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An Idea Whose Time Has Come? Explaining the Adoption of the Board Business Process Reengineering Project

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An Idea Whose Time Has Come?

Explaining the Adoption of the Board Business Process Reengineering Project

Marisa L. Nold

In partial fulfilment of requirements for PAD 690 Masters Project

SUNY Buffalo State

May 2017

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Abstract

In their July of 2014 centennial report, the NYS Workers' Compensation Board (the Board) announced a new project to reengineer their entire system, the Business Process Reengineering project (BPR). Using John W. Kingdon's Multiple-Streams Approach (MSA) framework, this agenda-setting study attempts to explain why the BPR landed on the NYS policy agenda after many years of complaints by its many stakeholders (problem), not least its high cost. Policy entrepreneurs had long championed various reform ideas. The researcher examines Governor's Andrew M. Cuomo's campaign rhetoric to understand the role of the politics stream in shaping the policy agenda. In this qualitative study, analysis of government documents, reports, and media reporting is supplemented with interviews from key NYS government personnel involved in the agenda-setting process. The study concludes that reform of NYS's worker compensation system landed on the policy agenda through a unique conjoining of the policy, politics, and problem streams, as predicted by MSA.

Keywords: NYS Workers' Compensation Board, multiple streams analysis, business process re-engineering, Kingdon, agenda-setting

Chapter I: Introduction

The Current System

The New York State (NYS) Workers' Compensation Board (the Board) is an independent state agency and a social insurance system. This system ensures that an employee's due process rights are protected during recovery from an injury suffered on the job. The Board oversees the handling of claims by insurance companies. Board oversight begins when an injured worker files an injury claim and continues through any adjudication that is necessary to resolve all contested issues.

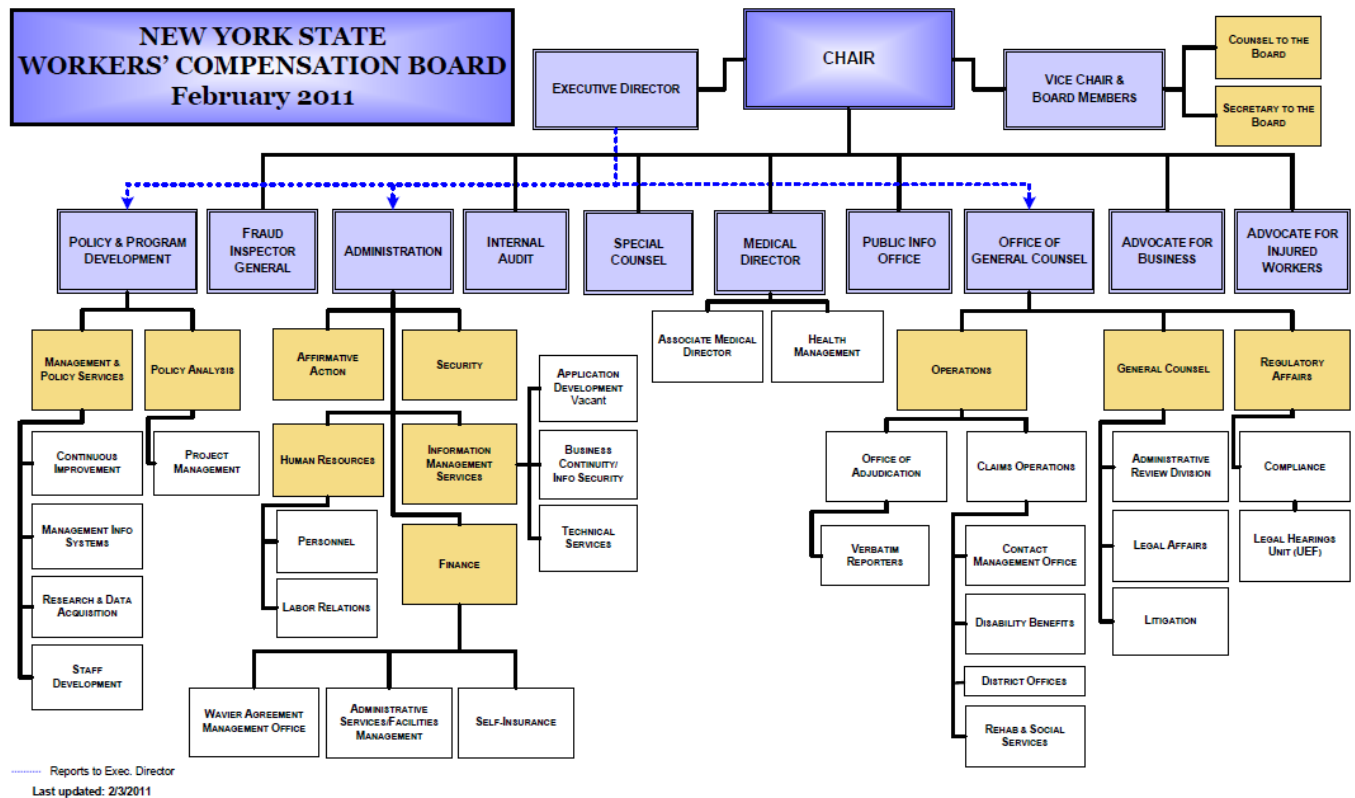
The Board is a vertically-organized NYS executive branch agency (New York State Workers' Compensation Board, 2012, p. 39). (See Figure 1 for an organizational chart of the Board.) The highest offices of the Board are government-appointed and include the offices of the Chairman, the Executive Director and the Vice Chairman and Board members. The current Workers' Compensation Board Chairman is Kenneth J. Munnelly. The Board's executive offices oversee nine district locations and six main offices.¹ The Board's mission statement is to "protect the rights of employees and employers by ensuring the proper delivery of benefits to those who are injured or ill, and by promoting compliance with the law" (New York State Workers' Compensation Board, 2012, p. 1).

The Office of Operations ensures that Workers' Compensation claims are processed correctly and that adjudication processes are in place for any contested issues that need to be resolved. *The Bureau of Compliance* ensures that all employees who are eligible to receive Workers' Compensation benefits receive them in a timely and equitable manner. It also ensures that employers that do not possess Workers' Compensation insurance are issued appropriate

¹ District Locations: Albany, Binghamton, Brooklyn, Buffalo, Long Island, Manhattan, Queens, Rochester, Syracuse

penalties (New York State Workers' Compensation Board, 2012, p. 41). *The Medical Director Office* is responsible for the oversight of medical issues and treatment for injured workers. It is also responsible for creating and promoting guidelines and policies to ensure that injured workers receive quality medical care and positive outcomes in order to be able to return to work (New York State Workers' Compensation Board, 2012, p. 41). *The Office of Self Insurance* monitors self-insuring employers, guaranteeing they have the financial resources to be self-insured and, therefore, injured workers will receive Workers' Compensation benefits in the event that a self-insurer defaults on their insurance coverage (New York State Workers' Compensation Board, 2012, p. 41). *The Advocate for Injured Workers* acts as a liaison for the business community and helps resolve questions and concerns for injured workers. *The Office of the Fraud Inspector General* investigates potential criminal activity as it relates to the Workers' Compensation system and reports such activity to criminal prosecutors for development of potential criminal cases (New York State Workers' Compensation Board, 2015). The Board upholds its mission statement by guaranteeing that injured workers will receive weekly indemnity benefits and quality medical care while they are recovering from an on-the-job injury (New York State Workers' Compensation Board, 2012, p. 1). Indemnity benefits and medical care are intended to return the injured worker to work expeditiously, in turn enabling the injured worker to begin receiving their full wages again and thereby keeping employer costs down. Their indemnity benefits and medical care are paid for by their employer's insurance carrier and directed under the Board.

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Source: (New York State Workers' Compensation Board, 2012, p. 10)

There are several nongovernmental stakeholders in the Workers' Compensation system: the injured worker, the injured worker's employer, physicians, attorneys, and insurance companies. Virtually all workers are protected under the *Workers' Compensation Law*. There are 600,000 employers/self-insured employers, 200 insurance underwriters, 60 third-party administrators, 31,975 physicians who treat injured workers and 8,131 physicians who perform independent medical evaluations on behalf of employers' insurance companies (New York State Workers' Compensation Board, 2012, p. 11). There are also many attorneys throughout New York that act on behalf of injured workers, as well as attorneys that act on behalf of insurance companies.

The injured worker has the right to choose to be represented by an attorney to guide them through the claims process. Their employer's insurance company has the right to an attorney. An

injured worker's physician also plays an important role in the Workers' Compensation claim. The injured worker must demonstrate that they have a disability that is work-related to be eligible to receive indemnity benefits. The injured worker demonstrates this by providing up-to-date medical reports from the treating physician to all parties of interest. It is also mandated that any report that relates to an injured worker's compensation claim be sent to the Board. (New York State Workers' Compensation Board, 2012, p. 40).

An injured worker is automatically entitled to lost wage benefits and appropriate medical care when they suffer from a work-related injury regardless if the employee or employer is at fault (Board, 2013, p. 2). Injured workers are still entitled to medical treatment if they did not lose any time from work. They are only automatically disqualified from receiving any benefits if the injury resulted from drug or alcohol use, or if injury resulted from an attempt to hurt oneself or another (Board, 2013, p. 2). In addition to the basic rights that an injured worker possesses while recovering from an on-the-job injury, lost wages and medical benefits, injured workers are entitled to vocational rehabilitation, social worker assistance, death benefits and discrimination benefits (Board, 2013, p. 2).

Injured workers are entitled to lost-time wages while recovering from an on-the-job injury for more than a week to aid them financially during their absence from work. An average wage is based on the gross earnings that an injured worker had earned each week for the 52 weeks prior to the date of the injury (Board, 2013, p. 6). The injured worker will then earn two-thirds of the average weekly wage, multiplied by the percentage of disability. The Board chose to pay two-thirds of the average weekly wage to account for the tax-free nature of the payment (Board, 2013, p. 6). An injured worker who has returned to work can still receive reduced wage benefits on the condition that they are not able to earn as much as they did before

the injury solely because of their injury. The lost-time wages are calculated by the percentage, or degree, of disability, of an injured worker, which the treating physician determines and reports to all parties of interest (Board, 2013, p. 1).

The degree of disability is divided into four classifications, which are temporary total disability, temporary partial disability, permanent total disability and permanent partial disability (New York State Workers' Compensation Board, 2013b, p. 7). Temporary total disability and partial disability benefits are awarded when an injured worker's loss of wage earning capacity is lost either totally or partially on a temporary basis. Permanent total or partial disability benefits are awarded when an employee's wage-earning capacity is permanently lost (Board, 2013, p. 7).

The awards between permanent total disability and permanent partial disability can differ, as there is no limitation on the number of payable weeks of awards in permanent total disability cases. When an employee has a permanent partial disability case, they receive two types of disability benefits: schedule loss of use and non-schedule benefits (New York State Workers' Compensation Board, 2013b, p. 7). Injured workers with a permanent partial disability earn these types of awards after they have reached maximum medical improvement (Board, 2013, p. 7). A schedule loss of use is awarded when an employee has permanently lost use of an upper or lower extremity, eyesight, or hearing, limited by a schedule set by the *NYS Workers' Compensation Law* statute and dependent upon the permanently injured employee's body part and severity of disability as determined by the treating medical provider (Board, 2013, p. 7). Injuries that do not meet these criteria are referred to as non-schedule losses of use. Payments for these injuries are based upon the injured worker's permanent loss of wage-earning capacity, also determined by the treating medical provider (New York State Workers' Compensation Board, 2013b, p. 7).

Injured workers are entitled to medical treatment for their on-the-job injury that is paid for under their Workers' Compensation claim (Board, 2013, p. 4). They are also entitled to be reimbursed for any mileage or travel out-of-pocket expenses that they incurred while visiting their treating physician. The injured worker's treating physician must be authorized under the *NYS Workers' Compensation Law* to treat Workers' Compensation patients (Board, 2013, p. 4). The *NYS Workers' Compensation Law* also protects its injured workers from having to be financially responsible for their medical treatment.

The bills for medical treatment are sent directly to the Board and the injured worker's employer's insurance carrier (Board, 2013, p. 4). The injured worker is not allowed to pay for any medical bills under the *NYS Workers' Compensation Law*. If there is an objection to a service rendered in the medical bill, the insurance carrier is required to pay the undisputed portion (Board, 2013, p. 4). The disputed portion will be heard in front of an administrative law judge. If the law judge rules in the carrier's favor, they do not have to pay the disputed portion of the bill. The injured worker is nevertheless deemed not liable for that medical service. The injured worker is entitled to treatment for services which are classified as medical, osteopathic, dental, podiatric, psychological, chiropractic, surgery, hospital care, laboratory testing, drug prescriptions, nursing services, surgical appliances, or prosthetic devices (Board, 2013, p. 4). Additionally, the *NYS Workers' Compensation Law* supplies the injured workers with social workers and vocational rehabilitation counselors to aid them in returning to work.

When an injured worker is found to have a permanent partial disability but also found to be less than totally disabled, they are required to look for work (Board, 2013, p. 5). Often, they have the ability to return to work but may not be able to return to the job at which they were injured. In these types of cases, injured workers are required to furnish job searches to their

employer's insurance carrier every 30 or 60 days (Board, 2013, p. 5). The Board provides social workers to gauge the injured worker's wage-earning capacity. When suitable, the social worker will refer an injured worker to vocational rehabilitation provided by ACCES-VR, a NYS agency (Board, 2013, p. 5). The Board utilizes vocational rehabilitation to return employees who suffer an on-the-job injury to work expeditiously.

Once an injured worker is assigned a counselor, this vocational rehabilitator then helps in the search for a job that the injured worker would be able to return to, using the determined percentage of disability as a guide. The counselor will also help the injured worker in developing a plan for returning to work, which can include referrals to vocational training and/or coaching and reemployment training center, such as the One-Stop Career Center that is under the control of the NYS Department of Labor (Board, 2013, p. 5). Social workers help provide a support system for an injured worker who is retraining or looking to return to work. The injured worker may encounter financial or family hardships when they are suffering from an on-the-job injury. These hardships can interfere with the injured worker's attempts to return to work. Social workers provide strategies to cope with the lasting effects of an on-the-job injury and help the injured worker prepare for the return-to-work process (Board, 2013, p. 5). Social workers also offer support for families of workers whose on-the-job injury or illness resulted in death.

Death benefits are available to an injured worker's spouse and children. They receive two-thirds of the decedent's average weekly wage (Board, 2013, p. 7). The spouse is entitled to this benefit until remarriage, in which case the spouse would receive a lump sum payment equal to two years' worth of benefits (Board, 2013, p. 7). The children are entitled to this benefit until the age of 18. Benefits are extended to the age of 23 if the children attend college (Board, 2013, p. 7). If a child is physically disabled or blind, he/she will receive this benefit for life. If the injured

worker had no other dependents, the surviving parents, if applicable, or the estate may be entitled to a benefit worth up to \$50,000 (Board, 2013, p. 7). The funeral expenses that the decedent's dependents incur are also reimbursable for up to \$5,000 (Board, 2013, p. 7). The Board also offers workplace discrimination benefits.

Discrimination benefits are applicable when an injured worker is terminated from his/her employer because of a Workers' Compensation claim being filed (Board, 2013, p. 8). Employers are also prohibited from retaliating against their employee, because of their employee testifying in their Workers' Compensation case (Board, 2013, p. 8). If the Board finds that an injured worker was wrongfully discriminated against and ultimately terminated, the injured worker is entitled to receive lost wages (Board, 2013, p. 8).

Workers' Compensation in New York State

Early History

More than a century ago, the concept of Workers' Compensation was very controversial. In regard to any employee that had an on-the-job injury, the common rules of law applied, such as contributory negligence and assumption of risk (Cavalcante, 2014, p. 5). Employees that suffered from an illness or injury in the workplace were deemed to be at fault and responsible for their workplace injuries. Employers were not responsible for employees that suffered an injury or illness that occurred on their premises (Cavalcante, 2014, p. 5). However, at the beginning of the 20th century, placing blame on employees that had suffered an on-the-job injury had started to shift with new policymaking.

In 1909, the governor, the president of the NYS Senate and the speaker of the NYS Assembly jointly appointed a commission consisting of fourteen people, which then created

Article 14-a (Cavalcante, 2014, p. 6). Article 14-a stated that employers were responsible for any employee's injuries that had arisen in and out of the course of employment, provided that the fault was at the hands of the employer and the employer had contributed to some act of negligence (Cavalcante, 2014, p. 5). However, the employer was only liable to the employee for accidents if the accident was "a necessary risk or danger of the employment or one inherent in the nature thereof; provided that the employer shall not be liable in respect of any injury to the workman which is caused in whole or in part by the serious and willful misconduct of the workman" (Cavalcante, 2014, p. 5). Employers were only liable to compensate their employees for workplace accidents only if it were proven that the employers were indeed at fault. Thereafter, the NYS Court of Appeals rendered Workers' Compensation legislation unconstitutional.

On March 24, 1911, the NYS Court State of Appeals ruled that Workers' Compensation legislation violated due process and common law. Therefore, it was rendered unconstitutional under the Fourteenth Amendment in the *Matter of Ives v. South Buffalo Railway*, 201 NY 271 (Cavalcante, 2014, p. 5). The very next day, a jarring event occurred that historically changed due process rights for employees who had suffered from an on-the-job injury. This also changed how employers were required to protect their injured employees.

On March 25, 1911, 146 industrial workers perished in the Triangle Shirtwaist Factory fire, a defining moment in labor history and an event that resulted in the creation of the *NYS Workers' Compensation Law*, progressive social insurance legislation, and the creation of the New York State Insurance Fund in 1914 (Dombroff, 2011).

The New York State Insurance Fund (NYSIF) is a nonprofit agency that guarantees Workers' Compensation insurance coverage at minimal cost to employers that conduct business in New York State (Dombroff, 2011). Even though it is a state agency, it is a self-funding insurance

agency that competes with private insurers. Similar to private insurers, NYSIF collects premiums and medical treatment bills for injured workers that have a work-related injury from New York State employers (New York State Workers' Compensation Board, 2013a). It is required to provide Workers' Compensation coverage to any New York State employer who seeks it, regardless of any infractions that may have been ruled against the employer as they are nondiscriminatory (New York State Workers' Compensation Board, 2013a). However, NYSIF is permitted to deny New York State employers insurance coverage if the employers are indebted to them (New York State Workers' Compensation Board, 2013a).

The Triangle Shirtwaist Factory fire occurred in New York City, and its victims were mostly young women and men. The Triangle Shirtwaist Factory was not equipped with proper fire escapes, had narrow aisles, and its exit doors were locked to the factory workers (Dombroff, 2011). As the workers were trapped inside of the building, they were forced to decide to either withstand the fire and become engulfed by the flames, or jump to their deaths from the sixth and seventh story where rescue ladders were not able to reach them (Dombroff, 2011). As a result of the *Matter of Ives v. South Buffalo Railway*, 201 NY 271 decision, the Triangle Shirtwaist Factory fire survivors and the families of the deceased were not able to collect Workers' Compensation benefits, and the owners of the Triangle Shirtwaist Factory actually profited from this event (Dombroff, 2011). Absent a Workers' Compensation law, the only method by which the surviving workers and the victims' spouses were able to receive compensation for their losses and sufferings was to bring a civil court tort action (Dombroff, 2011). Employers, at that time, had used the defense of contributory negligence, meaning that their employees had contributed to their work accident by being negligent of their surroundings, frequently putting the onus of any work-related accident on the employees themselves (Dombroff, 2011).

As a result of the Triangle Shirtwaist Factory fire and the treatment of those who were affected by this tragedy, there was public outrage and demands from labor organizations for a shifting restructure in New York's labor laws. Politicians of Tammany Hall, a political organization (History.Com Staff, 2009), also aggressively lobbied for improvement of the hazardous working conditions that manufacturing and factory workers faced. This led NYS legislators Robert Wagner and Al Smith to head an investigation into the matter (Dombroff, 2011). In addition, this event was investigated by labor reformer Frances Perkins, the head of the Factory Investigation Commission. Perkins was also, coincidentally, an eye witness to the fire. Her investigation was to explore why the fire happened and what should take place in the future to avoid similar work-related tragedies (Dombroff, 2011). Thereafter, workplace visits took place to investigate the conditions of the building in which the fire occurred.

The resulting reports were published in 1912 and revealed that the building was not adequately protective of its occupants. The reports added that proper fire evacuation plans, preparation and fire drills could have saved the fire from occurring and its workers from perishing (Dombroff, 2011). Afterwards, the owners of the Triangle Shirtwaist Factory were required to compensate their workers and the victims' families at \$75 per victim after being tried and acquitted of manslaughter in court (Dombroff, 2011).

However, this also led to notable improvements in worker safety and working conditions, including the applied use of panic bar locks on outward swinging exit doors (Dombroff, 2011). In addition, New York State legislature enacted a set of laws eventually amended the New York State Constitution. The amendment took effect in January of 1914 and was later affirmed by the U.S. Supreme Court in 1917 (Dombroff, 2011). As many surviving workers and families of the deceased were negatively impacted by the decision of *Ives v. South Buffalo Railroad* (Cavalcante,

2014), Theodore Roosevelt – former President and ex-New York governor – criticized this case by stating, “It is not merely the right but the duty of every friend of genuine justice and progress to protest against the decision in question” (Dombroff, 2011).

As a result of the Triangle Shirtwaist Factory fire, New York State established a social insurance system that compensated an injured worker for their lost time, wages and medical bills with the employer assuming liability for their employees' workplace injuries, which is sometimes referred to as “The Great Compromise” in nod to the collaboration between New York State business and labor groups (Cavalcante, 2014). The tragedy led to productive policymaking and implementation to protect workers from on the job injuries as well as providing support for injured workers and their families in the aftermath of injuries suffered at work.

Policy Reforms

Over the past century since the Triangle Shirtwaist Factory fire led to the creation of the *NYS Workers' Compensation Law*, the Board has continued to promulgate policy to protect the livelihood of injured workers. Table 1 highlights important past Board policy reforms, legislation imposed, and the NYS governor and Board chairmen in office. Table 2 associates the NYS governors in office along with their political party when the Board's policy reforms were enacted, where one can see that both Democrats and Republicans have been governors when policy reforms have been enacted.

Table 1 Past WCB Policy Reforms, Legislation

Reform	Legislation	NYS Governor	WCB Chairman
1954 Reform	Penalties imposed under WCL Section 25	Thomas E. Dewey	Mary Donlon

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NY Employment, Safety and Security Act of 1996	Employers make payments up to one year without liability under WCL Section 21-A	George E. Pataki	Robert R. Snashall
2007 Reform	Creation of evidenced-based Medical Treatment Guidelines	Eliot L. Spitzer	Zachary S. Weiss
Business Relief Act: 2013	Increased benefits for injured workers from \$100 to \$150	Andrew M. Cuomo	Robert E. Beloten

Table 2 Key Governmental Personnel Associated with WCB Reforms

NYS Governor	Political Party
Thomas E. Dewey	Republican
George E. Pataki	Republican
Eliot L. Spitzer	Democrat
Andrew M. Cuomo	Democrat

As Table 1 indicates, there have been various reforms to the Workers' Compensation system since its creation. These past policy reforms were made under different gubernatorial administrations, along with different Board chairpersons. The reforms are as follows: the *1954 Reform*, the *NYS Employment, Safety and Security Act of 1996*, the *2007 Reform*, and the *Business Relief Act of 2013*.

A commission review led to the first reform in 1954 during the administration of Governor Thomas Dewey. After an analytical program evaluation of the NYS Workers' Compensation system, the commission recommended sweeping changes. The recommendations were intended to

address systemic problems. This reform led to changes of sections of the law and volunteer firefighter benefits (Cavalcante, 2014).

The 1954 reform created the amendment of Workers' Compensation Law Section 25, which states that an insurer is limited to a 25-day window in which it can respond to an injured worker's claim in a timely fashion (Board, 2014). The reform subsequently led to a change of law in 1957 that made volunteer firefighters eligible for benefits (Cavalcante, 2014). Almost 40 years later, the *NYS Employment, Safety and Security Act* had made sweeping changes to the NYS Workers' Compensation system for employer costs under the gubernatorial administration of George E. Pataki.

In 1996, the *NYS Employment, Safety and Security Act* set an example of modernizing the entirety of the NYS Workers' Compensation system (Staff, 2004). One of the biggest changes to the entire Workers' Compensation system that were borne out in the *NYS Employment, Safety and Security Act of 1996* was that a precedent of the case law of *Dole v. Dow* was repealed (Board, 2014). *Dole v. Dow* stated that manufacturers who made toxic products that caused a work-related injury or disability to their workers were at risk of being sued. Employers now are protected by the exclusive remedy standard, stating that employers cannot be sued because of an on-the-job accident that an injured worker suffers (New York State Workers' Compensation Board, 2014a). The repeal of *Dole v. Dow* was the biggest modifier of the Workers' Compensation system under this Act as employers had to keep adding additional Workers' Compensation insurance to their businesses for protection. The *NYS Employment, Safety and Security Act of 1996* preceded the 2007 Reforms enacted by Governor Eliot L. Spitzer and his administration nine years later.

A third Board reform is the *2007 Reform*. History repeated itself as business and labor groups, such as Financial Services and the Department of Labor, had collaborated once again to set standards for comprehensive reforms of the Board, as they had in 1911 (Glick, 2007). Prior to the reform, Marc Violette, Governor Elliot Spitzer's spokesperson, had reported, "The Insurance Department is well on track to achieve the governor's goal of significant and necessary regulatory reform of New York's Workers' Compensation system" (Glick, 2007).

The goals that were set prior to the reform process were to increase the minimum and maximum indemnity benefits that were paid to workers temporarily unable to return to work, to reduce Workers' Compensation premiums and expenses for employers, to widen the population of individuals who are eligible for Workers' Compensation indemnity and medical benefits, to be more aggressive in Workers' Compensation fraud investigation and to help individuals return to work in a more expeditious manner through the usage of vocational rehabilitation (Glick, 2007). The majority of goals were met, and the Board saw positive results. The maximum indemnity benefit rate was increased to \$500 a week, easing the financial burden on injured workers recovering from an on-the-job injury (New York State Workers' Compensation Board, 2008a). The average weekly wage had remained stagnant for 15 years prior to the 2007 Reform (New York State Workers' Compensation Board, 2008b). The Board also created a set of medical treatment guidelines for physicians to abide by.

The Board created guidelines to determine the maximum number of weeks of indemnity benefits that a permanently disabled worker could receive (New York State Workers' Compensation Board, 2008a). In addition, the Board created loss of wage earning capacity guidelines (New York State Workers' Compensation Board, 2008b). The loss of wage earning capacity guidelines were the creation of the Insurance Department, labor and business groups,

consisting of representatives of the ALF-CIO and the Business Council of New York State. These guidelines are determined by an injured worker's age, education, literacy level, and any marketable job skills. Medical treatment guidelines were also established, along with a new pharmaceutical fee schedule.

Prescription medication costs are now controlled by the utilization of a pharmaceutical fee schedule along with newly enacted, evidenced-based medical treatment guidelines to address narcotics addiction (New York State Workers' Compensation Board, 2008c). The Insurance Department had created a committee consisting of expert physicians, business, and labor groups to design a set of guidelines for four areas of injuries that injured workers are the most susceptible to experience: the neck, back, shoulder and knee (New York State Workers' Compensation Board, 2008b). The design of these new guidelines is meant to improve the speed and quality of care that an injured worker receives in a Workers' Compensation claim. The medical treatment guidelines allow for preauthorized medical procedures for injured workers to receive quicker medical treatment.

To help with the expediency in the type of medical treatment that a claimant receives, the medical treatment guidelines preauthorize all but 13 medical procedures to reduce the delay that authorization requires from insurance companies (New York State Workers' Compensation Board, 2008c). The guidelines also require that any procedure that a physician wishes to perform on a patient, such as chiropractic and physical therapy, must be authorized through the use of a variance (New York State Workers' Compensation Board, 2008c). The Board would come to adopt newer medical treatment guidelines in 2010, 2013, and 2014 (New York State Workers' Compensation Board, 2008a). The *2007 Reform* enacted by the Spitzer administration drastically changed the

way injured workers received medical care and treatment by the adoption of the medical treatment guidelines.

Current reform efforts

The *Business Relief Act of 2013* focused on reducing employer costs. In 2013, the *Business Relief Act* was approved and enacted by Governor Andrew Cuomo to save on employer costs by switching to a single-assessment methodology (Morrow & Nash, 2013). Prior to the *Business Relief Act of 2013*, employer assessments were determined by the type of insurance they possessed, whether it was self-insured, by a private carrier, or covered by the New York State Insurance Fund. These types of differing assessment methodologies led to an increase in employer costs in the Workers' Compensation system. Furthermore, the Re-opened Case Fund, or 25-A Fund, was an expensive liability to employers (New York State Workers' Compensation Board, 2011).

The Re-opened Case Fund was created to lift financial burdens off employers by accepting liability with stale claims that had a gap in indemnity benefits and medical treatment (Morrow & Nash, 2013). Claims were eligible to transfer liability from the insurance carrier to the Re-opened Case Fund after seven years from an injured worker's date of accident and three years from the last payment of compensation. After the claims shifted to the Re-opened Fund, the former insurance carrier no longer had responsibility for any payment of the claim. Although the original intent of the Re-opened Fund was to reduce employer costs, with unforeseen and expensive litigation employers have not benefited from this entity (New York State Workers' Compensation Board, 2014c).

Under the *Business Relief Act*, employers now undergo a single-assessment methodology, and Governor Cuomo has closed the Re-opened Case Fund, resulting in savings to employers during the 2013-2014 budget (Morrow & Nash, 2013). When implemented, it was projected that employers would experience a 26% reduction rate in assessments, resulting in an overall savings

of \$300 million and allocating more money towards injured workers' indemnity benefits (Morrow & Nash, 2013).

The Act also increased the minimum weekly benefit that an injured worker would receive. Under the *2007 Reform*, the minimum weekly benefit that an injured worker would receive was \$100. The *Business Relief Act of 2013* increased this rate to \$150 (Morrow & Nash, 2013). Increasing the minimum weekly rate to \$150 now reflects the New York average wage statewide that the *2007 Reform* did not do (Morrow & Nash, 2013). To account for lower-wage workers, the new maximum rate of \$150 had taken effect starting May 1, 2013 (Morrow & Nash, 2013). A new policy was put into place to account for the \$150 minimum rate as an injured worker's benefit rate plus any current earnings, if applicable, may not exceed the average weekly wage in the year preceding the accident (Morrow & Nash, 2013).

The past policy reforms of the Board had made modernizing changes to the Workers' Compensation system still in effect today. Policy ideologies are different from reality; however, as the policy reforms faced problems after implementation.

Statement of Problem and Purpose of Study

The primary purpose of this study is to understand how the latest attempt to implement policy changes to the NYS's Workers' compensation system has landed on the policy agenda. The secondary purpose is to demonstrate the efficacy of the MSA to a policy area where it has yet to be applied – namely, workers' compensation.

Background

The *Workers' Compensation Law* was enacted in July of 1914 to help protect the rights of injured workers, making the entire system more than a century old. In a centennial report on

NYS released in July 2014, three key political actors pointed to success of NYS's *Workers'*

Compensation Law:

“One hundred years of experience demonstrates the importance of a genuine commitment to healing and timely benefits; inefficiencies and undue controversy derail the interests of labor and business.” – NYS Governor Andrew Cuomo (Board, 2014, p. 2).

“One hundred years ago, the state of New York took critical steps toward establishing laws that would better protect workers who have experienced any harm or ill effects while on the job.” – United States Senator Kirsten Gillibrand (Board, 2014, p. 3).

“Our job at the Board is to reduce the social and economic costs by ensuring that workers receive their benefits promptly, with a minimum of controversy, while encouraging an expeditious return to work.” – NYS Workers' Compensation Board Chairman Robert Beloten (Board, 2014, p. 4)

This report, entitled, *The NYS Workers' Compensation Board Centennial: Celebrating 100 Years of New York Workers' Compensation and Leading the Way Forward for the Next Century*

(Board, 2014) offers an overview of the various legislation enacted during the past century and highlights the policymaking achievements of the Workers' Compensation Board. In addition to the overview of policymaking and legislation enacted over the past century, this July 2014 report lays out the Board's vision that involved two initiatives for the next century to better serve injured workers and the Workers' Compensation Board stakeholders (Board, 2014, p. 36): technology and improving quality while reducing costs.

With respect to technology, the Workers' Compensation Board had expressed that in today's world, electronic systems are becoming more prevalent as paper-compliant systems are slowly diminishing. The report announced a new electronic filing system called eClaims. With the advent of eClaims, any type of form that related to an injured worker's Workers' Compensation case could now be filed electronically rather than mailed in, reducing the time an injured worker must wait for their benefits (Board, 2014, p. 36). The second part of their vision promised

improvement specific areas of the Workers' Compensation Board as follows: (Board, 2014, p. 37)

1. Benefit payments
2. Quality of medical care
3. Reducing employer costs

The Workers' Compensation Board also announced their new reengineering project, called the Business Process Reengineering Project (BPR) (Board, 2014, p. 37). The BPR will also focus on the three areas noted above. Independent research studies had demonstrated that in comparison to the rest of the United States, NYS Workers' Compensation Board was the fifth costliest Workers' Compensation system. Injured workers were also receiving poor medical outcomes and low benefit wages (Board, 2014, p. 40). The Workers' Compensation Board had also consulted with nongovernmental stakeholders to develop their vision for the next century.

The Workers' Compensation Board conducted multiple meetings with their nongovernmental stakeholders starting in August of 2013 in order to develop goals and visions for the next century (Board, 2014, p. 37). They held these stakeholder meetings to collaborate with the stakeholders' and learn their vision for the next century. This vision included the creation of a system that is tasked with reporting data metrics to focus on improving the transparency of the entire system to all participants. Additionally, the system is intended to be a flexible and self-executing so that it can respond to legislative and regulatory changes while maintaining open dialogue between the Workers' Compensation Board and its stakeholder groups in order to increase collaboration and share key improvement ideas (Board, 2014, p. 37). The BPR was broken up into phase to make it more manageable to complete these visions, concentrating on multiple projects per phase.

The BPR phases are projected to last several years before implementation. As of the year of this study, the BPR is currently in Phase 1 of their first project. Phase 1 includes creation to a new medical portal system, to which medical reports can be submitted electronically, establishment of a faster settlement process for injured workers who would prefer to settle their claim with the insurance companies, and improvement of the customer service experiences for injured workers (Board, 2014, p. 38). NYS Workers' Compensation is a complex system and reform is a difficult undertaking. Figure 2 illustrates the complexity of the Board with its myriad of stakeholders. There are numerous stakeholders affected by its policymaking. A reformation of an entire system such as the Workers' Compensation Board can be extremely complex to meet stakeholders' individualized and group agendas and imperative that an attempt to reform a system that is a century-old is well-organized. The Board has made attempts at system reformation for over 70 years. Some notable reform efforts in 1996 and 2007 made improvements, however, left residual complexity and added layers of confusion to the entire system.

The Board's role is only one party in the entire system. At the heart of the system are the interactions the Board has with workers, unions, employers, insurers, attorneys and medical providers. The Board has *never* undertaken a reengineering project such as the BPR and worked in conjunction with its stakeholders to address major issues with the Workers' Compensation system and to correct these issues for the next century.

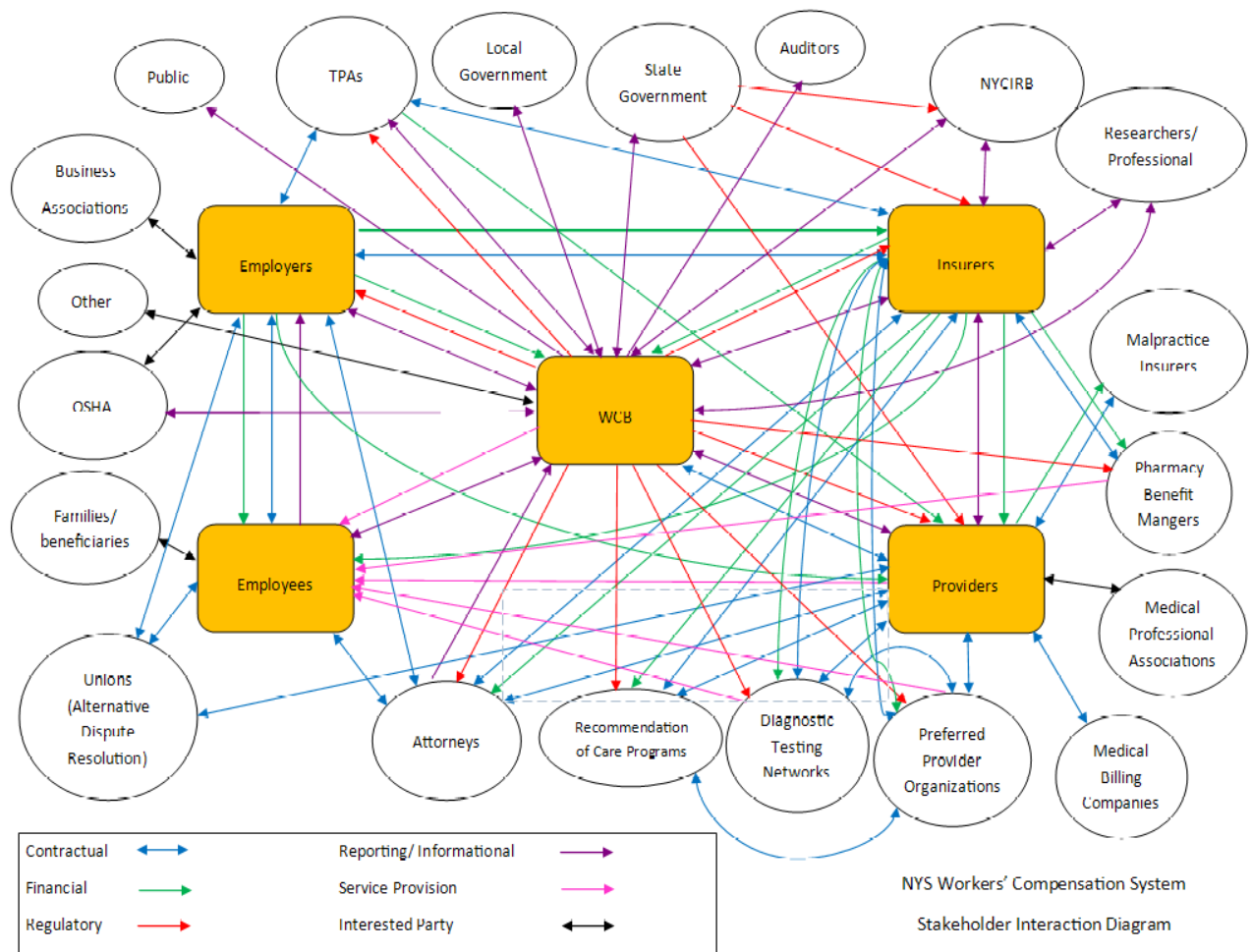
Multiple streams analysis and NYS workers' compensation system

Why was the BPR introduced? With the myriad of policy proposals that are competing for the governor's attention, why did BPR capture the Cuomo administration's attention? Does the BPR align with the Cuomo administration's agenda? How might we explain the BPR gaining

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prominence to be on a New York State executive branch agenda? The purpose of this study is to explain why the Workers' Compensation Board undertook such a task to overhaul their entire system and how the BPR might have gained attention from the public and the Cuomo administration.

Figure 2 NYS Workers' Compensation Board Issue Network



(New York State Workers' Compensation Board, 2013c, p. 5)

One useful model to answer our questions is John W. Kingdon's (2003) Multiple-Streams Analysis (MSA) model. The MSA model is a framework to understand the problems, policies

and political elements that exist in agenda-setting studies that Kingdon (2003) describes as streams. The utilization of the MSA paradigm facilitates our understanding of the environment prior to the BPR as policymaking and policy development is complex.

Policy processes are widely encouraged to be analyzed through theoretical frameworks that guide researchers to describe, understand and evaluate government policies and behaviors (Young, Shepley, & Song, 2010). This research study aims to explain why the BPR was given governmental attention and placed on the NYS executive branch governmental agenda. It will also address why the BPR focuses on the revitalization of three specific areas of the Workers' Compensation system. By answering these questions, we will have a clearer understanding of the agenda setting process by the NYS executive branch.

This study is divided into five chapters. In this chapter, the researcher explains the purpose, organization, and history of the NYS Workers' Compensation Board and the concept of the BPR. She also lays out the theoretical framework that will be used for this study, the Multiple Systems Approach (MSA), to discuss the problems, policies and politics that existed before the announcement of the BPR. In addition, she also explains why this study is being conducted and the future implications this study can have for policymaking in state-level agenda settings.

The first part of Chapter Two is an explanation of John W. Kingdon's MSA. The second part reviews previous empirical policy studies that have used the MSA. The third part includes an overview of its policymaking, which is written to explain the problems with the NYS Workers' Compensation system that precipitated the BPR in 2014. Chapter Three is a description of the sample selection utilized and the methods used to gather and analyze data. Chapter Four is a discussion of the results of the data collection. Chapter Five contains conclusions, implications, and limitations of the study, recommendations and future research.

Significance of Study

The significance of this study is twofold: to explain NYS Workers' Compensation Board's agenda to contribute to the Multiple-Streams literature. This research study is the first of its kind to utilize MSA to explain policymaking decisions of a Workers' Compensation system. In addition, this research study is intended to be useful to other Workers' Compensation systems throughout the country seeking to institute reforms.

Furthermore, the researcher also hopes the MSA will help government employees better understand policymaking decisions by governmental personnel in management roles. In her capacity of court reporter for the Board, the researcher has witnessed many instances of negative reactions toward management's policymaking decisions. She hopes that this research study will help her fellow non-management Board coworkers understand management policymaking decisions that ultimately have an impact on their day-to-day job duties.

Chapter II: Review of Literature

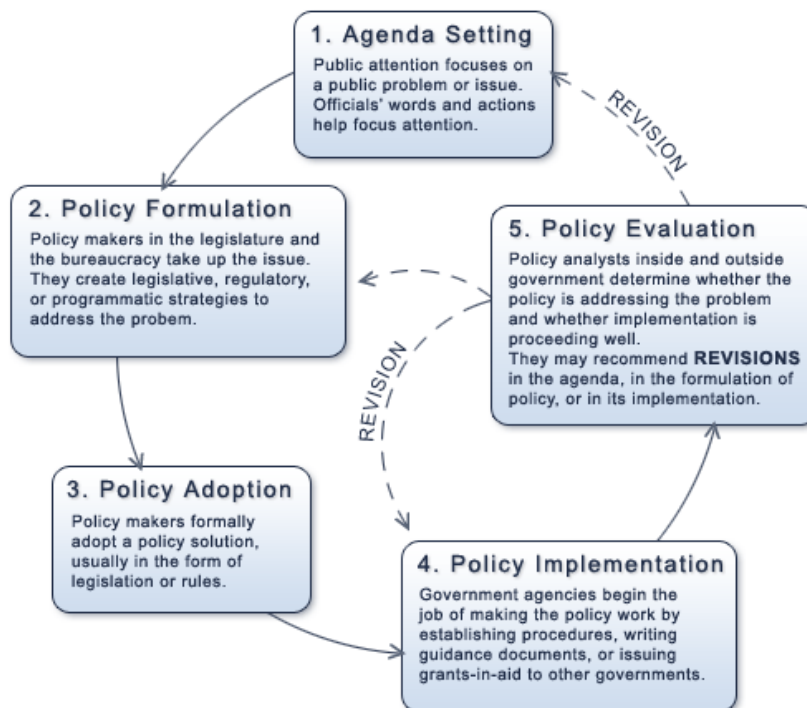
Introduction

This literature review is divided into five parts. The first section is a description of the policymaking cycle. The second section is an explanation of John W. Kingdon's MSA. The third section is a discussion of policy studies that have applied the MSA and their contributions to national and state-level agenda setting. The fourth section is a discussion of critiques of MSA. The last section contains a discussion of the main findings as they relate to the purpose of this study.

Review and Critique of Literature

The Policymaking Cycle

Figure 3 The Policymaking Cycle



(The Texas Politics Project, 2016)

In order to understand the stages of policymaking clearly, the stages are divided into a cycle. Figure 3 is a cyclic illustration of policymaking. There are five stages of the policymaking cycle:

Agenda Setting: The agenda setting stages identifies the problems that require the government's attention, decides which issues require the most attention and defines the nature of the problem.

Policy Formulation: The policy formulation stage includes planning, setting objectives and choosing the best solution to address a policy problem. Policymakers also choose what policy instruments should be utilized to address the problem.

Policy Adoption: The policy adoption stage includes policymakers ensuring that the policy instruments utilized have legislative, executive and interest group support.

Policy Implementation: The policy implementation stage includes policymakers employing or establishing a relationship with an organization to implement the policy. Policymakers must ensure that the organization has the resources to implement the proposed policy, such as staffing, money and legal authority.

Policy Evaluation: The policy evaluation cycle includes policymakers assessing if the policy implemented was implemented correctly. If the policy was implemented correctly, policymakers also assess if it produced the desired effect.

John W. Kingdon's Multiple-Streams Framework

Figure 4 Kingdon's Multiple Streams Framework



John W. Kingdon (2003) is political scientist and policy analyst who influenced American political science with his focus on the role of government processes and behaviors. His MSA is widely used to describe policy formation, agenda setting, and alternative specification (Young et al., 2010, p. 4). Figure 4 illustrates the MSA and how the streams converge to become part of a policy agenda.

This framework is also used to understand policymaking and specific policy decisions. The MSA is applied when there are ambiguous conditions and plentiful information that allow policy actors, called policy entrepreneurs, to interpret their own understandings of public policy (Young et al., 2010, p. 5). Policy actors are any individual or organization that is affiliated and affected by policymaking either directly or indirectly. Michael D. Jones (Jones et al., 2015) explains, “[that it] posits that public policy is not entirely random and offers a set of concepts and processes to make sense of the policy process.” Guiding his readers in understanding policymaking, Kingdon’s (2003) framework identifies three processes or “streams” that flow in the policymaking world: problems, policies and politics stream.

These three streams typically operate independently of each other. However, Kingdon (2003) explains when these three streams metaphorically merge together at a critical juncture; an opportunity emerges for a new policy to be placed on a government’s agenda. He describes the merging of these three streams as “coupling” (Kingdon, 2003, p. 172). The streams generally merge together when there is a change in the political stream, such as a compelling problem that needs to be addressed (Kingdon, 2003, p. 200). After the streams merge together, a policymaking window briefly opens, allowing policy entrepreneurs to attach their solutions to these problems. The policy window is an opportunity for an issue to now become part of a government agenda. The problems stream alerts policymakers that a certain issue needs to be given attention (Kingdon, 2003, p. 201).

Kingdon (2003) refers to the problems stream as when governmental officials fix their attention on one problem rather than another. Government officials are alerted to problems in three ways: indicators, focusing events and feedback. The indicators are the assessment of the magnitude of a problem (how severe it is). Indicators help policy actors monitor potential

problems and gauge the severity of a potential problem, such as a routine monitoring system that reports rates and ratios on a regular basis (Kingdon, 2003, p. 93). A focusing event is an unexpected and jarring event that captures both the public's and policymakers' attention. They alert policymakers that imminent action must be taken, and they often precede policy change (Kingdon, 2003, p. 93). An example of a focusing event is the 2001 World Trade Center terrorist attacks that led to a change in airport security policy. In addition, policymakers are alerted to the need for policymaking action through feedback.

Policymakers can receive feedback from research and analytical studies as to whether a program has failed to meet goals or if the conclusions present problems that require governmental attention (Kingdon, 2003, pp. 101-103). Policymakers interpret the feedback which they receive as to whether immediate governmental attention is required or not. Accordingly, if there is a problem that a policymaker perceives as requiring immediate governmental attention, Kingdon (2003) explains that it can be a difficult feat for policymakers to attach their solution to a problem, or indicator. They must also convince their peers that this is appropriate action to take, demonstrating the need for a solution. Policy proposals "float" in the policies stream as proposals that may become an actual policy (Kingdon, 2003, p. 101). The policies stream includes proposals that have the potential to be accepted as solutions to a policy problem. Kingdon (2003) refers to the policies stream as when proposals are drafted, generated and accepted. He describes policy initiatives as a short list of proposals which policymakers seriously consider (Kingdon, 2003, pp. 228-229). A policy proposal is subjected to key criteria for it to survive. The proposals must be technically feasible, valued, and accepted. Additionally, the resources for the proposals to be obtainable must be available (Kingdon, 2003,

p. 229). Policy proposals also must be accepted by policy communities that would be associated with and ultimately affected by them.

Policy communities can prove to be very close and tight knit, especially communities that are very similar to each other (Kingdon, 2003, p. 118). The individual policy communities likely have their own individual agendas along with their own personal motivators. Kingdon (2003) describes fragmenting as a policy or proposal accepted by one policy community but not by another. He also discusses the consequences of policy fragmentation, that “the left hand knows not what the right hand is doing, with the result that the left hand sometimes does something that profoundly affects the right hand, without anyone ever seeing the implication” (Kingdon, 2003, p. 119). The politics stream, much like the policy stream, has its own individual agendas that influence policymaking. Kingdon (2003) describes the third stream, political, as flowing according to its own rules and agendas. He notes that “it is composed of such factors as swings of national mood, election results, changes of administration, changes of ideological or partisan distributions in Congress and interest group pressure campaigns” (Kingdon, 2003, p. 159). The national mood is the public’s point of view on a policy problem and its associated issues, values, and solutions. The party ideology refers to the political party in which political institutions are affiliated and will influence facilitation. The balance of interests refers to the collective opinion of interest and advocacy groups that have an interest in a particular problem (Jones et al., 2015, p. 5). The MSA has been utilized by a host of policy studies. The next section describes various MSA studies to aid as a general understanding of policymaking.

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Table 3 Studies Utilizing Multiple Streams Analysis

STREAM	Climate Change	Civil Union Rights	Youth Mental Health	K-12 and Higher Education	Fuel Taxation
PROBLEMS	<ul style="list-style-type: none"> - Sea level rise (SLR) occurs in coastal districts - Linked to flooding - Other environmental risks such as transportation, public infrastructure, military operations 	<p>Due to a lack of civil unions:</p> <ul style="list-style-type: none"> - Children of same-sex families would be adversely affected by the healthcare bureaucracy - Same-sex couples experience problems such as hospital visitation, health care decision making, funeral and probate rights 	<p>Media reports found that youth mental illness contributes to:</p> <ul style="list-style-type: none"> - Lost productivity - Suicide - Unemployment - Long-term welfare receipt <p>- Reports implored the need for increase of youth mental health services</p>	<p>Lack of teacher accountability:</p> <ul style="list-style-type: none"> - Poor student achievement, especially for students of color and disadvantage - Critique of teacher preparation programs - No Child Left Behind Act and Race to the Top served as focusing events 	<p>In the US, Canada and Australia:</p> <ul style="list-style-type: none"> - Too much assumption that fuel taxes would increase due to increase in auto ownership and decrease in petroleum prices - Uncertainty of ability to build and maintain future infrastructure - Current infrastructure policies will face long-term problems
POLICY	<ul style="list-style-type: none"> - No readily identifiable solution - Lack of scientific knowledge about policy solutions - SLR itself uncertain and unpredictable 	<ul style="list-style-type: none"> - HB2234 gives civil union recipients all the rights of a marriage without the term "marriage" - Appealed to multiple constituencies including religious groups - Safeguards families that are not adequately protect through hospital bureaucracy 	<p>EPPIC and Headspace:</p> <ul style="list-style-type: none"> - Serves youths ages 15-24 with first episode of psychosis (EPPIC) - Provides drug/alcohol, employment treatment with improving youth mental health (Headspace) 	<ul style="list-style-type: none"> - Overhaul of teacher preparation programs (TPPs), led to high-quality new teachers - TPPs led to: <ul style="list-style-type: none"> - Increased clinical practice - Importance on subject matter - Improving coursework - Extensive practicum settings - Multiple mechanisms of accountability 	<ul style="list-style-type: none"> - US created a highway trust fund to collect revenues for interstate highways - Canada created a federal gas tax fund to develop new infrastructure - Australia created a system to target road infrastructure while minimizing state spending, gas taxes not specifically dedicated towards infrastructure
POLITICS	<ul style="list-style-type: none"> - Lack of consensus and partisanship on climate change - Virginia legislators disregarded public opinion on climate change - Climate change a heavily politicized debate (Republicans and conservatives skeptical) 	<ul style="list-style-type: none"> - Opponents to the bill failed to develop a clear message or contact legislators - Five lame duck Republican representatives voted for the bill - AG Lisa Madigan coupled the civil union bill with antidiscrimination same-sex adoption by faith-based agencies 	<ul style="list-style-type: none"> - Politicians more aware of public criticism about lack of youth mental health services - Replacement of Prime Minister during demand for more attention to mental health - Policy entrepreneurs advocate for EPPIC and Headspace 	<ul style="list-style-type: none"> - Organized forces encouraged alternative pathways to teaching - Obama administration released a new educational reform agenda: teacher accountability based on student achievement - National mood accepted new agenda 	<ul style="list-style-type: none"> - In US, strong political opposition to raising the fuel tax rates, Commission's report and recommendations were dead on arrival to Congress - In Canada, concern about government's ability to pay for transportation programs - In Australia, government abandoned fuel tax indentation in 2001

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Lessons learned for study	SLR failed to become an item of Virginia's agenda because of a lack of strong perceptions and/or concerns.	MSA concepts are helpful for improving social workers' understanding of the policy process, thus able to advance policy change through advocacy and social justice work.	The media gave attention to lobbying efforts by policy entrepreneurs, changing the national mood and capturing the attention of politicians that youth mental health was a problem needing to be addressed.	The Obama administration allocation of federal resources allowed a policy window to open. Teacher accountability had major support from organized forces of both parties.	Policy formulation of all three nations has not been fully explained by MSA because not tested to predict future effects. United States was ahead in consideration policy alternatives, changed their fiscal capacity.
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Multiple-Streams Approach Policy Studies

Even though this study is the first of its kind to use the MSA to explain policymaking of the NYS Workers' Compensation Board, there have been a myriad of MSA policy studies that have utilized the MSA to explain policymaking in many different contexts. Table 3 highlights the main finding of each policy study reviewed. The topics of these studies include climate change, civil union rights, youth mental health, K-12 and higher educational policy, and fuel taxation policies.

Juita-Elena (Wie) Yusuf, Katharine Neill, Burton St. John III, Ivan K. Ash, and Kaitrin Mahar in 2015 examine how little state-level action was taken to address sea level rise (SLR) in Virginia. As climate change is quickly becoming an important global concern, SLR in particular presents a threat to coastal regions. Aside from an environmental impact of SLR, it poses risks to personal and public property, transportation and public infrastructure, and military operations (Yusuf, Neill, St. John III, Ash, & Mahar, 2015). Scientists and researchers also believe that SLRs can have a global economic impact such as flooding impacting the salinity of groundwater supply and threatening the overall food supply (Yusuf et al., 2015, p. 1). SLRs pose risks such that it is a pressing issue for government researchers to address; however, has a slow government response. The authors used the state of Virginia as an example of why SLR did not become a state agenda item as the state legislature only passed one SLR-related item. Virginia's coastline

is highly susceptible to environment damage due to SLR such as public infrastructure, ports and logistics, military operations, tourism, wetlands and coastal ecosystems (Yusuf et al., 2015, p. 6). They sought to answer the question of why Virginia policymakers did not see SLR as an issue that required legislative and policymaking attention (Yusuf et al., 2015, p. 2).

As there was a lack of research from the perspective of international and US legislative policymakers at various levels of government about the risks of SLR, the authors relied on data from a 2012 survey they conducted of Virginia legislators regarding the saliency of SLR as a policy issue (Yusuf et al., 2015, p. 6). Yusuf et al. conducted a web and mail survey that was sent to 140 Virginia legislators. Of the 140 legislators, 36 responded with a response rate of 26 percent from the Virginia House of Delegates and a 25 percent from the Senate (Yusuf et al., 2015, p. 6). The authors build on their survey results and present additional findings by conducting a content analysis from their survey findings and other studies (Yusuf et al., 2015, p. 6). Yusuf et.al acknowledged that state legislators have a wide variety of issues to address with scarce resources and introduce the theory of an “issue threshold” which they define as the point where “legislators have a stronger predisposition to act” (Yusuf et al., 2015, p. 6).

SLR is a known problem at every level of government, from local to global. It is linked to flooding and other socioeconomic impacts in coastal areas, potentially serving as focusing events. Although flooding is a local concern in low-lying coastal areas, it is not a statewide concern. Similarly, the authors found that climate change is a low priority for local and state policymakers (Yusuf et al., 2015, p. 7). Virginia legislators did not believe that the risks of SLR are highly likely to occur or affect the economic wellbeing, viewing it as an issue that is not pressing. They believed that SLR posed a larger problem in coastal districts; however, less than one/fifth of coastal district legislators strongly agreed that SLRs presented an adverse risk to

their constituents (Yusuf et al., 2015, p. 7). Virginia legislators also believed that SLR is a problem that calls upon the federal government to take the lead in developing environmental policies. Yusuf et.al find that “there is disagreement between state legislators representing coastal and non-coastal areas about whether SLR is a problem for which the state legislature should take policy leadership, with coastal legislators more strongly preferring state involvement” (Yusuf et al., 2015, p. 8). The authors also found that the lack of public knowledge about climate change also was an influence of the legislators’ opinions.

The political stream is usually heavily influenced by public opinion. However, existing research indicated that there was a lack of public knowledge and informed public opinion about SLR and its risk to low-lying coastal areas at the state and national level (Yusuf et al., 2015, p. 8). An odd contradiction to the norm, Virginia legislators tended to disregard the public’s opinion on climate change. As climate change has been a heavily politicized debate in other Western countries, climate change has a more intense debate regarding its seriousness (Yusuf et al., 2015, p. 9). There is also a lack of partisanship about climate change, as Republicans and conservatives tend to be skeptical of its policies. Virginia legislators who responded to the authors’ survey cited a lack of political consensus on both the importance of SLR and the need to take action as the top contributors for failing to become part of a state agenda item – 77 percent for the former and 85 percent for the latter (Yusuf et al., 2015, p. 9). With a lack of political consensus, developing a technical and feasible policy solution for the problem of SLR becomes a tough obstacle.

In Virginia, SLR appears to be a problem with no amenable or readily identifiable policy solution (Yusuf et al., 2015, p. 10). Virginia legislators cited the reason for this was due to lack of funding, scientific information, and lack of knowledge about policy solutions as the key

constraints for development. There was also a lack of consensus among legislators on any appropriate policy or potential effectiveness of policies where may be very “effective” (Yusuf et al., 2015, p. 10). Specifically, less than 25 percent of the legislators that responded to the authors’ survey viewed most potential solutions such as developing a state adaptation strategy, directing funds to monitor and report flowing and SLR changes, and providing funds to municipal governments to address SLR adaptation need were viewed as very effective (Yusuf et al., 2015, p. 10).

SLR is a challenging policy issue because of its uncertainty and potential impacts. It also presents an absence or lack of mutually agreeable solution and highly contentious political debate regarding economic impact of potential solutions (Yusuf et al., 2015, p. 12). The authors believe the MSA is congruent with their findings. The MSA had borne out that “a lack of strong perceptions and/or concerns about an issue translates into the absence of a tipping point for policy action” (Yusuf et al., 2015, p. 12). There was a perceived lack of scientific knowledge regarding SLRs, a lack of consensus regarding the efficiency of possible solutions. It is an extremely partisan issue that makes consensus unlikely, therefore federal leadership may be necessary to bring SLR on to a state policy agenda. Yusuf et.al (2015) concluded by hoping that this study will offer additional insights to other countries into creating tipping points within the multiple frames that can allow governance system to effectively approach the problem of SLR.

Stephen Edward McMillin in 2014 studied how civil unions for gay and lesbian couples developed in Illinois between 2009 and 2011. McMillin (2014) also examined how civil union legislation is crucial for social workers to understand because of its importance to contemporary families. Illinois State House 13th District Representative Greg Harris introduced HB2234, the

Religious Protection and Civil Union Act that gave either same or different gender civil union recipients all of the rights in a marriage without using the term marriage. The passage of this act would result in over 650 enumerated rights and benefits for these recipients (McMillin, 2014, p. 277). McMillian (2014) focused on the problem recognition that was debated in the Illinois House of Representatives prior to the vote of this civil union bill.

The author used a case study method and the MSA and his methodological template. He sought to answer the question if political actors in similar civil union situations involved in the policy process were open to achieve different levels of compromise. McMillin (McMillin, 2014, p. 278) also believed that discovering what kind of compromise was necessary to pass this civil union bill will develop a deeper understanding of how gay rights issues may couple with other issues like family health, adoption, and foster care as issues of importance to social workers. He collected data on public available resources such as debate transcripts, website pages, and periodicals (McMillin, 2014, p. 278). The sources were organized chronologically by date and time, because time-stamped data resources were valuable to the author in understanding the speed of that legislative debate and voting occurred.

Children that were born into gay families would be adversely affected by a lack of civil unions were a main indicator in the problems stream, as “explicit appeals to the risks to gay families with children in the health care bureaucracy were crucial in formulating the lack of civil unions as a clear problem of the day, supported by appeals to changing social values as evidenced by polls and demographic information indicating majority public support for a change in the state law” (McMillin, 2014, p. 278). On November 30, 2010, Harris read a list of areas on the Illinois House debate floor that same couples would experience problems without civil union

protection, including hospital visitation, health care decision making, and funeral and probate rights (McMillin, 2014, p. 278).

Harris and other civil union supporters narrowly focused on particular problems that related to a hospital bureaucracy, expressing that the expectation for same-sex couples to create meticulous legal contracts and documents and constantly have them on their person was burdensome, unfeasible, and demeaning (McMillin, 2014, p. 278). Legislative debate also consisted of citing polls from the previous two months that over two-thirds of Illinois' residents supported either same-sex marriages or unions. Supporters also noted that opposition to civil unions was among an older population, and younger people were far more likely to support civil unions. Census data also showed a one percent increase in LGBT family adoption between 2000 and 2009. The problems streams produced "the social construction of the problem distinctly moved toward a communal, social framework and away from an individual rights framework – toward safeguarding families from unnecessary cruelty and away from declaration of rights and equality", and a shift of social norms (McMillin, 2014, p. 278). The narrow focus of problems from a lack of civil union protection led to a few policy proposals for political consideration.

The legislative debate on creating new civil union policy proposals envisioned various structures such as legal marriage to different levels of civil union and domestic partnership. Some of these proposals were specifically tailored for same-sex couples, and others were universal and included heterosexual couples (McMillin, 2014, p. 279). Other policy communities argued that the status quo of legal protections for same-sex couples was still ideal, eliminating the need for change. Harris sought to satisfy the majority of policy communities that would be affected by his civil union bill.

The bill was considered unique because it sought to appeal to multiple constituencies, gay and straight, old and young rather than simply being a measure for gay rights (McMillin, 2014, p. 279). Harris emphasized that the main point of his bill was to ensure “that no one is left a legal stranger at the time of need in a loved one’s life” (McMillin, 2014, p. 279). Civil unions had a high technical feasibility of being accepted by policy communities. They operated in the same structure as a civil marriage that those entering in a civil union would go to the local county courthouse and fill out paperwork. Opponents to the bill included religious leaders and members of the Illinois House. Harris anticipated religious concerns and titled his bill as a religious freedom measure to avoid offending religious communities regarding the term “marriage” (McMillin, 2014, p. 279). Likewise, the civil union bill was the most sensible compromise that safeguarded families that were not adequately protected from hospital bureaucracy through piecemeal contracts while taking religious concerns into consideration. McMillian (2014) believed that solving a narrowly defined problem in a relatively simple way helped open a policy window for political consideration.

Civil union advocacy groups emerged as influencing the political direction on the civil union bill. Opponents to the bill did not have strong arguments, failing to develop a clear message on why they were opposed to the bill. The opposition was also fractured. Five Republican representatives broke away from their party’s traditionalist views and voted for the bill (McMillin, 2014, p. 282). These representatives included those anticipating retirement, facing defeat in a primary, and choosing not to run for reelection. There was a lack of a well-defined, well-organized advocacy group to include legislators to oppose the bill (McMillin, 2014, p. 282). Electronic press releases revealed that there was no contact with legislators, thus proving to be an ineffective opposition advocacy method (McMillin, 2014, p. 282). However, concerns about the

impact that civil unions would have on faith-based adoption agencies became the final influence to secure the civil union bill.

Lisa Madigan, Illinois' attorney general, became interested in the civil union bill after learning that a homosexual couple was denied an adoption from Lutheran Child and Family Services of Illinois (McMillin, 2014, p. 283). By 2011, Madigan's office advised faith-based adoption agencies that antigay discrimination was already illegal and that the civil rights office of the Illinois Attorney General would be investigating their policies as it related to public funding (McMillin, 2014, p. 283). McMillin (2014) found that the intervention of the Illinois attorney general in adoption by same-sex couples became coupled to civil unions in an unexpected way as she took advantage of a policy window open in the political stream to influence the final civil union outcome. Madigan inadvertently became a new policy entrepreneur to influence adoption by same-sex couples, creating a coupling of civil union protections for families in the health care bureaucracy and antigay discrimination for the fostering and adoption of children (McMillin, 2014, p. 282).

McMillin (2014) found that Kingdon's (2003) concepts are helpful in improving social workers' understanding of the policy process, and how the policy process can influence a political reform to improve families' well-beings (McMillin, 2014, p. 284). By working closely with their clients, they can understand their struggles and communicate to policymaking through advocacy and social justice work, affecting policy change (McMillin, 2014, p. 284). With the passage of the civil union bill, social worker policy advocates are able to work more quickly to successfully advance social justice.

Harvey A. Whiteford, Carla Meurk, Georgia Carstensen, Wayne Hall, Peter Hill and Brian W. Head (2016) studied how the issue of youth mental health became an agenda item on

Australia's 2011 federal policy agenda. The Australian government in May of 2011 allocated \$419.7 million for two youth mental health programs: Early Psychosis Prevention and Intervention Centres (EPPIC) and Headspace (Whiteford et al., 2016, p. 1). EPPIC serves youths aged 15 to 24 with a first episode of psychosis, and Headspace is a social services program that provides drug and alcohol, employment treatment in addition to improving youth mental health (Whiteford et al., 2016, p. 1). Former Prime Minister Julia Gillard had made youth mental health reforms a priority of the Labor government's mental health commitments (Whiteford et al., 2016, p. 1). The authors examine the events that led up to the 2011 budget to discern why youth intervention services were placed on the federal agenda by conducting a content analysis and utilizing the MSA (Whiteford et al., 2016, p. 1).

The authors based their analysis on a literature review consisting of two stages: relevant government documents and an academic literature search. The relevant government documents included parliamentary debate transcripts of parliamentary proceedings from the Australian House of Representatives and Senate, final reports of available Australian government parliamentary committees, Australian policy documents and other relevant documents from the Commonwealth Department of Health (Whiteford et al., 2016, p. 2). The search for academic literature resulted identification of 143 parliamentary debate transcripts, 110 media articles, 11 non-peer-reviewed publications, and 20 peer-reviewed journal articles as it is relevant to Australian youth mental health policy (Whiteford et al., 2016, p. 3). The first step of the authors' content analysis was to measure the importance of youth mental health on the political spectrum from the period of 2007 to 2012 as it appeared in parliamentary debate transcripts (Whiteford et al., 2016, p. 3). They used key words such as mental health, youth mental health, Headspace and EPPIC while they examined these transcripts during this five-year period. The second stage of

the content analysis consisted of using the MSA model to deduce their findings from the transcripts of whether they related to the problems, policy, or political streams. The rise of the mention of mental health rose sharply in 2010-2011 in the transcripts. Specifically, terms such as “youth mental health”, “EPPIC” and “Headspace” also had increased over time leading up to the budget announcement in 2011 (Whiteford et al., 2016, p. 3). The authors were able to establish key themes in the data sources as they related to the three streams.

There was not one specific focusing event that highlighted the importance of youth mental health services, but the authors were able to discern the growing awareness for these services through indicators such as excerpts from parliamentary debate transcripts that framed the issue of youth mental health and suicide (Whiteford et al., 2016, p. 4). Media reports also emphasized the burden of youth mental health by reporting statistics on youth mental health and imploring the need for services. The debate transcripts and media also highlighted the economic losses that occur from youth mental illness that goes untreated such as lost productivity and lost lives (Whiteford et al., 2016, p. 4). The media identified mental illness as a contributing factor to unemployment and long-term welfare receipt. During this time period, the federal Labor government was under pressure from its constituents to return the budget to a surplus following the 2008 global financial crisis (Whiteford et al., 2016, p. 4). Parliamentary debate advocated for increased youth employment, training, and education by investing in mental health services. The existing youth mental health services were deemed inefficient, thus the need for Headspace and EPPIC (Whiteford et al., 2016, p. 4).

Headspace and EPPIC received lobbying support from high-profile policy advocates, politicians and policy makers (Whiteford et al., 2016, p. 5). The media also endorsed these two programs as a potential solution to youth mental illness. Advocates argued that these two

programs had evidence of prior success, having been pilot pretested both domestically and internationally. In addition, other models similar to EPPIC and Headspace had been adopted in other countries such as the United Kingdom, where there had been significant investment in intervention treatment for psychoses (Whiteford et al., 2016, p. 5). The media characterized these programs as a “collaborative continuum of care that was better able to meet the needs of young people than existing overburdened mainstream services that prioritized care for people with severe and chronic mental illnesses” (Whiteford et al., 2016, p. 5). Youth mental illness also became prominent at a time where the then-Prime Minister Kevin Rudd was replaced by Julia Gillard in June of 2010 (Whiteford et al., 2016, p. 6).

The political climate was contentious for the four years preceding the 2011 budget of “replacing a first-term Labor Prime Minister in June 2010 followed by a closely fought election that produced a minority Labor government in August 2010”(Whiteford et al., 2016, p. 6). The debate transcripts revealed that politicians were growing more aware of public criticism about the lack of funding for youth mental health compared to physical health, describing it as a poor relation (Whiteford et al., 2016, p. 6). The replacement of Kevin Rudd by Julia Gillard occurred on the same day of the delivery of a letter that demanding greater attention to mental health in health care reforms, signed by over 60 of Australia’s mental health organizations (Whiteford et al., 2016, p. 6). Thereafter, one of Prime Minister Gillard’s earlier decisions was to appoint an inaugural federal minister to address the issue of mental health to give mental health greater public attention than former-Prime Minister Rudd (Whiteford et al., 2016, p. 6). Policy entrepreneurs also helped pushed the issue of mental health to be given greater attention in the political stream, particularly by the media.

Policy entrepreneurs pushed for a greater budget allocation to mental health to be given in the 2010 to 2011 budget because of the low allocation in the 2009 to 2010 budget (Whiteford et al., 2016, p. 7). Mental health professionals formed the Independent Mental Health Reform Group, and in March of 2011 released a report entitled “Including, Connecting, Contributing: A Blueprint to Transform Mental Health and Social Participation in Australia”(Whiteford et al., 2016, p. 7). The report advocated for the government to invest in mental health services that were ready for immediate implementation. In the report, the Independent Mental Health Reform Group suggests EPPIC and Headspace as a policy solution to the problem of youth mental health needing better political attention (Whiteford et al., 2016, p. 7). Policy entrepreneurs, along with the newly-appointed Prime Minister garnered enough lobbying support to open a policy window to address the issue of mental health.

Whiteford et al. (2016) concluded that the elements of the MSA model existed in this study. Youth mental health was identified as a problem that required attention after conducting a content analysis. High-profile policy entrepreneurs such as mental health professionals advocated for early intervention services such as EPPIC and Headspace (Whiteford et al., 2016, p. 8). The media gave attention to the lobbying efforts by policy entrepreneurs, which in turn changed the national mood that youth mental health needed to be addressed. The media efforts of highlighting the problem of youth mental health captured the attention of politicians (Whiteford et al., 2016, p. 8). In particular, the replacement of former Prime Minister Rudd to Julia Gillard allowed an opportunity for mental health to be given considerable governmental attention (Whiteford et al., 2016, p. 8).

The authors believe that their findings suggest that policy solutions are more likely to be successful when they are publicized, particularly by high-profile and public figures and not

necessarily research evidence (Whiteford et al., 2016, p. 9). They caution of the duality of research evidence and public lobbying support by suggesting “the path toward strategic, long-term, evidence-informed mental health governance is perhaps better served by developing and building upon an open political culture, fluid knowledge flow across research and policy realms, and the development of a skilled bureaucratic workforce enabled to make the best use of evidence to inform policy questions” (Whiteford et al., 2016, p. 9). Thus, only future research will establish whether a policy change has produced long-lasting effects and/or perpetuated a cycle of continuous reform when it is preceded by the need to address a problem presented by policy advocates (Whiteford et al., 2016, p. 10).

Wayne D. Lewis and Tamara V. Young in 2013 studied the political debate of teacher quality and the effectiveness of educational programs. Lewis and Young (2013) explained that the debate of teacher effectiveness is not new. Their examination of the impact of teachers on student learning revealed this debate has existed since the 1960s. They examined a report published in 1996 by the National Commission on Teacher and America's Future (NCTAF) that made recommendations for scrutinizing teacher education programs and sent five key messages to federal policymakers: teaching needs more recruitment, teachers are ill-prepared for the subjects they are expected to teach, teacher education is disconnected from K-12 schools needs and the collegiate arts and sciences, teacher preparation and licensure regulations works against teacher quality and presidents of higher education institutions with teacher education programs pay little attention to these programs (Lewis & Young, 2013, p. 190).

The report predicted that by 2006 that every student would be provided with “what should be his or her educational birthright: access to competent, caring, qualified teaching in schools organized for success” (Lewis & Young, 2013, p. 190). Lewis and Young (2013) pondered why

Congress willingly intervened with teacher education and accountability programs with higher education institutions. The purpose of this study was to use Kingdon's (2003) MSA to explain the decision to place the programs on a federal government agenda, with specific attention to the policy formation of teacher education accountability initiatives formulated in the past few years (Lewis & Young, 2013, p. 193). The authors explained that if the federal government attentiveness to teacher accountability initiatives that have formulated recently is not taken into consideration that teacher education will be thought about in a distorted manner.

Lewis and Young (2013) used the following methods: a content analysis of public documents such as legislation, newspapers, press releases, and journal articles as they relate to teacher education initiatives. This aimed to answer why teacher accountability became so prominent in recent years (Lewis & Young, 2013, p. 193). They identified government policy actors, interest groups, and scholars most closely associated with teacher education accountability from these documents. After the policy actors were identified, Lewis and Young e-mailed them, requesting their participation in open-ended interviews and included specified interview questions and a consent statement (Lewis & Young, 2013, p. 193). Out of 15 policy actors invited to interviews, Lewis and Young (2013) received 6 responses, a 40% response rate. The primary data collection instrument was an open-ended structured interview schedule that the authors adapted from Kingdon (2003). Lewis and Young (2010) extracted themes from their review of the archival documents, the six interview narratives, and their field notes. They also used inductive and deductive coding to analyze their data (Lewis & Young, 2013, p. 194). The inductive coding involved analyses of the raw data to derive key themes, and the deductive coding including applying the MSA to categorize these themes (Lewis & Young, 2013, p. 194).

Lewis and Young (2010) found that there was not one specific event associated with the prominence of teacher accountability on a federal government agenda. They describe that “there are many forces at play, but by and large it is multiple, complementary energies that have created what some respondents termed ‘the perfect storm’ and what Kingdon(2003) considers a couple of the streams or a policy window” (Lewis & Young, 2013, pp. 199-201). The authors organized and discussed their findings according to Kingdon’s (2003) framework and included paraphrases and quotes of both their archival data and their interviewees’ remarks to give the reader some rich understanding of the milieu that pushed teacher education accountability policy onto the federal agenda (Lewis & Young, 2013, p. 201).

In the problems stream, Lewis and Young (2013) found that indicators, feedback and focusing events played a role in the prominence of teacher education accountability onto a federal agenda. The primary indicator that they derived from the problems stream was that there was a consensus that poor student achievement, particularly for students of color and disadvantaged students, is a concern throughout the nation (Lewis & Young, 2013, p. 201). There was, however, a disagreement about the factors that contribute to effective teacher quality and a critique of traditional higher education-based teacher preparation programs (TPP) (Lewis & Young, 2013, p. 201). Both proponents and opponents of TPP had stated that their positions were supported by empirical research, which Lewis and Young named as their secondary indicator (Lewis & Young, 2013, p. 201).

TPP proponents had stated that teacher preparation is related to effective teacher practices and retention, and improving TPPs will improve teacher effectiveness (Lewis & Young, 2013, p. 202). TPP opponents had stated that the current TPP regulations and calls for increasing regulation are unnecessary, because they would diminish average teacher quality in high-need

school districts (Lewis & Young, 2013, p. 202). Moreover, Lewis and Young identified two federal policies that function as focusing events: the No Child Left Behind (NCLB) Act introduced by the George W. Bush administration and Race to the Top (RttT) (Lewis & Young, 2013, p. 202). NCLB requires that all teachers be highly qualified by having a bachelor's degree, hold the appropriate state-level teaching certificate or license and demonstrate competency in the subject matter he/she teaches (Lewis & Young, 2013, p. 202). The US Department of Education used RttT to entice states through financial incentives to reform teacher evaluation policies and systems and required states that received RttT funding to publish teacher and principal evaluation information online (Lewis & Young, 2013, p. 203). Lewis and Young found that indicators, feedback, and focusing events led to a heightened attention of TPP accountability (Lewis & Young, 2013, p. 203).

In the policy stream, Lewis and Young found that groups such as the American Association of Colleges for Teacher Education (AACTE) have overhauled their teacher accountability programs, resulting in significant improvement in high-quality new teachers (Lewis & Young, 2013, p. 203). A reformation of these new programs included redesigning programs around standards, strengthening clinical practice, placing increased importance on subject matter knowledge, improving coursework around student learning and development and connecting coursework directly to practice in extensive practicum settings (Lewis & Young, 2013, p. 203). Despite continued concerns about teacher accountability programs, alternative solutions emerged put in place that there will be multiple mechanisms of accountability. In addition, Lewis and Young (2013) find in the political stream that the Barack Obama administration, organized forces, and the national mood was an influential stream to the issue of teacher education accountability.

Organized forces such as the National Council for the Accreditation of Teacher Education (NCATE) and the Interstate New Teacher Assessment and Support Consortium (INTASC) were proponents of expanding ways to professionalize teaching, including alternative pathways to teaching programs (Lewis & Young, 2013, p. 205). Lewis and Young (2013) found that the emergence and proliferation of alternative teacher preparation and certification programs has played a major role in policy conversations around teacher education and credentialing (Lewis & Young, 2013, p. 205). They also state that the “NCLB act’s encouragement of such programs served to heighten their visibility and stimulate their growth in the 2000s” (Lewis & Young, 2013, p. 205). As supporters advocate for their preferred models of teaching preparation, they also must explain how these programs must address teaching accountability requirements. In addition, a reformation of teaching education programs emerged from the Obama administration after a critique from the US Secretary of Education, Arne Duncan (Lewis & Young, 2013, p. 205).

Arne Duncan has critiqued TPPs on the grounds that these programs operate partially blindfolded, and many states for not setting a very high bar for entry into the profession (Lewis & Young, 2013, p. 205). Thereafter, the Obama administration released an educational reform agenda that included supplying service scholarships to prepare teachers for teaching in high-need fields, improving TPP effectiveness, providing high-quality alternative pathway teaching programs for teachers and increasing professional development and collaboration (Lewis & Young, 2013, p. 205). Lewis and Young (2013) suggest that the national mood had accepted this reform agenda and recognized higher standards of teacher accountability education as the new normal; they also posit that the prevailing attitude was one of beliefs that this new era of teacher accountability would not be short-lived. They identify the Obama administration as the primary

indicator for giving a prominent position on the federal government agenda to teacher education accountability programs (Lewis & Young, 2013, p. 206). The authors concluded that the Obama administration was more influential than the national mood or organized forces. They also explained that the Obama administration's educational reform agenda taught that teacher accountability is based on student achievement, the development of more sophisticated data collection, and alternative pathways to teacher licensure expansion (Lewis & Young, 2013, p. 206).

Lewis and Young (2013) concluded their study by stating "policy formation is messy and is often driven by competing agendas supported by opposing casts of policy actors", and the MSA allowed them to explain why teacher accountability became so prominent on a federal educational agenda. They discovered that teacher accountability policy had support and little opposition from organized political forces of both political parties (Lewis & Young, 2013, p. 207). More importantly, the Obama administration's allocation of financial resources to states allowed a policy window to open, which is indicative of federal involvement of educational policy reform (Lewis & Young, 2013, p. 207). The primary limitation that Lewis and Young (2013) found was the discrepancy between the policies that will be implemented and those that were just considered. Despite the prominence of teacher accountability on the federal educational agenda, there is no way to tell which will be ratified. However, what is known is that teacher accountability along with its professional and technical issues are now considered the new normal in the educational arena (Lewis & Young, 2013, p. 207).

Anthony Pearl and Matthew I. Burke examine the formulation of transport policy in the United States, Australia and Canada by using the MSA model (Pearl & Burke, 2014, p. 2). In Australia and Canada, fuel taxes make contributions to the Treasury in excess of what was spent

on the road (Pearl & Burke, 2014, p. 2). In the United States, most fuel taxes are pledged into trust funds to be spent only on transportation projects (Pearl & Burke, 2014, p. 2). In all three nations, there was an assumption that the growth of fuel taxes would increase in the late 20th and 21st centuries because of auto ownership, increased vehicle usage and decrease in petroleum prices (Pearl & Burke, 2014, p. 2). However, these growths were not infinite and the policies around these nations' fuel taxes were built on the assumption that there would be ongoing motor fuel consumption growth (Pearl & Burke, 2014, p. 2).

There are impingements on fuel tax collections that are made up of economic, demographic and technological forces. There are also questions about the fiscal foundation of transport policies as the United States, Canada and Australia are each uncertain of their capacity to maintain and build future transport infrastructure. As there is evidence that current policies and programs supporting transportation infrastructure will face problems in the long-term, the purpose of this study was to compare fuel taxes in three nations that have utilized this tax differently (Pearl & Burke, 2014, p. 2). By comparing all three nations' use of the tax, the researchers help the reader understand the degree to which fuel tax receipts could trigger policy reformulation (Pearl & Burke, 2014, p. 2). The MSA was used to determine how policy innovation may occur during periods with motor tax deficits (Pearl & Burke, 2014, p. 2). Policy innovation comes into play for exploring measures to provide a new fiscal consideration for transportation.

Pearl and Burke conduct a content analysis on fiscal mechanisms in transport policies. This utilizes data collected on the amount of revenue collections in each jurisdiction (Pearl & Burke, 2014, p. 6). They begin by selecting a sufficient sample size of the income that the governments receive from motor fuel taxes. This is critical, because changes in income could suggest that

attention is needed on alternative avenues of revenue collections (Pearl & Burke, 2014, p. 6).

They find that the US federal government's fuel tax collections had an increase in revenue until 2008 when it became stagnant (Pearl & Burke, 2014, p. 7). In Canada, federal fuel tax revenues had dropped 12% in 2004 and then resumed a moderate growth. In Australia, tax revenues from diesel and petrol showed a steady increase through 2008, followed by a sharp decrease of 14.5% in 2009 and had a partial recovery in 2010 (Pearl & Burke, 2014, p. 7). The researchers determined that transportation policy reformulation in United States, Canada and Australia's policy agenda was a different fiscal contribution to the problems stream.

They examine transportation delivery programs and revenue collection procedures that had evolved in each country. In the United States, the federal government created a special purpose highway trust fund (HTF) in 1956 as a fiscal method to collect revenues for national interstate highways (Pearl & Burke, 2014, p. 9). This fiscal mechanism included separating motor fuel taxes as a revenue source that was earmarked for spending on highway grants to state governments, which collected gas taxes and had trust funds in place to expend these tax revenues exclusively on road construction and maintenance (Pearl & Burke, 2014, p. 9).

During the 20th century in Canada, federal and provincial fuel tax collections were deemed general revenues (Pearl & Burke, 2014, p. 9). Due to various types of taxes in the public revenue fund, there was not a direct correlation in transport policy between fuel tax revenues and expenditures (Pearl & Burke, 2014, p. 9). However, in 2005 a change in the policy stream was created (Pearl & Burke, 2014, p. 9). The federal government created a federal gas tax fund that was to allocate a share of the gasoline tax to Canadian municipalities to develop and renew local transport infrastructure (Pearl & Burke, 2014, p. 9). Some municipalities had used these funds to develop public transport options. Others used the share of this tax to build more roads (Pearl &

Burke, 2014, p. 9). The Canadian government estimated these gas tax revenue shares at \$2 million (Pearl & Burke, 2014, p. 10).

In Australia, fuel tax arrangements had progressed during the 20th century. Australia's transportation infrastructure has been the subject of jurisdictional conflict between the national government, which was responsible for collecting the revenue, and state/local government, who was responsible for maintaining and building roads (Pearl & Burke, 2014, p. 10). Australia's federal taxes were allocated towards state governments by a system that sought to target specific types of road infrastructure and required minimum state spending on roads to qualify for allocation (Pearl & Burke, 2014, p. 10). However, gas taxes are not dedicated specifically to transportation infrastructure. In addition, the states appear to be more willing to accept federal government guidance when tax revenues are channeled towards transportation spending (Pearl & Burke, 2014, p. 10).

The researchers gain an understanding on the relationship between fuel tax revenue and expenditures. This allows an opportunity to examine whether a closer relationship between fuel tax revenue and transportation spending would result in alternative policy formulation. Different responses may result in each nation as the United States, Canada, and Australia have differing strategies for appropriate fuel tax revenue allocations (Pearl & Burke, 2014, p. 11). However, policy alternatives for fuel tax allocation can be adversely affected by organized forces, which the researchers explore (Pearl & Burke, 2014, p. 11).

In the United States, the motor fuel tax is based on the volume instead of the value of fuel being sold. Fuel tax rates also have not been adjusted due to inflation at the national level or state level with few exceptions (Pearl & Burke, 2014, p. 11). There is also a strong political opposition to raising the fuel tax rates, as the federal excise motor tax was last raised in 1993 (Pearl & Burke,

2014, p. 11). The reserves in the HTF keep steadily shrinking due to construction of infrastructure and maintenance costs (Pearl & Burke, 2014, p. 11). This linkage of shrinking fiscal reserves and rising costs for infrastructure construction and maintenance led Congress to reach out to an independent commission to make expert recommendations on how to address this issue, setting the stage for policy formulation (Pearl & Burke, 2014, p. 12).

The National Surface Transportation Infrastructure Financing Commission recommended a fuel tax rate increase of 10 to 15 cents a gallon and suggested adjusting the fuel tax rate to keep pace (Pearl & Burke, 2014, p. 12). The Commission also recommended a mechanism for increasing tax revenue by replacing a motor fuel tax that was becoming inefficient (Pearl & Burke, 2014, p. 12). This motor fuel tax would be replaced with a direct, mileage-based user that would support future transport policy through a direct charge for driving on America's roads (Pearl & Burke, 2014, p. 12). The Commission's justification for replacing the motor fuel tax with a direct user fee was a forecast that projected inflation-adjusted tax revenues from motor fuels could decline between 25.5 percent and 41.8 percent by 2035, as compared to the 2008 levels (Pearl & Burke, 2014, p. 12). The 2008 levels were unable to meet the needs of the HTF (Pearl & Burke, 2014, p. 12). The fuel tax shortcoming was interpreted as a transportation problem by the Commission. However, the recommendations to substitute the motor fuel tax has not overcome the unpopularity of taxes that float in the political stream in Washington, D.C. (Pearl & Burke, 2014, p. 13) The Commission's recommendations went back to Congress and were ultimately opposed to by the Republican Tea Party (Pearl & Burke, 2014, p. 13). The Commission's report became 'dead on arrival' to Congress (Pearl & Burke, 2014, p. 13). This opposition in Congress stymied the growth of policy alternatives to the decision-making stage. Instead of an alternative to the motor fuel tax, Congress chose to move general tax revenues into

the HTF to maintain policy outputs (Pearl & Burke, 2014, p. 13). However, the gap between revenues and expenditures widened as the Congressional Budget Office (CBO) projected significant shortfalls if the HTF program continued as planned, estimating a cost of \$53 million to meet the obligations of the HTF. That expense was expected to grow as fuel excise taxes continuing to shrink (Pearl & Burke, 2014, p.13).

In Canada, fuel tax rates are not linked to program outputs except for utilizing federal grants for urban infrastructure (Pearl & Burke, 2014, p. 14). Also, there has been concern about the government's capacity to pay for transportation programs. These programs have put little initiative into formulation with no fiscal policy adjustment since the Federal Gas Fund of 2005 (Pearl & Burke, 2014, p. 14). The researchers find from this data that the problems stream is not significant enough to drive policy formulation, and this could be a result of revenues continuing to meet program needs (Pearl & Burke, 2014, p. 14).

In Australia, there has been considerable fiscal efficacy erosion in its fuel taxation instrumentation in the 21st century (Pearl & Burke, 2014, p. 15). The diminished capacity of fuel taxation triggered policy adjustment in the problems and political streams. The government made the decision to abandon indexation of the fuel tax in 2001 when taxes and the rising cost of fuel became a political issue in the Queensland and Western Australia's state government elections (Pearl & Burke, 2014, p. 15). This decision cost Australia's treasury an estimated two to five billion dollars annually beginning in 2012 (Pearl & Burke, 2014, p. 15). The effect of no linkage of revenue to transport programs was lost revenue throughout the Australian federal budget (Pearl & Burke, 2014, p. 15). A return to fuel tax indexation would have meant an increase in petrol prices, so proposals to restore indexation were ignored by the governments to avoid negative political feedback (Pearl & Burke, 2014, p. 15). However, automotive advocacy

coalitions increased the flow of the problem stream by initiating a campaign against inefficient spending on transport infrastructure by the government. Economists also indicated that a shrinking fuel tax rate would encourage drivers to waste fuel with irresponsible travel behavior (Pearl & Burke, 2014, p. 16). These indicators floating in the problems stream along with the political stream allowed a policy window to open for a re-indexation and a new mechanism for allocating additional revenue to fill the revenue gap (Pearl & Burke, 2014, p. 16). The new mechanism was creating a Road Funding Special Account that would allocate revenues to only be used on new road infrastructure projects. This was ultimately rejected by the Green Party (Pearl & Burke, 2014, p. 16). They rejected the linkage between motor fuel taxes and additional road infrastructure funding, therefore, Australia's transport policy options may need further formulations before the Senate approval to make them law (Pearl & Burke, 2014, p. 16). The researcher believes that the U.S.'s concerns about motor fuel taxation resonate with Australia (Pearl & Burke, 2014, p. 16).

Even though the United States, Canada and Australia have different methods for collecting and distributing motor fuel taxes have different policies governing such, the researchers believe that the policy formulation and distributions have not been fully explained by the MSA model (Pearl & Burke, 2014, p. 17). There is a further need for a clearer analysis of why some policy formulations have moved in different directions when there is an influence of factors in the problems and political streams. However, the researchers can conclude that after a comparison of all three nations, the United States has taken the lead in considering policy alternatives by changing their fiscal capacity (through raising taxes) (Pearl & Burke, 2014, p. 17). Canada has lacked formulation activity since 2005, which could explain why there was few policy alternatives considered to motor fuel taxes (Pearl & Burke, 2014, p. 17). Australia also

considered policy alternatives from their current fuel tax policies, but because of a different linkage between transportation programs and the government, the proposed formulation result in a strong political response (Pearl & Burke, 2014, p. 17).

The researchers find that the MSA would be more useful in this study if it was tested to predict future effects that demographic, economic and environments impacts have on transportation finance and infrastructure programs, because “over the long run, an end to cheap oil prices could destroy demand for motor fuels. This trend has been reflected by the reduced level of vehicle miles traveled (VMT) in the United States and increases in public transport usage since 2008” (Pearl & Burke, 2014, p. 18).

The MSA policy studies have contributed to policymaking by making it more transparent. Policymaking is thought to be complex, and to examine policymaking issues through the lens of a framework makes it more understandable to non-policymakers. However, the MSA has undergone critiques, and has been thought to not be applicable to all state policy agendas. Paul Cairney and Michael D. Jones (2016) examine in what realms the MS approach has contributing to policymaking studies.

Critiques of the Multiple-Streams Approach

Cairney and Jones (2016) look at the kind of influence that the MSA has had on policymaking by examining the ways that individual scholars utilize this approach. They state how MSA can be thought of that as a universal policymaking approach, that this approach can be applied to a myriad of policymaking areas. Its use to individual scholars is that there is not a need to test a hypothesis or create analytical coding of data, that “researchers can read one book (or a couple of chapters) and generate a theoretically informed and publishable empirical case study.” (Cairney & Jones, 2016, p. 38) The methods that Cairney and Jones’ (2016) use to analyze MSA are to

compare and contrast the theoretical and empirical contributions of MSA. They compare by identifying what MSA's main universal concepts has contributed to, discussing how MSA combines these concepts to explain policy processes and how it has contributed to other policy approaches and debates. Secondly, the authors handpicked case studies that best represent MSA and analyze how it has made additional contributions to public policy. After they perform a qualitative analysis of these studies, Cairney and Jones (2016) categorize the types of applications that MSA has made in these case studies. With the combination of these two methodologies, the authors gauge the theoretical sophistication of MSA empirical literature and how meaningful its contribution is to public policy.

Cairney and Jones (2016) set bars to assess the progress MSA had made to empirical literature. They set their high bar by arguing that "a significant proportion of the applications should include some recognition of the wider theoretical context in which scholars should understand MSA" by linking MSA to other evolutionary policymaking theories. They set their low bar by arguing that "at a minimum, that applications show a comprehensive knowledge of MSA's concepts before the authors apply them" (Cairney & Jones, 2016, p. 39). This study suggests that after analysis that the authors will find that there is a small percentage of MSA empirical literature that reaches the high bar and some applications will not even meet the low bar. They also discuss the ways in which the MSA can be applied systemically better.

Cairney and Jones (2016) identify that the concept of the problem, policy, and politics stream that envelops the MSA are universal enough to be applicable to any time, place or policy. The concept of MSA is also well understood enough that it can be applied by non-scholars to use in empirical studies. They also draw on that fact that MSA can be compared with other policymaking theories because of its use of factors such as "institutions, networks,

socioeconomic processes, choices and ideas” (Cairney & Jones, 2016, p. 40). An additional contribution of MSA is that it contributes to evolutionary theory, explaining the relationship between policy actors and their environments is crucial as policy actors can adapt to or shape their environment to give them an advantage over other policy actors (Cairney & Jones, 2016, p. 41). Cairney and Jones (2016) then draw on their selection of studies to analyze the contributions that MSA had made to empirical literature.

Cairney and Jones (2016) examine studies that contain MSA's streams and how they develop links between these core concepts and other policymaking approaches/theories. They select their list of studies to analyze from Nikolaos Zahariadis' *Illustrative List of Empirical Research Using Multiple Streams Since 2003* 2014 study (Cairney & Jones, 2016, p. 44). They also use a 2016 study of Jones that evaluated 1,933 MSA citations that were published since the year 2000 that produced a list of 311 MSA applications (Cairney & Jones, 2016, p. 44). They categorized these studies by indicating whether they were used on a national, subnational or international level. There were 20 national studies, 13 subnational studies and eight international studies (Cairney & Jones, 2016, p. 55). Cairney and Jones (2016) next coded the methods that each MSA application as to the extent of how similar they were to Kingdon. Kingdon's (2003) methods used were conducting 240 interviews and performing a content analysis. There were 22 MSA applications that applied the same methods, 14 who performed a content analysis without interviews, four that used a quantitative methodology, and one that drew on direct experience. Jones' 2016 study found that 88 percent of the 311 MSA studies were qualitative (Cairney & Jones, 2016, p. 44). The studies were then divided up into seven categories based on how they were applied.

The seven application categories were: conceptual revisions to address a new object of study, the combination of MSA and other theories, MSA applications and no other theories mentioned,

ad hoc conceptual revisions, studies that test hypotheses, accounts for practitioners, advocating reform or providing advice on the right time to propose solutions and work which cites or engages superficially with MSA (Cairney & Jones, 2016, p. 44). Cairney and Jones (2016) then cross-referenced these categories with Jones' 2016 metareview study of MSA applications. The first (and largest) category that Cairney and Jones discussed was that while MSA originated in the United States, that there were many applications that that applied MSA to non-U.S. jurisdictions (Cairney & Jones, 2016, p. 45). While this implicates that MSA is adaptive to non-U.S. regions and policymaking, Cairney and Jones also found that there were limitations of MSA when applied outside of the United States that were borne out by non-Western studies (Cairney & Jones, 2016, p. 45).

The non-Western studies that highlight a limitation of MSA suggest that there are other literatures needed to explain public policy to adapt MSA to different concepts (Cairney & Jones, 2016, p. 46). MSA suggests that policy solutions arise in domestic settings in the United States. However, in other countries there is a transfer of learning and ideas from other venues, suggesting that many policy solutions come from outside of the political world. Therein is the need for MSA, which does not identify political external roles, to be combined with other literature to explain how governments adapt policies. Non-Western studies from little-studied areas of the world also rethink the idea that MSA is "universal" and that it may be subjected to theoretical revision (Cairney & Jones, 2016). For example, one study from China noted the importance of technical infeasibility – a major contradiction of MSA in the policy stream (Cairney & Jones, 2016, p. 47). As MSA may not be universal as the authors suggested at the beginning of their study, there were also other studies that suggested that MSA needed a new conceptual revision (Cairney & Jones, 2016, p. 47).

There were studies that suggested that conceptual revision was needed, but the revision was so muddled that it was difficult to compare MSA with the new approach. Cairney and Jones (2016) had identified studies that focused on a new streams conceptualization with little to no discussion of MSA, making it difficult for the reader to compare the two policymaking approaches.

The MSA has many useful concepts, but it also has limitations. The next section provides a roadmap to how data will be collected and each stream operationalized.

Chapter III: Methodology

Design of Study

This project is a qualitative study that uses the MSA is utilized as a methodological template to guide the exploration as to why the BPR ended up on a governmental agenda. The study utilizes government documents (reports, legislation), stakeholders' reports, and information as reported in the media. These materials are supplemented by semi-structured interviews with government stakeholders. Specifically, the data collected are used to search for 1) evidence of a politics, policy, and problem stream, and 2) there convergence at the time of BSR adoption.

When the BPR was announced, the Board stated that they were going to concentrate on improving three areas of the Workers' Compensation system: benefit payments, quality of medical care, and reducing employer costs. Utilizing the MSA, the researcher takes these conditions through the problems, policies, and politics streams. She designates the independent variables to be each policy stream and the dependent variables to be the conditions. Upon taking the conditions through each stream, the researcher can conclude whether a policy window opened, explaining how the BPR was placed on a governmental agenda.

In addition to the MSA, the researcher conducts a content analysis of NYS Workers' Compensation literature. As the researcher is a NYS employee, she was not given authorization to interact with nongovernmental NYS stakeholders. However, a content analysis will be performed consisting of three categories:

1. Contemporary problems of the NYS Workers' Compensation system that led to current reforms
2. NYS Workers' Compensation Board's assessment of current system

3. The impact that the Cuomo administration has had on New York State policymaking

These three categories include the conditions that led to the enactment of the BPR: benefit payments, medical care quality, and employer cost reduction. The researcher has a further understanding of what role governmental and nongovernmental participants of the Board have played in the announcement of the BPR by interviewing three Board personnel. To gain an understanding of why the BPR was given attention by the Cuomo administration, she interviews a Workers' Compensation Board member, a high-ranking civil servant and a political appointee of Governor Andrew M. Cuomo.

Table 4 BPR Roadmap

STREAMS	DATA	DATA SOURCE
PROBLEMS	Workers' Compensation premiums, costs, benefits, tax assessments, narcotics usage, injured worker outcomes	Workers' Compensation Policy Institute and Workers' Compensation Research Institute national studies
POLICIES	Assessment of Workers' Compensation Board's current policies, stakeholder feedback on current policies and Phase 1, individual interest group positions	Workers' Compensation BPR As-Is Assessment, Phase 1 public hearing testimony, position papers from the Workers' Compensation Alliance and Business Council of New York State
POLITICS	Governor Andrew M. Cuomo's "business-friendly" policymaking: tax cuts, job creation, protecting New York's workers, transparency between NYS citizens and the government	Governor Cuomo's 2015 and 2016 opportunity agenda, interviews with WCB Chairman Kenneth J. Munnely, Commissioner Mark Higgins and Administrative Law Judge Steven P. Molik
Lessons learned for this study	How the BPR was placed on a NYS executive agenda	

Table 4 provides a BPR roadmap of the data that the researcher collects. After all analysis and interviews are completed, the researcher is able to gain an understanding and be in a more advantageous position to answer whether the MSA can be utilized to explain why the BPR was given attention by the Cuomo administration.

Sample Selection and Design of Participants

In addition to the MSA, the researcher selects a sampling to help understand how the BPR to gained prominence on a New York State government agenda. She utilizes qualitative methodology because of the conduction of a content analysis coupled with interviews from NYS Workers' Compensation Board personnel.

From a qualitative methodology perspective, the researcher performs a content analysis based on the three categories noted: contemporary problems of the Board that led to the current reforms, the Board's assessment of their system, and the impact that the Cuomo administration made on New York State policymaking. The types of literature used and examined are legislation, independent research studies, press releases, and position papers. The dissection of such literature allows the researcher to apply the MSA and discuss the findings from that perspective. The discussion of past policy studies that applied the MSA guides the reader (and researcher) on how the MSA should be utilized. The researcher also reviews reports that are relatable to the problem, policy, and politics streams of the MSA.

The researcher looks at the contemporary problems of the Board. She examines five national studies that have been produced by the Workers' Compensation Policy Institute and the Workers' Compensation Research Institute: the *2012 Oregon Workers' Compensation Premium Ranking Study*, *Workers' Compensation Benefits Coverage and Costs*, *Workers' Compensation Assessments 2012*, *Long Term Use of Opioids* and *State Report Cards for Workers' Compensation 2012*. These studies compare New York's Workers' Compensation system to the

rest of the United States. Next the researcher looks at the controversies that had emerged after the 2007 reform, leading up to the announcement of the BPR.

The researcher identifies the managing team of the BPR's efforts to understand the needs of the Board's executives and their stakeholders. The discovery and design phases of the BPR before the implementation of Phase 1 lasted from January of 2012 to September of 2014. During this time, the BPR team captured the vision that executives and stakeholders in the system shared for the next century. In addition, they conducted in-person sessions with individual interest groups to ensure that they understood the dissatisfaction that existed within the system before Phase 1's implementation. The researcher examines the As-Is Assessment that was produced by the BPR team as a result of their outreach towards their stakeholders. The BPR progressed in a fashion that each stage did not go forward without stakeholder input. The researcher also examines the impact that the Board's policy communities have on Workers' Compensation policymaking. The researcher examines hearing testimony held before the NYS Assembly Majority regarding a new medical fee schedule.

Finally, the researcher looks at the Cuomo administration and how it has made an impact on New York State policymaking. The researcher is particularly interested to know how the BPR could be recognized by the Cuomo administration a project to place on their policy agenda. The researcher examines the impact that the Cuomo administration has made on New York State by performing a content analysis coupled with interviews from NYS Workers' Compensation Board personnel.

The researcher was not given authorization to interact with participants outside of the Board as she is a NYS employee, although she was given authorization to interview a Workers' Compensation Board member, a high-ranking civil servant, and a political appointee of Governor

Andrew M. Cuomo. The interviews that take place are with NYS Workers' Compensation Board Chairman Kenneth J. Munnely, NYS Workers' Compensation Board Commissioner Mark Higgins, and NYS Workers' Compensation Board Administrative Law Judge Steven P. Molik.

After the data collection is complete, the researcher applies the MSA in relation to the problems, policies, and politics streams. She guides the reader of her utilization of the MSA to the problems, policies, and politics of the Board and why the BPR became part of a New York State executive agenda.

Data Analysis

Contemporary Problems with the NYS Workers' Compensation System Leading to Current Reforms

Although the Board's past reforms have shown positive impacts on the entirety of the Workers' Compensation system, problems arose because of these reforms. There were systemic indicators in the NYS Workers' Compensation policymaking environment that alerted NYS policymakers that there were problems that existed. These indicators were borne out through national studies as summarized by the Workers' Compensation Policy Institute and the Workers' Compensation Research Institute.

The Workers' Compensation Policy Institute (WCPI) is a nonpartisan institute focusing specifically on NYS Workers' Compensation public policy, and how these policies affect New York State taxpayers and public entities. The Workers' Compensation Research Institute (WCRI) provides objective information regarding Workers' Compensation systems relating to public policy issues. The WCPI and WCRI have conducted research studies that pay particular attention to the Board's past policy reforms.

Paul Jahn (2013) of the WCPI summarized the results of five national studies that individually were conducted on different aspects of Workers' Compensation. These studies were the *2012 Oregon Workers' Compensation Premium Ranking Study*, published by the State of Oregon; *Workers' Compensation Benefits Coverage and Costs*, published by the National Academy of Social Insurance (NASI); *Workers' Compensation Assessments 2012*, published by the WCPI; *Long Term Use of Opioids*, published by the WCRI, and *State Report Cards for Workers' Compensation 2012*, published by the Work Loss Data Institute (Jahn, 2013).

Jahn (2013) categorized these studies that focused on employer costs and different factors that drove those costs, which were the *2012 Oregon Workers' Compensation Premium Ranking Study*, *Workers' Compensation Benefits Coverage and Costs*, and *Workers' Compensation Assessments*. There were other studies focusing on injured worker outcomes, which were *Long Term Use of Opioids* and *State Report Cards for Workers' Compensation 2012* (Jahn, 2013).

Jahn (2013) was able to analyze how New York fared from the rest of the nation in these two categories through these studies. He explained that, "New York is a very expensive jurisdiction for employers to finance their Workers' Compensation risk – even though these high costs do not produce strong results for injured employees" (Jahn, 2013).

In the *2012 Oregon Workers' Compensation Premium Ranking Study*, Jay Dotter and Mike Manley of the Department of Consumer and Business Services furnished a ranking of the cost of Workers' Compensation premiums in all 50 states and the District of Columbia. They established that the premium costs were per \$100 of payroll and the premium rates were set by rating agencies to determine long-term costs of Workers' Compensation claims (Jahn, 2013). Oregon ranked between 39th and 42nd in premium costs with a maximum weekly wage of \$1,120.56,

while New York ranked having the fifth highest costs in the nation with a maximum benefit rate of \$792.07 (Jahn, 2013).

Another study done by the WCPI had revealed that “there does not appear to be any direct correlation between high benefit levels and high compensation costs” (Flood & Nash, 2013). Prior to the Workers' Compensation reforms, New York State was ranked the tenth state having the highest Workers' Compensation premiums. Despite the high premiums, New York State had one of the lowest Workers' Compensation average weekly wages awarded to their injured workers (Flood & Nash, 2013). The NYS Workers' Compensation system remained costly as lost time claims continue to run 10% higher than the national average (Flood & Nash, 2013). In a comparative study to other Workers' Compensation systems in different states, the WCPI noted that the usual practice in adjusting the average weekly wages for claimants was to adjust it annually (Jahn, 2013). New York State increased their average weekly wage in 2007 after not adjusting it in 15 years, stating that “the 2007 reforms accomplished their goal in making benefit levels in New York comparable to most other states. However, New York still does not have particularly high benefits levels – which means they are not sufficient to explain why New York's premiums are the nation's fifth highest” (Flood & Nash, 2013).

In the 2012 study of *Workers' Compensation Benefits Coverage and Costs*, Ishita Sengupta, Virginia Reno, John F. Burton, Jr. and Marjorie Baldwin of NASI produced an analyzing report of Workers' Compensation costs and benefits for federal and state governments (Jahn, 2013). This study included data from self-insured entities and employers who buy Workers' Compensation insurance. This study is not a ranking of each state, rather a set of data that benchmarks against the national average bearing the national trends and the percentage of Workers' Compensation costs as a percentage of payroll, showing that Workers' Compensation

costs have been decreasing for the last decade (Jahn, 2013). In summarization from this study, it is noted that New York's Workers' Compensation costs are increasing while the national costs are decreasing, and a large percentage of NYS's Workers' Compensation dollars go into the system itself rather than injured worker benefits, because the Board is classified as a revenue agency (Jahn, 2013).

In the *Workers' Compensation Assessments 2012* by the WCPI, this report furnishes a comparative study of 32 states that use Workers' Compensation tax assessments. The study defines an assessment as a tax on the Workers' Compensation premiums (Jahn, 2013). This type of tax is used to help regulate the administrative costs of Workers' Compensation systems and their insurance carriers (Jahn, 2013). The information on administrative costs is useful, because budget makers can focus on areas that they could save financially and concentrate on vocational rehabilitation programs and quality medical care to cut costs to the entirety of the New York Workers' Compensation Board system. Jahn (2013) concluded that New York has the highest assessments in the country primarily because the Re-opened Case Fund is given three quarters of New York's tax assessments to provide funding. Governor Cuomo proposed and eliminated the Re-opened Case Fund in the passage of the Business Relief Act of 2013 because of its weighted cost on the entire NYS Workers' Compensation system.

In the 2012 *Long Term Use of Opioids* study, Dongchun Wang, Dean Hasimoto and Kathryn Mueller of the WCRI produced a report that analyzes narcotics usage in Workers' Compensation systems (Jahn, 2013). This study defined long-term usage of narcotics for injured workers that made three or more visits for narcotics prescriptions refills seven to twelve months after the injury (Jahn, 2013). Long-term use of narcotics implicates further public health issues and

stronger regulated guidelines for narcotics abuse in the United States, impeding the goal for injured workers to return to work expeditiously.

Jahn (2013) explained that in the narcotics are available within Workers' Compensation systems without the requirement of any co-payment. As co-payments are not necessary, many expensive and potentially addictive narcotics are prescribed to injured workers, a major-medical cost driver. Injured workers also become delayed in their return-to-work process if they become addicted to the narcotics they are prescribed. This study had recommended more stringent state-regulated medical treatment guidelines to combat narcotics addiction, citing Texas having success (Jahn, 2013).

Regarding New York State's performance, existing long-term narcotics usage had increased by two percent (Jahn, 2013). This study cites the *2007 Reform* and the need for comprehensive medical treatment guidelines (Jahn, 2013). It describes that the *2007 Reform* did not specify comprehensive medical treatment guidelines for pain management and regulations of prescription usage; this study suggests that New York needs these guidelines (Jahn, 2013). The findings of the *Long-Term Use of Opioids* study had coincided with the findings of the article *Rising Longer-Term Opioid Use in Workers' Comp Claims* by Phil Gusman (Gusman, 2012) of Claims Magazine. *Rising Longer-Term Opioid Use in Workers' Comp Claims* was a November 2012 study that concluded "Louisiana and New York recorded the highest overall percentage of nonsurgical claimants who were defined by the study as longer-term users (17 percent and 14 percent, respectively). By contrast Arizona and Wisconsin showed the lowest percentage of longer-term users (3 percent and 4 percent respectively)" (Gusman, 2012).

In the *State Report Cards for Workers' Compensation 2012* study, the Work Loss Data Institute (WLDI) produced five report cards that tracked the outcome of injuries for every state

(Jahn, 2013). Data was collected by the Occupational Health and Safety Administration (OSHA), and the WLDI assigned a letter grade for each state. The grade consisted of five separate criteria: incidence rates, cases missing work, median disability durations, delayed recovery rate and low back conditions (Jahn, 2013). This study showed that coordination between low systematic costs and positive injury outcomes are not mutually exclusive to each other. It refers to the state of Minnesota, stating that even though Minnesota had very low systemic and premium costs, that they did not fare well per the WLDI as they were given a low report card grade (Jahn, 2013). The WLDI gathered data from OSHA from reporting requirements that insured and self-insured employers are required to disclose (Jahn, 2013).

OSHA disclosed that out of all the states in the nation, New York did the poorest, as it received a grade of 'F' in all the categories and was one of the only two states to receive a 'D-' or lower with Kentucky being the other state (Jahn, 2013). As OSHA only requires of insured and self-insured employers to disclose data from cases that have lost time up to a year, these results could be poorer since OSHA does not follow the injury outcomes past the course of a year (Jahn, 2013).

There also have been arguments that the *2007 Reform* left some ambiguous questions and problems were created, especially after the enactment of the permanent partial disability guidelines. Matt Chandler of the Buffalo Law Journal (2010) expressed, "how long will it take them to receive benefits from an injury claim? With a deep pool of job candidates ready to replace them, are injured workers at greater risk of losing their jobs if they report an on-the-job accident?" about workers afraid to claim a work-related injury. When injured workers were once entitled to indefinite indemnity benefits, they now face a maximum cap of entitlement to benefits (Chandler, 2010).

Aside from the NYS Workers' Compensation system continuing to be costly to its stakeholders, the WCPI has held that hidden Workers' Compensation costs can trigger New York State property tax problems because of public entity employees that are injured on the job. Based on an analysis of job classifications commonly found among municipal employers, municipal Workers' Compensation costs were 36 percent more than all other employer costs in 2010, and 26 percent more in 2011 (Jahn & Stickle, 2012). The WCPI believed jobs that could be classified as dangerous or hazardous jobs have an increased risk of facing a higher premium cost, ultimately increasing costs to New York State taxpayers. NYS taxpayers pay public entity municipal employee claims in addition to their cost assessments (Jahn & Morris, 2012).

The research studies from the WCRI and WCPI produced indicators that likely alerted NYS policymakers of how New York's Workers' Compensation system was performing in comparison to the rest of the United States. With these research studies, we can begin to set the stage for the events leading up to the announcement of the BPR. The next section is a discussion about the BPR team researching how the NYS Workers' Compensation system was performing from the observation of their stakeholders, and the implementation of Phase 1.

NYS Workers' Compensation Board's Assessment of Current System

The initial stages of the BPR began in 2012 with executive management envisioning the system for the next century. The Board assessed how the BPR would be implemented at different planning stages before implementation of Phase 1.

The BPR team captured executive management's vision for the next century of the system in January of 2012 (New York State Workers' Compensation Board, 2014b). They conducted interviews and developed themes for future outreach sessions with stakeholders and identified the measures of the Board's current success. These interviews resulted in management's shared visions for future success of the project with obstacles to achieve this vision. The shared visions

and potential policy proposals were divided up into two categories: shared visions like transparency, simplicity, and communication, and shared visions of individual interest groups like timely benefits for injured workers, dignity and self-respect for injured workers, and effective system performance and cost control for employers (New York State Workers' Compensation Board, 2014b). Next, the BPR team met with stakeholders of the system to understand the overall Workers' Compensation system was performing from their perspective. In October of 2013, the BPR team conducted a measurement of the overall system and produced a report called the As-Is Assessment (As-Is) (New York State Workers' Compensation Board, 2014b). The purpose of the As-Is was to assess the current processes, and organizational and technological challenges that the Workers' Compensation system faced as well as what the Board's role was within the system (New York State Workers' Compensation Board, 2014b). It also produced systemic recommendations to improve the experience of injured workers and NYS employers.

The BPR team developed the As-Is Assessment by reviewing process documentation and dividing the system into four working teams: claims management, adjudications and appeals, medical provider management, and compliance and monitoring (New York State Workers' Compensation Board, 2014b, p. 5). The creation of these teams gave organization to the evaluation phase, but the teams were encouraged to receive feedback from stakeholders that did not fall into their designated group. The teams' efforts towards the As-Is Assessment were greatly enhanced by input from the Board's nongovernmental stakeholders including injured workers and their advocates, employers, insurance carriers, medical providers, and attorneys that represented the parties in the system (New York State Workers' Compensation Board, 2014b).

The BPR team evaluated the current state of the system by consistently meeting with stakeholders and creating new avenues for stakeholders to send their feedback and suggestions. A BPR section was created on the Board's website with Facebook and Twitter social media accounts for constant feedback to be given to the Board. The Board had more than 30 in-person sessions with attorneys, insurance carriers, medical providers, employers and employees with an estimated 175 stakeholders in attendance (New York State Workers' Compensation Board, 2014b). For stakeholders who could not attend these in-person sessions with the Board, webinars were created for attorneys, insurance carriers, and medical provider stakeholder groups (New York State Workers' Compensation Board, 2014b). The purpose of these in-person sessions was to discuss what areas of the system were the most unsatisfactory. The Board also made a concerted effort to reach towards a stakeholder group that is the most affected by the entirety of the system – its injured workers.

In November of 2013, the Board scheduled in-person sessions with injured workers to understand how they could make the system better (New York State Workers' Compensation Board, 2014b). The in-person sessions took place in the district offices of the Board, and management designated Injured Worker Days to recognize the role that the injured worker plays into the system (New York State Workers' Compensation Board, 2014b). Management also created an injured worker survey to assess how satisfied the injured workers are with the entire system. The Board made efforts to be transparent as possible with welcoming feedback from the public. The Board posted that feedback to their website, receiving over 1,700 comments from the public and 6,000 responses from the ongoing injured worker survey of how to make the injured worker experience better (Workers' Compensation Board, 2014). To help the BPR team

transition from hearing what the state of the system is to how to improve the system, focus groups were also conducted with participants.

Focus groups were conducted to discuss new policy proposals and assess the impact that these policies would have on their constituent group, the injured worker, and the effect of interactions with other system participants. The groups were all asked to suggest policy alternatives to the proposals for the BPR team to ensure that these proposals would be valued and accepted by all policy communities. The focus groups were divided up into six groups: injured workers, labor, medical care providers, business and self-insured employers, insurance carriers, and attorneys (New York State Workers' Compensation Board, 2014b). To have fair and balanced individual representatives, certain criteria for each participant representative were chosen by a balance between upstate and downstate (New York State Workers' Compensation Board, 2014b).

The chosen criteria were only one representative from each organization, and participants/organization must have participated in an in-person session or offered feedback in another forum (New York State Workers' Compensation Board, 2014b). The BPR team also gave group specifications to have a balanced mixture of viewpoints in stakeholder feedback. Businesses and self-insured employers consisted of municipalities and non-self-insured employers. Insurance carriers consisted of insurance carriers at the New York State and national level. Medical providers consisted of medical specialties that were recognized in New York State. Injured workers were recommended to participate by injured worker advocacy groups and worker organizations. Labor was represented by a mixture of unions from across the state. Attorneys were a mixture of injured worker and carrier attorney representation. In addition to

focus groups, a BPR advisory council was created (New York State Workers' Compensation Board, 2014b).

The Advisory Council is made up of two or three representatives from each focus group (New York State Workers' Compensation Board, 2014b). The purpose of creating the Advisory Council is to provide a mixed perspective of all stakeholders of the Board. It is tasked with discussing BPR policy proposals for which no consensus can be reached at the individual group level, acting as a liaison between the Board stakeholders and the Board (New York State Workers' Compensation Board, 2014b). The BPR gives a unique opportunity to the Advisory Council, because it allows for participants in the Workers' Compensation system to understand the perspective of other interest groups. It also shares their perspective of the individual group they represent.

After participating in 30 in-person sessions, conducting focus groups and creating the Advisory Council in 2013, the BPR team produced its As-Is Assessment in January of 2014 (New York State Workers' Compensation Board, 2014b). There were common themes heard throughout their outreach sessions around New York State. Participants within the Board system described that these concepts had become the norm of the system over many years:

- There is a lack of trust within the Workers' Compensation system.
- There is a lack of respect and dignity for the injured worker.
- Workers' Compensation case outcomes are unpredictable.
- Workers and employers do not have enough information to participate effectively.
- The Board needs to do more outreach.
- The system is riddled with delays for treatment, initial payments, reporting, decisions, and appeals.

An Idea Whose Time Has Come? Explaining the Adoption of the NYS Workers' Compensation Board Business Process Reengineering Project

- There is a lack of focus on safety and getting the worker healthy and back to work.
- There are cumbersome medical reporting processes with low or no payments that cause doctors to leave the system.
- The Board should reexamine its mission statement as the fundamentals of Workers' Compensation have been lost.
- The participants within the system have no clear performance standards that they can be measured against. The Board's performance should be measured, as well.
- The Board has contributed to the system becoming overcomplicated and confusing.
- The medical treatment guidelines are a good idea but a complicated process.
- There are too many rules in place, and the Board does not enforce those rules consistently to encourage good behavior.

(New York State Workers' Compensation Board, 2014b, p. 10)

After the assessments were completed, the BPR team evaluated their stakeholder feedback and how to improve it. They evaluated their data by conducting a gap analysis to assess what needs to be improved for the next century of the NYS Workers' Compensation system. In September of 2014, the BPR team launched Phase 1, centering on creating a new interactive medical authorization portal (New York State Workers' Compensation Board, 2014b). The Board also proposed creating a new medical fee schedule. In December of 2014, the New York State Assembly Majority held a public hearing to examine the proposed medical fee schedule, an adoption of the current medical fee schedule used by Medicare (New York State Assembly Majority, 2014).

The medical authorization portal was envisioned to be available to all stakeholders of the Board: medical care providers, attorneys, payers and injured workers. It was being released in

several phases. The release in Phase 1 is a web-based application for medical authorizations that is accessed through the Board's website (New York State Workers' Compensation Board, 2014b). The portal has an active interface for medical care providers to submit authorization requests to perform medical procedures on injured workers (New York State Workers' Compensation Board, 2014b). The portal would then notify the insurance company payer that an authorization was submitted. Though there were concerns of payers not responding to medical providers in a timely manner, the portal enabled the Board to monitor the medical authorization process and payer compliance closely (New York State Workers' Compensation Board, 2014b). The Board also proposed a new medical fee schedule for medical providers as part of Phase 1. In December of 2014, the New York State Assembly Standing Committee (the Committee) held a public hearing on the new proposed medical fee schedule that had not been updated since 1996, reducing payments to medical service providers and diagnostic testing facilities (New York State Assembly Majority, 2014). A major pillar of the Board is access to quality medical care for injured workers to return to work expeditiously, reducing costs for the Board and employers.

The proposed medical fee schedule would update on an annual basis and adopt Medicare's billing system and rules. Medical provider reimbursement rates would be adjusted based on the medical care costs with consideration of modern technology, geographical region, and specialty area of the physician (New York State Assembly Majority, 2014). There were numerous inquiries of whether the new fee schedule should be part of the BPR, and if stakeholders were consulted about it like they were consulted about the BPR's other areas (New York State Workers' Compensation Board, 2014b).

The Committee held a public hearing to consider whether the proposed fee schedule should be adopted. They heard testimony from the Board, medical care specialists, attorneys, worker

representatives, and other stakeholders interested in the Workers' Compensation system. In addition, they received more than 1,000 pages of written testimony after the hearing (New York State Assembly Majority, 2014). Almost all participants, except for the Board, were opposed to the adoption of the new medical fee schedule.

The goals of the medical fee schedule per the Board were to ensure that fees would reflect the current costs of medical care considering technological advancements, adopt Medicare's fee schedule, enable access to medical care, and provide access to more primary-care physicians (New York State Assembly Majority, 2014, p. 3). The creation of the medical portal would help the interactions between medical care providers and other stakeholders in the system to be quicker and more accurate. The proposed fee schedule was premised on the assumption that the Workers' Compensation system will require more primary-care providers (PCPs) to be reimbursed at higher rates as the cost of specialists' reimbursements would be reduced by 40-50 percent (New York State Assembly Majority, 2014, p. 3). Opponents to the medical fee schedule voiced concerns that reducing reimbursement rates for specialists such as chiropractors, orthopedic surgeons, and imagers would cause those providers to withdraw from the Workers' Compensation system (New York State Assembly Majority, 2014, p. 8).

The New York State Public Employees Federation (PEF) repeated many worker advocates' and providers' concerns: doctors and specialists may leave the Workers' Compensation system because of fee reductions, resulting in fewer options for injured workers to receive quality medical care (New York State Assembly Majority, 2014, p. 8). PEF cited a white paper that believed the "the medical fee schedule and the Board's administrative processes create a set of disincentives for specialists and high-quality physicians to participate in the system" (New York State Assembly Majority, 2014, p. 9). The white paper recommended the opposite of what was

proposed with the new fee schedule, that “reimbursement rates for specialists should increase and the bureaucratic burden decreased” (New York State Assembly Majority, 2014, p. 9).

Medical care specialists also expressed their concern over the medical fee schedule.

Specialists testified that they would be unable to afford to continue to treat under the Workers' Compensation system if their reimbursement rates were reduced (New York State Assembly Majority, 2014, p. 9). Three-quarters of certain specialists had indicated that they would leave the Workers' Compensation system if the proposed fee schedule was adopted (New York State Assembly Majority, 2014, p. 9). They also testified that an increase in PCPs does not solve the problem of specialists leaving the Workers' Compensation system. PCPs do not have the expertise of providing specialty care (New York State Assembly Majority, 2014, p. 10). Accordingly, PCPs would face the dilemma of having fewer specialists to refer injured workers to, possibly resulting in PCPs leaving the Workers' Compensation system, as well (New York State Assembly Majority, 2014, p. 10). There would be a negative effect for injured workers of longer wait times and a delay in the return-to-work process if fewer specialists treated in the Workers' Compensation system.

The Board stated that while they were aware of the number of specialists that may withdraw from the Workers' Compensation system due to a reduction in reimbursement rates, they wish to recruit more primary-care providers (New York State Assembly Majority, 2014, p. 11). Per the Board, the system is lacking in adequate PCP coverage. The Board also had asserted that “advances in medical technology since the last update to the fee schedule has made specialty treatments less costly” since the last medical fee schedule update (New York State Assembly Majority, 2014, p. 11). The Committee believed that there were several problems with the Board's method of reimbursements to medical care providers, which was to realign the overall

medical expenditures within the Workers' Compensation system, ensuring that the total amount spent on medical care was the same in total (New York State Assembly Majority, 2014, p. 11).

The Committee had concerns that it was unclear whether the new medical fee schedule would mirror the cost-savings of the medical portal that was not yet implemented in December of 2014 or positively impact the medical care of injured workers (New York State Assembly Majority, 2014, p. 12). Ultimately, the Committee could not see the benefit of realigning a medical fee schedule that had not been changed for 19 years to fit the model of another agency, Medicare (New York State Assembly Majority, 2014, p. 12). Medicare has a different fee schedule that does not consider the needs of New York's injured workers and their medical providers (New York State Assembly Majority, 2014, p. 12). The Committee did not recommend the adoption of the proposed medical fee schedule.

The gubernatorial administrations of the Board have differed within each major policy reform along with a political party change. There are many potential agenda items that are never the subject of a policymaker's attention, so it may be ignored because of jurisdictional or expertise purposes (Kingdon, 2003).

In specificity to the Board, individual gubernatorial policy agendas differ because of what they wish to accomplish when they enter office. The next section provides an overview of the Cuomo's administration's agenda. An overview of the Cuomo administration agenda helps explain why the BPR was given governmental attention.

The Impact that the Cuomo Administration Had on NYS Policymaking

Governor Cuomo's Business Relief Act of 2013 brought a sense of financial relief to New York State employers by saving them \$300 million annually (Morrow & Nash, 2013). The \$300 million savings was partially a result of the closing of the Re-opened Case Fund and switching to

a unified methodology assessment for all employers (Morrow & Nash, 2013). The Cuomo administration plans on continuing to save money for New York's businesses by producing a series of tax cuts that will save small businesses across New York \$3.8 billion by 2021 (Cuomo, 2016, p. 15). They also focus on reducing employer costs, creating a business-friendly environment for New York to be an attractive state to conduct business in and protecting New York State's workers.

When Governor Cuomo took office in 2011, the national mood was sour because of the Great Recession in 2008. New York's economy was in despair with thousands of jobs lost and 852,000 New Yorkers unemployed (Cuomo, 2016, p. 17). Taxes were unsustainable for New York businesses to grow because of high government spending. New York's state credit rating was down, and a lack of job drove recent college graduates away from New York State (Cuomo, 2016, p. 17). The Cuomo administration improved New York's economy with business-friendly policymaking.

Since in office, the Cuomo administration has improved New York State's economy with sensible government spending and job creation. Governor Cuomo and New York's legislature passed five balanced budgets and right-sided a \$10 billion deficit (Cuomo, 2016, p. 17). Government spending became below 2 percent, thus New York's citizens received a lower income tax rate because of low government spending (Cuomo, 2016, p. 17). In 2016 unemployment fell from 8.4 percent to 4.8 percent with 7.87 million private sector jobs created (Cuomo, 2016, p. 17). The Cuomo administration also had committed to job creation by infrastructure sustentation.

One of the key pillars of Governor Cuomo's second term is sustaining New York's infrastructure. The Cuomo administration invested \$54 billion in infrastructure projects in New

York State and created the New York Works Task Force (Cuomo, 2016, p. 25). The New York Works Task Force is made up of finance, labor, planning, and transportation professionals to strategize a statewide infrastructure plan to allocate New York's capital investment funding and to create thousands of jobs (Cuomo, 2016, p. 25). Thousands of jobs were created in Governor's Cuomo's first term, and he plans on sustaining job growth in his second term.

In his second term, the Cuomo administration plans to partner with private industries to increase growth in technology, energy, and agriculture sectors (Cuomo, 2016, p. 26). The administration also created programs and investments to target New York's natural resources to sustain industry growth and development (Cuomo, 2016, p. 26). These new strategies ensure that every part of New York State will experience economic growth and prosperity in addition to responsible fiscal spending.

Since 2011, the Cuomo administration passed five balanced budgets and kept state spending at under 2 percent for the longest time in 50 years (Cuomo, 2016, p. 27). In its second term, the Cuomo administration plans on staying on the path of fiscal responsibility. The fiscal reforms undertaken by the Cuomo administration are spending that is not increased during good economic times, because it cannot be sustained during bad economic times. The decision to not increase spending reflects a decline in New York State's debt for the past four consecutive years. The state debt decreased from 6 percent in 2010 to 4.6 percent in 2016, and is projected to continue to decline (Cuomo, 2016, p. 27). New York was even recognized for its substantially improved credit rating by three major credit rating agencies – Standard and Poor's, Fitch and Moody's – since 1972 (Cuomo, 2016, p. 27). New York State now possess the second highest investment credit rating from all three credit rating agencies on its general obligation bonds

because of the Cuomo's administration's significant tax relief plans from the past five years (Cuomo, 2016, p. 27).

Approximately 1.1 million small businesses continue to benefit from Governor Cuomo's tax plan in 2016 (Cuomo, 2016, p. 27). For businesses that had less than 100 employees with a net income below \$390,000, Governor Cuomo proposed to reduce the tax rate from 6.5 percent to 4 percent effective January 1, 2017 (Cuomo, 2016, p. 27). His tax relief reforms also include a two percent property tax cap – the lowest that middle-class New York State taxpayers have seen in over 60 years (Cuomo, 2016, p. 28). In 2015, the 2 percent property tax cap saved taxpayers \$4.5 billion (Cuomo, 2016, p. 28). In addition, they also eliminated the Metropolitan Transportation Authority's payroll tax for more than 700,000 small business and manufacturers and had the lowest corporation income tax rate since 1968 (Cuomo, 2016, p. 28). Aside from the Business Relief Act of 2013, reforms were also made to unemployment insurance. Governor Cuomo also championed START-UP NY for new businesses, making New York State more attractive to conduct business in (Cuomo, 2016, p. 51A).

START-UP NY is an opportunity for new businesses or businesses that relocate to New York State to operate tax-free for ten years (Cuomo, 2016, p. 51). To be eligible for START-UP NY's benefits, new or relocated businesses must meet the criteria of partnering with a New York college or university and create new jobs that contribute to the economic development of New York's communities (Cuomo, 2016, p. 51). START-UP NY is a useful vehicle for New York State job creation. The Cuomo administration also protects New York's workers in addition to New York businesses.

The Cuomo administration protects New York's workers by providing job opportunities to businesses that operate in a safe working environment. In 2011, Governor Cuomo signed the

Wage Theft Prevention Act to increase penalties against employers who mistreated their employees (Cuomo, 2016, p. 229). He also created the Task Force to Combat Worker Exploitation (Task Force). The Task Force is comprised of 12 New York State agencies along with an advisory committee made up of labor, advocacy, academia, and business communities to end worker mistreatment (Cuomo, 2016, p. 229). Since the Task Force was created, it launched over 450 comprehensive statewide investigations into multiple industries and identified over 2,700 violations against workers (Cuomo, 2016, p. 229). These violations include wage theft, failure to obtain Workers' Compensation insurance and retaliation against employees, affecting more than 2,000 workers in New York State (Cuomo, 2016, p. 230). The Task Force is also committed to partnering with worker advocates and business representatives to ensure that workers understand their rights and businesses understand their obligations. The Cuomo administration also vows to further protect the rights of World Trade Center rescue and recovery volunteers.

After a tragic focusing event that forever left its mark on New York and the rest of the country, many of the heroes that stepped in to help with the rescue, recovery, and clean-up efforts developed health conditions caused by the toxic dust and debris of the World Trade Center. Congress developed the \$25 million World Trade Center Volunteer Fund for volunteers that were not covered under Workers' Compensation insurance (Cuomo, 2016, p. 230). This fund gave volunteers medical and indemnity benefits to compensate for their lost wages and other non-medical treatment needs. The Fund was expected to run out in April 2016. However, the Cuomo administration reauthorized the Zadroga Act of 2011 to provide funding for health problems that volunteers still experienced from the World Trade Center attacks for the next 75 years (Cuomo, 2016, p. 230). The Zadroga Act of 2011 only provides funding for costs

associated with medical treatment, but Governor Cuomo proposed to distribute \$9 million to sustain the World Trade Center Volunteer Fund. The Cuomo administration also promised more government transparency between taxpayers and New York State (Cuomo, 2016, p. 230).

Governor Cuomo proposed legislation to increase transparency for taxpayers to access information about where their money flows from the state to private citizens (Cuomo, 2016, p. 287). The Office of the State Comptroller and the Attorney General has the power to audit and investigate the use of state funds. Although the State Comptroller and Attorney General do not coordinate with each other when they are auditing state vendor contracts with private businesses, the proposed legislation would require the State Comptroller, Attorney General, and Office of General Services to undertake a study and propose recommendations that would allow the public to track state contracts (Cuomo, 2016, p. 287).

The researcher next discusses the data as it relates to the problems, policies, and politics streams in application of the MSA.

Chapter IV: Discussion

The problems stream stood out as being a condition that alerted NYS policymakers that the NYS Workers' Compensation system needed to be reviewed. The problems stream consists of feedback, indicators, and focusing events. As there was not one focusing event that required imminent attention, policymakers were alerted that the NYS Workers' Compensation system needed reformation through feedback and indicators.

Through feedback of independent research studies, there were a multitude of indicators that the NYS Workers' Compensation system was operating inadequately in comparison to the rest of the United States. Compared to the rest of the nation, New York was doing a very poor job of protecting its injured workers, and serving its employers and other stakeholders in the entire Workers' Compensation system. These indicators should have alerted NYS Workers' Compensation policymakers that a reformation had to be brought about, as their current policies that were in place were failing their system. These conclusions also allow the researcher to understand why the BPR focuses on three specific areas on the system to improve, and these national studies serve as an example. Feedback was also obtained by Workers' Compensation Board stakeholder through in-person sessions, surveys, and focus groups. In addition, the researcher obtained feedback of the overall Workers' Compensation system through interviews.

Chairman Kenneth Munnely is the 22nd Board Chairman. He previously was the Vice-Chairman from 2014 until he was appointed to Chairman in 2016. Commissioner Mark Higgins joined the Board in 2008 after serving the Civil Service Employees Association (CSEA) for 30 years. Administrative Law Judge Steven Molik has been a judge since 2003, working in the Buffalo district. The researcher conducted an in-person interview with Commissioner Higgins and Judge Molik. Chairman Munnely works in Albany, so the researcher conducted an over-the-phone interview. The researcher asked the three interviewees questions about the circumstances

surrounding the BPR: the independent research studies, the BPR team, the Board's stakeholders, the Business Relief Act of 2013, and the Cuomo administration.

When questioned whether he agreed with findings of the WCRI and WCPI, Chairman Munnelly was not able to give a definitive answer. He stated that there are many outside entities that produce analytical reports on the Board system but use different methodologies to reach their conclusions (Munnelly, 2017). He agreed that New York's workers' compensation premiums are higher than what the Board would like to see because of its added costs on businesses. He did not agree that injured workers receive poor medical outcomes, because there are over 150,000 claims that will give injured workers lifetime medical treatment (Munnelly, 2017). However, he did agree that these research studies played a role in helping the BPR gain prominence on New York's governmental agenda. He stated that every business, whether private or public, should reassess their current operations and strive for improvement (Munnelly, 2017).

Commissioner Higgins agreed with the findings of these research studies, stating that New York is a very expensive system because of its diversity and size (Higgins, 2017). He believed that the research studies were an influence to policymakers because of the pressure they face from their stakeholders, particularly the Business Council of New York State (Business Council) (Higgins, 2017). The Business Council is largest business organization in New York that looks to reduce employer costs, labor, and time. From an injured worker's perspective, they are unaware of how the system is operating. They are primarily concerned with their case and receiving benefits and medical care timely.

Although he agreed that the research studies were an influence to policymakers, Judge Molik disagreed with the findings of the independent research studies (Molik, 2017). He stated that NYS Workers' Compensation is an expensive system due to excessive administrative costs.

Insurance carriers are a driving force of the cost of the system because of its numerous third-party administrators. Judge Molik believed that “we’ve created a massive set of people to evaluate and administer, and the end product is almost forgotten” (Molik, 2017). He also explained that policymakers are more concerned with quantitative, not qualitative, measures of the entire system. Quantitative measures are an inaccurate representation of how the Board provides services to injured workers (Molik, 2017).

The BPR team strategized the new policies to be enacted under the BPR by conducting interviews with Board executive management and consistently meeting with the Board’s stakeholders. When asked about the creation of the BPR team, Chairman Munnelly stated that there are approximately 1,100 Board employees, and it was important to receive input from all levels of the Workers’ Compensation Board. There is a vast array of staff that works in aspects of a big system, and it was “important to look at the system from A to Z” (Munnelly, 2017).

Commissioner Higgins stated that Board members were not involved with serving on the BPR team, but members would be briefed and updated on the BPR’s progress (Higgins, 2017). He did not know specific titles of the BPR team members, but few members have left the agency since the BPR was initially announced.

Judge Molik believed that the BPR team members consisted of people across the agency at every level (Molik, 2017). A diverse BPR team meant different ideas from different representations of people. However, he felt it is difficult for people to become involved in the BPR because of the time commitments outside of their normal day-to-day job duties. He explained that “the people from the top drive the show. No matter how much you want the guy at the bottom to be a part of it, the guy at the top will have more of a vested interest” (Molik, 2017).

After gaining an understanding from the executives and stakeholders of what their visions are for the next century, the BPR team conducted more than 30-in person sessions, focus groups, and surveys for over a year before the implementation of Phase 1. The As-Is Assessment produced recommendations on what areas of the system could be improved. The indicators that were produced by the studies of the WCRI and WCPI echoed the sentiments of the Board's stakeholders as produced in the January 2014 As-Is Assessment report.

There were sentiments that the Workers' Compensation system was too costly. The *2012 Oregon Workers' Compensation Premium Ranking Study* produced by the WCRI stated that there was a nonexistent correlation between system costs and benefit rates. Stakeholders had felt that injured workers were heavily dependent on narcotic medications. The *2012 Long Term Use of Opioids* study noted that long-term use of narcotics medications had increased by two percent, criticizing the lack of comprehensive pain management medical guidelines. There was a consensus among stakeholders that injured workers were not receiving appropriate medical outcomes to return to work in an expeditious manner. The *State Report Cards for Workers' Compensation 2012* study had concluded that New York had nationally performed the poorest when considering five separate criteria: incidence rates, cases missing work, median disability durations, delayed recovery rates and low back conditions. The combination of feedback from independent research institutions and stakeholders began to explain why the concept of the BPR became part of New York State's executive agenda. There has never been an attempt to undertake a reengineering project of the entire NYS Workers' Compensation system. The problems stream starts to explain if the BPR is an idea whose time has come to be given sufficient attention by the Cuomo administration.

Kingdon (2003) explains that policy proposals must be accepted by policy communities that would be associated and ultimately affected by them. The BPR team formulated policy proposals to be implemented into Phase 1 by consistently meeting with the policy communities of the Board. Phase 1 was implemented in September of 2014. However, their new medical fee schedule was a policy proposal that was ultimately not accepted by the Workers' Compensation policy communities. Although Commissioner Higgins reported that the medical fee schedule is always an issue due to the Business Council constantly looking to reduce employer/insurance carrier costs, a proposal for a new medical fee schedule was discussed by the NYS Assembly Majority (Higgins, 2017).

In December of 2014, the Assembly Majority held a public hearing on the proposed medical fee schedule. It faced many concerns by varying Workers' Compensation policy communities, mainly medical providers and advocate groups for injured workers. The biggest concern was of that for the future of medical care for injured workers. The proposition was for the medical fee schedule to be updated and adopt the concept of Medicare's billing system, although rates that medical care specialists would be reimbursed for performing medical services by insurance companies would drastically be reduced. The Board felt that more primary-care providers needed to be involved in the Workers' Compensation system, but policy communities felt that a new medical fee schedule would adversely affect them if it were to be implemented.

There was a consensus among medical care specialists that testified at the public hearing that if the fee schedule were to be implemented, then they would choose to withdraw from the Workers' Compensation system. A lack of medical care specialists would have a detrimental effect on injured workers if they were not able to treat for work-related injuries in a timely manner. Their injuries may exacerbate, causing the injured workers to delay their return to work

status, driving up employer costs. Ultimately, the NYS Assembly Majority Committee chose not to recommend the adoption of the proposed medical fee schedule.

Budgetary considerations are indicators that guide policymakers if a timing of a policy proposal is appropriate or not. The closing of the Re-opened Case Fund as mandated by Governor Andrew Cuomo saved NYS Workers' Compensation employers \$300 million and it was included in the 2013-2014 budgets (Staff, 2004). The researcher believes this budgetary consideration may have had an impact in the announcement of the BPR. Policymakers may have seen the closing of this fund as an opportunity to start to propose the announcement of the BPR. The researcher also received insight from her interviewees on the consequences of deciding to close the Re-opened Case Fund.

Chairman Munnelly felt that the *Business Relief Act of 2013* and the BPR were not linked together, but both are an ongoing effort by the Governor's Office and the Board to improve the overall system (Munnelly, 2017). A major difference between the two is that the *Business Relief Act of 2013* required statutory changes, and the BPR's administrative initiatives did not need legislation to be passed. He stated that "they're similar, and I don't think one brought more attention to the other. It's a continuum of looking at the system" (Munnelly, 2017).

Commissioner Higgins stated that the Governor's Office is constantly under pressure from the Business Council to reduce employer costs (Higgins, 2017). The system is a metaphorical pendulum, either swinging in favor of the ALF-CIO or the Business Council. He believed that the closing of the Re-opened Case Fund initially lowered employer costs, but they slowly increased because of how litigious the system is. When asked if the *Business Relief Act of 2013* brought more attention to the problems that the BPR was intending to solve, Commissioner Higgins believed it did. He stated that parties are unhappy with the decisions from the

administrative law judges, which generates appeals and drives up costs (Higgins, 2017). Aside from litigation costs, other costs exist such as prescriptions, medical care, and frivolous appeals.

Judge Molik felt that the *Business Relief Act of 2013* did not bring attention to the problems that the BPR was trying to solve (Molik, 2017). He stated that the money went back to New York State after the closing of the Re-opened Case Fund (Molik, 2017). The only consequence of closing this fund was to make insurance carriers more aware that they now did not have a fund to take over the financial responsibility of older claims. Therefore, they have to be extra cautious of how to save money.

Aside from budgetary considerations, the researcher believes that the national mood, together with the collective opinion of organized forces in the political stream had a significant impact on explaining why the BPR became part of a New York State executive agenda.

Andrew M. Cuomo took office as New York's 56th governor in 2011 with a sour national mood. New York's economy was in turmoil because of the thousands of New York jobs lost, along with high taxes due to high government spending. In his first term, he focused on rebuilding New York's economy and making New York business-friendly again with adding 7.87 million private sector jobs and investing lowering the unemployment rate by 3.6 percent. Governor Cuomo also reduced New York State's government spending, allowing \$54 billion to be invested into new infrastructure projects. He pledged to create programs in technology, energy and agriculture sectors, thus sustaining more New York economic growth and development. Since Governor Cuomo has taken office, his administration has passed five balanced budgets because of his pledge to responsible government spending. He also has created programs that appeal to both New York State businesses and its workers.

The Cuomo administration created programs such as START-UP NY and the Task Force as an incentive for new businesses to come to New York State and for protection for workers. They also proposed legislation that would increase the transparency between taxpayers and government by allowing private citizens to access state contracts that occur between the State Comptroller and the Attorney General. The researcher believes that Governor Cuomo and his administration had focused on rebuilding New York's economy by creating millions of jobs for New York's workers. He also incentivized new businesses to come to New York by allowing new employers to operate tax-free for ten years. All three of the researcher's interviewees felt that the Cuomo administration was an influence of the BPR becoming part of New York's policy agenda.

Chairman Munnelly explained that the Cuomo administration had a major impact on the BPR, because the Governor's Office funded it (Munnelly, 2017). The Governor's Office supported and accepted the conclusions of the Board that an overhaul of the entire system was needed to modernize its processes. He believed that the Governor's Office's role was to react to the BPR, and the Board's role was to present the idea (Munnelly, 2017). Commissioner Higgins believed that Governor Cuomo is trying to be a governor for all of the people and entities of New York State (Higgins, 2017). He's well aware of the Board's system costs, and the BPR is an example of him trying to deal with the Board's current processes. Judge Molik also believed that there was an existing pressure on Governor Cuomo from the Business Council to reduce employer costs (Molik, 2017). He felt that the Cuomo administration pushed the concept of the BPR, because Governor Cuomo's leadership is a driving force to enact reforms.

As the Cuomo administration focusing on reengineering New York's economy, the researcher believes that its campaign rhetoric assimilated with many of the BPR pillars.

Particularly, the BPR was adamant about promoting transparency between the Board management and its stakeholders. Their stakeholders had taken many stances on Workers' Compensation-related issues in testimony and position papers. However, why are the stakeholders, including injured workers, involved with policymaking for the next century?

The researcher's three interviewees felt that the Business Council was the main influential stakeholder in the BPR landing on New York's policy agenda. Chairman Munnelly explained that the Business Council has a vested interest of New York State businesses, and the Business Council is "not shy about letting us know about their experience with the Board" (Munnelly, 2017). Commissioner Higgins believed the ALF-CIO would not be concerned about a project such as the BPR, because their focus is on injured workers and not reducing costs (Higgins, 2017).

After a conduction of a content analysis and a utilization of the MSA model, it is clear to the researcher that there are many forces at play that led to the announcement of the BPR. There were problems with the system, a desire from many of the Board nongovernmental stakeholders to improve the overall system, and a governor that wanted to rebuild New York State.

Chapter V: Conclusions, Recommendations and Future Research

Conclusions

Table 5 Summary of Findings BPR Reform

STREAMS	MAIN FINDINGS	IMPLICATIONS
PROBLEMS	<p>NY had the highest WC premiums and lowest benefit rates.</p> <p>Benefit rates for injured workers that were adjusted in 2007 had not been adjusted since 1992.</p> <p>Self-insured employers who bought Workers' Compensation insurance saw a large percentage of those dollars go into the NYS Workers' Compensation system itself and not towards increasing injured workers' benefits.</p> <p>New York's tax assessments were the highest in the country because of the Special Disability Fund and Re-opened Case Fund.</p> <p>Injured workers had a 2 percent increase in narcotics usage because of a lack of comprehensive regulations for prescription usage and pain management.</p> <p>New York received a letter grade of "F" for injury outcomes for injured workers that had lost time from work for at least a year</p>	<p>The Board is a costly system while providing little financial relief to injured workers.</p> <p>Injured workers were receiving low benefit wages partly because of a lack of inflation adjustment.</p> <p>Self-insured employers contributed more towards the Workers' Compensation system than providing injured workers sufficient financial relief to aide them financially through their rehabilitation process.</p> <p>The Business Relief Act remedied high tax assessments by closing the Special Disability Fund and Re-opened Case Fund, reducing employer tax assessments by 26 percent.</p> <p>An increase in narcotics usage and poor injury outcomes debilitates return-to-work outcomes and increases medical cost drivers in the Workers' Compensation system.</p>

An Idea Whose Time Has Come? Explaining the Adoption of the NYS Workers' Compensation Board Business Process Reengineering Project

POLICIES	<p>January of 2014 As-Is Assessment:</p> <ul style="list-style-type: none"> • WCB's mission statement has been lost. • Lack of trust within system. • Workers and employers do not have enough information to participate effectively. • WCB needs to have more outreach. • WCB has contributed to system becoming complex. • Cumbersome medical reporting process. <p>September of 2014 Phase 1:</p> <ul style="list-style-type: none"> • Medical authorization portal • Proposed medical fee schedule 	<p>Stakeholders were dissatisfied with entirety of the Workers' Compensation system.</p> <p>Individual interests groups felt that they did not have clear performance standards to be measured against.</p> <p>As quality medical care is one of BPR's main goals, the Medical authorization portal was created to ensure that medical treatment authorizations were received timely by payers and injured workers did not experience a delay in receiving medical care.</p> <p>If the proposed medical fee schedule was adopted, the Workers' Compensation system would have experienced a myriad of specialists leaving the system. Injured workers would have experienced delays in medical care because of a lack of specialists operating within the system.</p>

An Idea Whose Time Has Come? Explaining the Adoption of the NYS Workers' Compensation Board Business Process Reengineering Project

POLITICS	<p>Cuomo Administration Policymaking:</p> <ul style="list-style-type: none"> • Business Relief Act saved NYS employers over \$300 million • Recognized new vision of WCB in July 2014 report • Tax cuts will save small businesses across New York \$3.8 billion by 2021. • 2 percent property tax cap • Creation of START-UP NY for new businesses • Wage Theft Prevention Act – protecting NYS workers • Increased transparency between taxpayers and the government. 	<p>Cuomo administration's campaign rhetoric heavily focused on rebuilding New York's economy.</p> <p>Cuomo administration made New York an attractive state to conduct business in by saving NYS employers over \$300 million and the creation of START-UP NY</p> <p>Cuomo administration focused on protecting New York's workers – including injured workers – with Wage Theft Prevention Act.</p> <p>A goal for the BPR as well is to increase transparency between Board executive management and its stakeholders</p>
Lessons learned for this study	Cuomo administration's policymaking rhetoric aligned with the pillars of the BPR. BPR could be considered a project of the Cuomo administration	A policy window opened for the Board in 2014 to introduce the BPR with the Board celebrating its centennial anniversary and the Business Relief Act of 2013

Why was the BPR introduced? With the myriad of policy proposals that are competing for the governor's attention, why did BPR capture the Cuomo administration's attention? Does the BPR align with the Cuomo administration's agenda? How might we explain the BPR gaining prominence to be on a New York State executive branch agenda? Table 5 illustrates the researcher's main conclusions after examining the data she collects.

The researcher believes her questions have been answered. The MSA can clearly be applied for explaining why the BPR was given attention by the current gubernatorial administration. She also believes that the MSA can be used to describe state-level agenda setting within the Board, explaining managerial decisions within the Board system. Two streams stood out to the researcher to explain how the BPR landed on New York State's executive branch agenda: the problems and politics stream.

As discussed previously, there were many forces at play floating in the problems, policies and politics streams that colluded together to make the MSA applicable to the enactment of the BPR. In particular, as the problems and politics streams colluded together, the researcher believes a window of opportunity to push the agenda item of the BPR availed itself. The multitude of indicators that had existed after publication of independent research studies was that the Workers' Compensation system of New York State needed a reformation, rejuvenation. However, Chairman Munnely believed that these independent research studies only played a small role in elevating the attention of the BPR. Commissioner Higgins and Judge Molik gave more weight to the independent research studies as far as its influence on policymakers. as far as its influence on policymakers.

Governor Cuomo, when he took office, pledged to rebuild New York's economy by creating new jobs for New York citizens, attracting new employers to conduct business in New York State, cutting down the amount of government spending, saving taxpayers \$4.5 million by instituting a two percent property tax cap and restoring faith that New York could become a prosperous state again. Commissioner Higgins explained although Governor Cuomo is a governor for all of New York State's residents, an influential driving force behind policymaking is the business entities. The Business Council is a representation of all of New York's

businesses. The Cuomo administration operated within the same type of pillars that the BPR team operated within: recreating, rebuilding and reengineering.

The BPR could be considered a project of the Cuomo administration. Chairman Munnelly clearly explained that the BPR was deemed worthy enough to be funded by the Governor's Office. The Board was tasked with presenting to the Governor's Office the need for the BPR, and the Governor's Office accepted and supported it. In addition, the researcher can comprehend why the BPR would garner attention by the Cuomo administration, because it echoes the same type of rhetoric that centered on Governor Cuomo's campaign promises. There are distinct similarities between the main pillars of the BPR and Governor Cuomo's campaign rhetoric.

One of the BPR's pillars was reducing employer costs. The Cuomo administration enacted the *Business Relief Act of 2013*, saving New York State employers \$300 million in tax assessments. According to Commissioner Higgins, the Business Council is always concerned with reducing employer costs and constantly puts pressure on the Governor's Office to do so. Judge Molik felt that the money saved by the *Business Relief Act of 2013* went back into the Governor's Office, thus freeing up the money to fund the BPR. The BPR also focused on benefit payments and increasing medical care quality to protect its injured workers. The Cuomo administration introduced the Wage Theft Prevention Act, furthering New York State's pledge to protect all of its working citizens. The pledge of transparency was also an important for Workers' Compensation Board management, as well as the Cuomo administration.

The Board pledged transparency to its stakeholders by consistently meeting with them and gaining feedback before the implementation of Phase 1. Chairman Munnelly felt it was important to receive feedback from all of the levels of the Board and its stakeholders. The Cuomo administration pledged transparency to New York's citizens by creating legislation that allows

the public to view state contracts that are made by the State Comptroller, Attorney General and the Office of General Services.

These types of examples serve as evidence of the kinds of similarities that exist between the Cuomo administration and Workers' Compensation Board management. Similarly, while Governor Cuomo chose to push new agenda items of his administration during his State of the State addresses, the Board management chose to push their agenda items through their centennial report.

The centennial report produced by the Board in July 2014, *The Board Centennial: Celebrating 100 Years of New York Workers' Compensation and Leading the Way Forward for the Next Century*, was an opportunity for the Board management to introduce the concept with the BPR and couple the idea of the BPR with the purpose of producing their centennial report. The report celebrated the accomplishments of the Board during the first hundred years of its existence. However, the next century focused on reengineering a system that is a century old, thus introducing the concept of the BPR. The Board management met with their stakeholders to help capture their vision for the next century a few years preceding the announcement of the BPR. Introducing the BPR during a centennial anniversary celebration opened a window of opportunity for the Board to push their agenda item on a New York State executive branch agenda.

The purpose of this study was to understand how and why the BPR was placed on a New York State executive agenda and given attention by the Cuomo administration by using MSA. The researcher can confidently conclude that the MSA can clearly be applied to explain why the BPR was put on an executive branch agenda of New York State government. Particularly, the problems and politics stream had converged together to open a policy window for management

of the Board to push their agenda for the BPR to become part of New York State executive branch policy. There were problems that existed that were borne out by studies conducted by the WCRI and the WCPI and the organizational forces were dissatisfied by the way NYS Workers' Compensation system was operating. With Governor Cuomo's own agenda and the *Business Relief Act of 2013* that substantially saved employers money, the researcher believes that NYS Workers' Compensation Board policymakers saw this as an opportunity to push their item of the BPR to become part of an executive branch agenda to overhaul the entire system.

Limitations of Study

Although this study was served to test the MSA against realistic conditions that existed in the Board before the BPR was implemented, the researcher was quite limited in the amount of data she could collect. She was not given permission to interview and survey NYS Workers' Compensation Board nongovernmental stakeholders. Aside from organized forces, it would have been interesting to the researcher to interview participants in the NYS Workers' Compensation system she interacts with daily: claimants' and carriers' attorneys and injured workers. The attorneys would have been interesting to interview to gauge an understanding of how the policy reforms of the Board had affected their day-to-day job activities, and how it has affected their clients. Even though it may have been a challenge to interview authorized medical professionals, the researcher believes she could have gauged an understanding of the effect the Medical Treatment Guidelines has had on the job activities of medical professionals.

Future Research

This study serves as a gateway for subsequent research to delve more into an understanding of why the BPR was enacted. However, researchers could also use this study as an aid for using

other research methodologies. As we discussed past policy studies that had used the MSA as a guide to explain policymaking, other researchers had used mixed methodologies to collect their data to explain policymaking decisions.

As the researcher is an employee of New York State, she was not given authorization to interact with NYS Workers' Compensation's nongovernmental stakeholders. However, it would be interesting to identify key influential policy actors of the organized forces of the Board and conduct surveys and open-ended interviews as other researchers had done in the policy studies previously discussed. The policy studies previously discussed had conducted a content analysis but also supplemented that data with surveys and interviews. They derived key themes with all their data collected, and these themes helped these researchers gain a clearer understanding of why a policy item was placed on a governmental agenda. Also, the conduction of surveys and especially open-ended interviews also allows the researcher to more personable perspective of nongovernmental stakeholders: what their agenda is, what their positions are on certain issues and especially why they feel the way they do.

Researchers that are part of non-for-profit research organizations, perhaps part of the WCPI and WCRI, could use this study as an aid when the BPR is fully implemented to test whether policy actors thought the BPR is finally a successful policy platform and reform. By utilizing mixed methodologies, researchers can identify policy actors of organized forces and discover if there are problems that exist after its implementation that policy actors believe need addressing. They can also derive key themes that exist within the categories of indemnity benefits, quality medical care and employer cost reduction.

The researcher believes that this study can set the stage for very interesting future research and research methodologies.

This study was about several conditions of the Board that led to the announcement of the BPR in July of 2014. This study was an examination of the conditions that led to the announcement of the BPR in 2014 to explain why the Board felt that an overhaul of the entire system was necessary. However, how we will examine whether the BPR was successful or not after implementation?

The BPR is projected to last several years, several years after the year of this study. There is not a specified year or month that the BPR is expected to be fully implemented. However, after implementation another MSA study could be conducted to discover whether the BPR was appropriately put on an executive branch agenda. The MSA could be tested against the existing agenda that Workers' Compensation management met with their stakeholders about in August 2013 (Cavalcante, 2014):

- Creating a system that is tasked with reporting data metrics to focus on improving the transparency of the entire system to all participants
- Creating a flexible and self-executing system that responds to legislative and regulatory changes
- Maintaining open dialogue between the Board and its stakeholder groups to increase collaboration and share key improvement ideas

The three streams flow within these agendas. A system that includes data metrics will help monitor potential problems and produce indicators to NYS Workers' Compensation Board management and its stakeholders as there are problems that need addressing. As the Board also introduced an electronic filing system called eClaims, which if operated correctly should respond to the legislative and regulatory changes that the current gubernatorial and future gubernatorial

administrations. In addition, maintaining open dialogue between the Board and its stakeholders to increase collaboration is imperative to the entire system overhauls in the future, especially if stakeholders can express their opinions on a system that immediately adapts to legislative and regulatory changes.

This study also serves as an example to other Workers' Compensation system throughout the nation that would like to reform their Workers' Compensation system, or even any executive branch agency. A utilization of the MSA is useful to guide policymakers to discover what specific changes need to be made to a system that requires a reengineering project. Policymaking is thought to be complex, and to separate an inundation of data by dividing it into streams may serve as an aide to policymakers in deciding what areas of a system need reforming and why.

Recommendations

This is a study to examine the conditions that predated the announcement of the BPR. Although now the researcher cannot recommend to NYS Workers' Compensation Board management corrections that can be made to the BPR after it is implemented, the researcher offers recommendations to management from her capacity as a court reporter employed by New York State from a first person point of view.

In my role as a court reporter working for New York State at the Board, I am responsible for taking down the minutes that occur at Workers' Compensation hearings and preparing transcripts for parties who request the hearing minutes. The usual parties that request these minutes are the carriers' attorneys and the claimants' attorneys. However, many times claimants themselves will request transcript copies of the hearing minutes. These types of claimants are typically frustrated with the NYS Workers' Compensation system, and they use these minutes as a reference to either appeal the administrative law judges' decisions or because they have a third-

party action that had arisen from their work-related injury. Injured workers are often frustrated with the system because of fighting with the insurance companies.

If they do not provide up-to-date medical evidence or do not show evidence that they are actively seeking employment, insurance companies will either attempt to suspend their benefits or lower their benefit rate based on the level of disability that they have. In addition, injured workers are constantly seeing medical treatment authorizations requested by their doctors be denied by the insurance carrier. Denials could be based upon something as simple as the doctor forgot to sign the medical treatment authorization or it wasn't explained clearly enough why the injured worker needed treatment that wavered from the medical treatment guidelines. I have seen many occurrences in hearings where injured workers have expressed their frustration to the administrative law judge about the NYS Workers' Compensation system.

I would like for management continue to focus on the reason that the Board exists: injured workers. NYS Workers' Compensation Board management had conducted one injured worker survey to understand the injured workers' positions on the system itself. However, in my opinion, management should be treating injured workers to understand from a personal perspective of how the way the current system is operating is influencing their day-to-day lives.

I recommend that the Board utilize their office of Advocate for Injured Workers to reach out to their injured workers to periodically consult with them while the project phases of the BPR continue to progress. Phase 1 of the BPR is electronically submitting medical reports to eCase and improving injured workers' customer service experience by establishing a faster settlement process for those who would like to settle their claims. The Advocate for Injured Workers should act as a liaison between management and injured workers by gathering data via injured worker surveys and taking public comment from these injured workers as they have done in the past and

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publishing these comments to their website. NYS Workers' Compensation Board management has conducted roadshows to different districts to discuss the progress that has been made on the BPR, and I believe the Advocate for Injured Worker should do the same for New York State's injured workers.

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