t create a vast new nationalized medical system and save billions of dollars at the same time; you couldn’t cut medical spending by massive amounts without cutting care; and you couldn’t herd people into health-insurance cooperatives without reducing doctor choice. The problem was getting Magaziner to listen.

The papers show he just kept pushing the contradictions aside—sometimes by stifling adversaries, often by saying that no decisions had been made on a huge number of critical issues.

Ukockis called it “a massive case of policy constipation.” According to one participant’s hand-

written notes of an April meeting, somebody asked Magaziner, “Has Pres. made any of those 700 decisions yet?” The answer? The president was “making directed comments during briefings.” And by the way, there were now 1,100 decisions to be made. Weeks passed, and the obstacles were not confronted. Working on cost controls, Ukockis wrote in late March that “every option has fatal flaws, which, although passed off as problems ‘still under examination,’ are actually major roadblocks. . . . Yet, because this adversarial process has been missing one adversary—the con side—there is substantial risk at least one of [them] may become part of the reform package by default.”

Magaziner claimed his system would identify and remove such flaws. After months of meetings followed by consultation with so-called “contrarians” who would criticize the plan, he arranged to have auditors review the final product. But an anonymous working group member’s handwritten notes of Magaziner’s talk to an “all hands” meeting on April 8, 1993, suggest what he had in mind: “Auditors? People outside process; sympathetic; knowledgeable but fresh eyes.”

Magaziner brought in Towers Perrin, the firm that had bought his own company, Telesis, for a reported \$6 million back in 1986. In a January 1993 memo on potential task force staffers, Magaziner wrote, “I sold my company to Towers

*“The President’s concern about chicken and furniture factories that pay between \$7 and \$8 an hour has set me thinking about potential opposition that he seems very concerned to avoid,” Starr wrote.*

Perrin and ran their strategy operation and have very good relations with their senior management, many of whom also

. I probably mentioned Tyson because I knew it was an Arkansas firm. I didn't know about commodity trading

Members were given strict instructions on what to do if asked about who was doing what in the task force. "If asked about membership on various groups," read another instructional memo, "you need to indicate that this is yet another thing that you cannot talk about."

### A Task Force That Looks Like America

Even as the task force discouraged diversity of ideas, it welcomed old-fashioned interest-group diversity. Although nearly all of the top players were white, memo after memo is concerned with including the right racial and ethnic mix in the process. One member of the Ethics Group writes that it included "a Protestant minister, a Jesuit . . . a Rabbi . . . four African-Americans, one of whom is also a woman. . . . We also contacted a woman who teaches medical ethics and is herself unsighted." Another note carries the handwritten addition: "Bea: *there are no persons of color in this group.*"

The working groups hoped to mandate that sort of diversity in the nation's medical work force, even if it meant nationalizing the medical education system to achieve an "appropriate" racial mix of doctors. According to one memo, "The health care work force must achieve sufficient racial, ethnic, gender, geographic, and cultural diversity to be representative of the people it serves." They came up with a plan to establish Regional Health Professions Educational Consortia, which would be given wide-ranging authority to set standards for "geographical distribution, primary and specialty care mix . . . diversity and . . . cultural skills" in each new class of doctors. The health bureaucracy would also have unchallenged power to enforce its agenda:

*Federal law would specify that funding for health professions education would be conditioned on meeting requirements established by a federal body, with the identity of that body, the process for establishing requirements and the total amount of funding to be determined by the Task Force. [Emphasis in the original.]*

The Clinton players apparently thought this would earn them the unwavering loyalty of minority doctors. Thus it was with some consternation that, upon being briefed for a meeting with the National Medical Association, the nation's largest organization of black physicians, one official learned that many of the African-American doctors were well-to-do specialists, and quite skeptical about the plan.

For all its importance, racial and ethnic diversity sometimes took a back seat to political diversity, especially when it came to including people from states with large numbers

of electoral votes, or those represented by powerful Democrats. A document in Magaziner's papers lists members of the Health Professional Review Group, which was created to look over the final plan; beside each member's vital statistics are his *truly* vital statistics. One is listed "Male/White/Internist/Mass/Kennedy-Dukakis." Another is Male/White/Urologist/California Campaign"; a third is "Female/Black/Child Mental Health/Mass/Gore." The end of the document reads:

States represented: 23

Gender: Female 23 Male 23

Race: White 30 Non-white 16

African American 9 Hispanic 4 Asian American 2 NA 1

### Where's Hillary?

There is one key player whose papers won't be found in the Archives. Indeed, First Lady Hillary Rodham Clinton is rarely seen in the papers that have been released. "She was allegedly the chairman of this whole thing," says Dr. Orient of the Association of American Physicians and Surgeons. "There were some communications to her [in the papers] but none from her."

The reason is one of the main issues of the lawsuit. The White House makes a distinction between the Health Care Task Force and

its working groups. Officially, the task force was a small group of top officials—among them the first lady, six cabinet secretaries, and Magaziner—who supervised the process. The working groups were the hundreds of White House-chosen experts who actually put the proposals together. The task force was, with the arguable exception of the first lady, composed entirely of government officials, and thus not required to give up its documents. The working groups included dozens of staffers from outside interest groups, and it was the groups' papers that the judge ordered the White House to release. (Certain of Magaziner's papers have now been released because he was considered a member of *both* teams.)

"They've always contended that Hillary Clinton was not on the working groups," says Thomas Spencer, attorney for the doctors' group. "She was on the task force, and it was not considered subject to the Federal Advisory Commissions Act." Thus her health-care papers remain secret.

For now, the papers provide no more than a peek into Mrs. Clinton's role. A partner in the Rose Law Firm writes to recommend someone; that letter is sent down the chain with the notation "To Ira and Maggie Per HRC." A few staffers' handwritten notes mention comments from HRC. And the occasional memo documents an encounter with her, as did Paul Starr's plaint of February 7, 1993: "After the meeting last evening," he wrote Magaziner, "I talked for a

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moment with the First Lady to try to underline the key importance of the purchasing cooperatives. And before I could finish my sentence, she said, 'But we need cost containment.' And then she ran off."

Virtually every memo in the health-care papers offers some small insight into the mindset of Clinton-Magaziner health reform. There is top official Walter Zelman's note to the press office entitled "The Marketing of Managed Competition." Zelman was concerned about pressure from those on the left who believed the administration wasn't going far enough. "They believe our direction is somehow fundamentally different from the 'single payer' approach they favor," he wrote. "It is not."

Then there is Paul Starr's worry that imposing new taxes to pay for health care might set off a storm that would sink the reform effort. "Taxes," he wrote in a memo to Magaziner, "are not a subject about which Americans are entirely rational."

And there are the repeated admonitions to hurry the new system into place—before people got a chance to know what was in it. At a dinner in March 1993, deputy White House legal counsel Walter Dellinger suggested a plan to pre-write federal regulations enforcing the Health Security Act, so that it would be instantly enforceable upon passage by Congress. That same month, Pete Welch, a working group member, prefaced one memo by saying, "The goal of this model is to quickly establish Health Insurance Purchasing Cooperatives in some form before changes in political conditions could undermine them."

### Comic Relief

The health-care papers have their lighter moments. There is the following letter, dated January 26, 1993, to the first lady's chief of staff Maggie Williams from one Donald A. Nixon:

I am Richard Nixon's nephew. This fact doesn't get me free coffee, but I voted correctly (thank goodness) like a bunch of other Republicans (did we have a choice?) and you made it!

Nixon went on to pitch an alleged cure for AIDS developed by a company with which he was working. (He signed the letter "DN.")

Then there are the notes an unidentified task force member scribbled as he or she slogged through March 9, 1993:

Began 7:30 Indian Treaty Room—this til 10:00 AM.

No overhead because Dave Alexander couldn't get act together.

10-1 PM Kicked out by Pres. meeting w/CEO's in ITR. Adjourned to HRC's conf room #100. Only 10 chairs for 50+ people. Most people on floor or in window areas.

1 pm-Midnight Presentations continued, ending w/short-term cost controls.

ICM [Ira Magaziner] only one awake & cogent.

There are examples of the sort of wonk-to-wonk mutual admiration that could only exist among the most committed bureaucrats: "As you requested," reads one memo, "I am sending you some notes for your consideration as you spin the old magic on your current infrastructure draft."

And there is the blow-up of a "Rex Morgan, M.D." comic strip in Paul Starr's papers: a woman asks the dashing doctor, "After all your adventures, don't you think private practice will seem—well, sort of dull?" He replies, "On the contrary . . . what could be more adventurous than health care reform in America? Believe me, June, this is where the action is!"

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So far no newspaper or magazine has published a serious examination of the health-care papers. The material in this article comes from a relatively small number of the estimated 500,000 pages in the Archives. Shortly after they were released, the *New York Times* published a brief set of excerpts with a headline that suggested they were no big deal: "Now It

Can Be Told: The Task Force Was Bold and Naive and Collegial." Other publications did even less. The one group that has combed them extensively is the Association of American Physicians and Surgeons, but its researchers focused mostly on finding information to address the specific issues of the lawsuit.

The neglect is unfortunate, because the papers could give journalists a much fuller picture of the health-care debacle. For example, they shed new light on the extensive role played by the Justice Department as the task force struggled to determine whether its "global budgets" and federal mandates would violate the Constitution. They contain information about the critical role played by giant non-profit institutions like the Robert Wood Johnson Foundation. And they reveal much about the struggle within the executive branch as the White House, the Treasury Department, the Department of Health and Human Services, and others maneuvered to influence the final product—and in some cases, distance themselves from it.

Reporters should hurry to take a look, because the documents might soon disappear back into the White House. Although they are housed at the Archives now, the papers remain in the legal custody of the White House and could possibly be returned to the administration. If that happens, the cloak of secrecy will return, likely to stay for years to come. □



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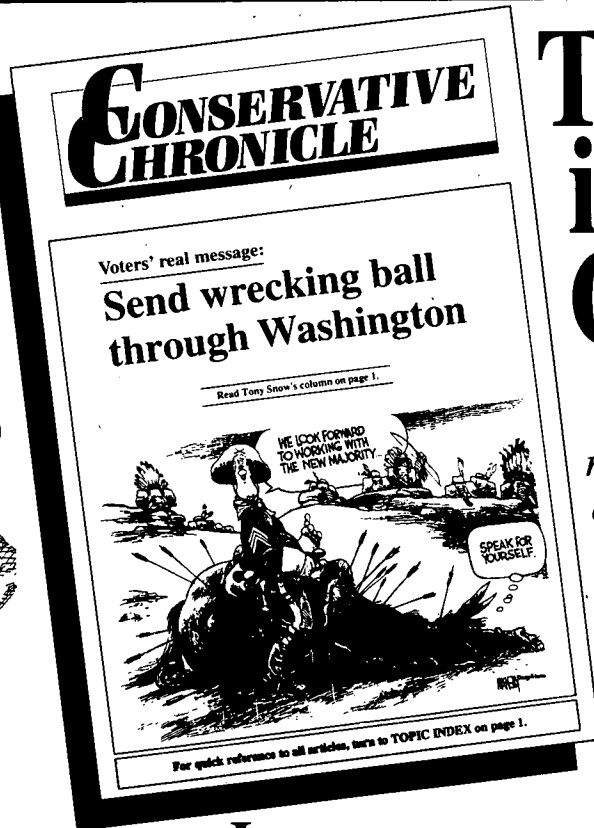
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HASC

Joe Queenan

# The Week of Smoking Dangerously

*Buddy, can you spare a match?*

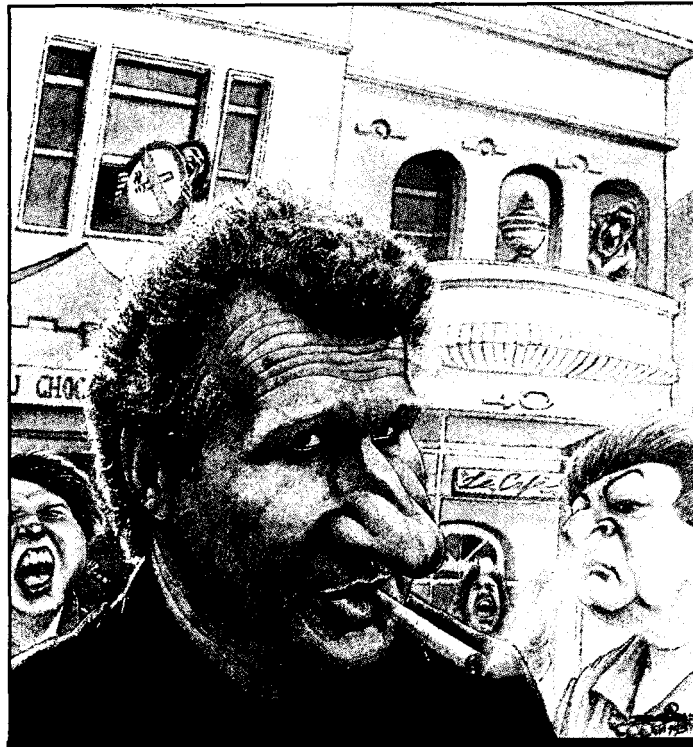
One recent afternoon, I lit a Marlboro and slipped into a Times Square strip joint. I sidled into a peep-show booth, inserted a dollar bill, and, when the glass partition had risen to reveal the exotic dancer inside, exhaled.

"Whew!!!" hissed the girl inside the booth, disdainfully, waving the smoke away with her hands. When the stench had dissipated, she leaned down and said gruffly, "We work on tips: three dollars to strip, five dollars to touch."

"Do you mind if I smoke?" I inquired.

"Do what you want," she sneered. "It's your show."

I handed her a five, evaluated her "dancing" for 30 seconds, and left. I was immensely discomfited. Here was a woman with more tattoos than the 7th Fleet working as a stripper in the sleaziest dive in Manhattan, yet even she looked down on me as a smoker. At that moment, I realized that the anti-smoking movement was a thundering juggernaut that had penetrated even the lowest substratum of



American society, and that smokers, as a class, were doomed.

My epiphany in the strip joint was the culmination of a long, psychologically draining week spent smoking in various public and private places throughout the Greater New York area. I had given up smoking cigarettes ages ago, and in recent times my only nicotine-related activity was the occasional cigar puffed in the presence of people who had annoyed me. Now, years

later, I decided to revisit the old habit as a way of gauging how much the mores of smoking had changed.

My week as a smoker got off to an odd start when I popped inside a Citibank at the corner of 64th and Madison to get some cash. Although a "No Smoking" sign was clearly posted right next to one of the four ATMs, I lit up a Marlboro and took my place in line. There were three women using the machines, though the fourth was vacant. A stubby, Hispanic blue-collar type, who looked a lot like a smoker, was standing in line ahead of me, but he ignored the

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