

Federal Policy 101 for Palliative Care Champions

Revised September 2020

This presentation describes the structure of the federal policy environment as it pertains to palliative care, highlighting key audiences and their areas of jurisdiction.



Introduction to Federal Policy

Federal policy governs key laws and programs than can impact palliative care access/quality; for example:

Workforce

- Training programs, grants, loan forgiveness

Payment

- Programs like Medicare, Medicaid (in partnership with States); coverage policies

Quality and Standards

- Quality measures in health care programs, safety standards, oversight bodies

Introduction to Federal Policy (cont'd)

Federal policy governs key laws and programs than can impact palliative care access and quality; for example:

Research

- National Institutes of Health (NIH), Agency for Health Research and Quality (AHRQ) funding and research priorities

Public Awareness

- Education and awareness campaigns to disseminate critical public health messages

Health Equity

- Programs to support and protect diverse populations

Civics Refresh: Branches of Government

The Federal Government is separated into three branches which work to govern the nation. The goal of this separation is to ensure that no one person or group has too much power.



Legislative (Congress)

- Comprised of:
 - Senate (100 Senators)
 - House of Representatives (435 Reps)
- Responsibilities:
 - Write and pass laws
 - Senate approves presidential appointments

Executive (President)

- Comprised of:
 - President
 - Vice President
 - Cabinet
- Responsibilities:
 - Sign/veto laws
 - Carry out laws (i.e., direct Federal Agencies)
 - Appoint federal judges
 - Pardon people

Judicial (The Courts)

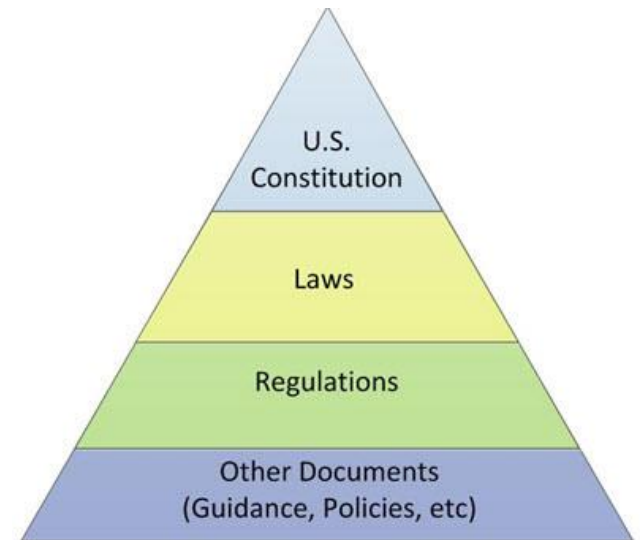
- Comprised of:
 - Supreme Court (9 Justices)
 - Other Federal Courts
- Responsibilities
 - Evaluate laws (i.e., decide if laws are constitutional)
 - Supreme Court can overturn decisions made in lower courts

Laws and Regulations

- Laws are passed by both branches of Congress and signed by the President. Laws establish requirements or prohibitions.
- Regulations are published by executive branch agencies to clarify their interpretation of a law and how a law will be implemented. Regulations also state requirements or prohibitions.

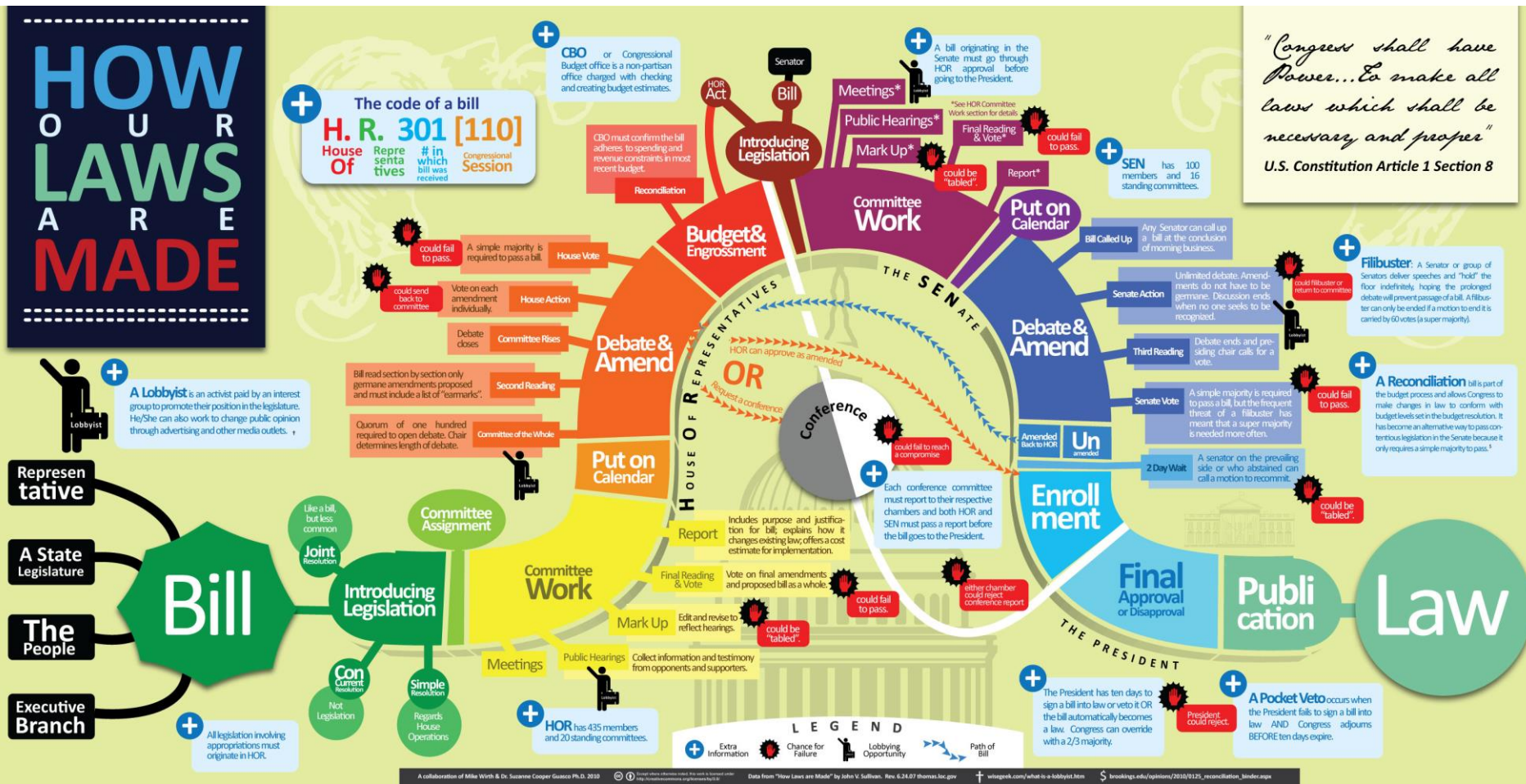
Laws and Regulations (cont'd)

- While both have the goal of **specifying** and **organizing** behavior, there are key differences
 - Laws (statute) – can create or end programs across all gov't agencies, make changes to requirements, appropriate funds; can be sweeping
 - Regulation – changes made within statutory requirements, only apply to agency at hand; tend to be more weedy
- “All laws must be consistent with the authorities provided under the Constitution, and all regulations, guidance, and policies must be consistent with laws.”



Source: <https://www.phe.gov/s3/law/Pages/default.aspx>

How a Bill Becomes Law



Representative

A State Legislature

The People

Executive Branch

Bill

Joint Resolution

Committee Assignment

Introducing Legislation

Committee Work

Final Reading & Vote

Mark Up

Meetings

Public Hearings

Report

Conference

Enrollment

Final Approval or Disapproval

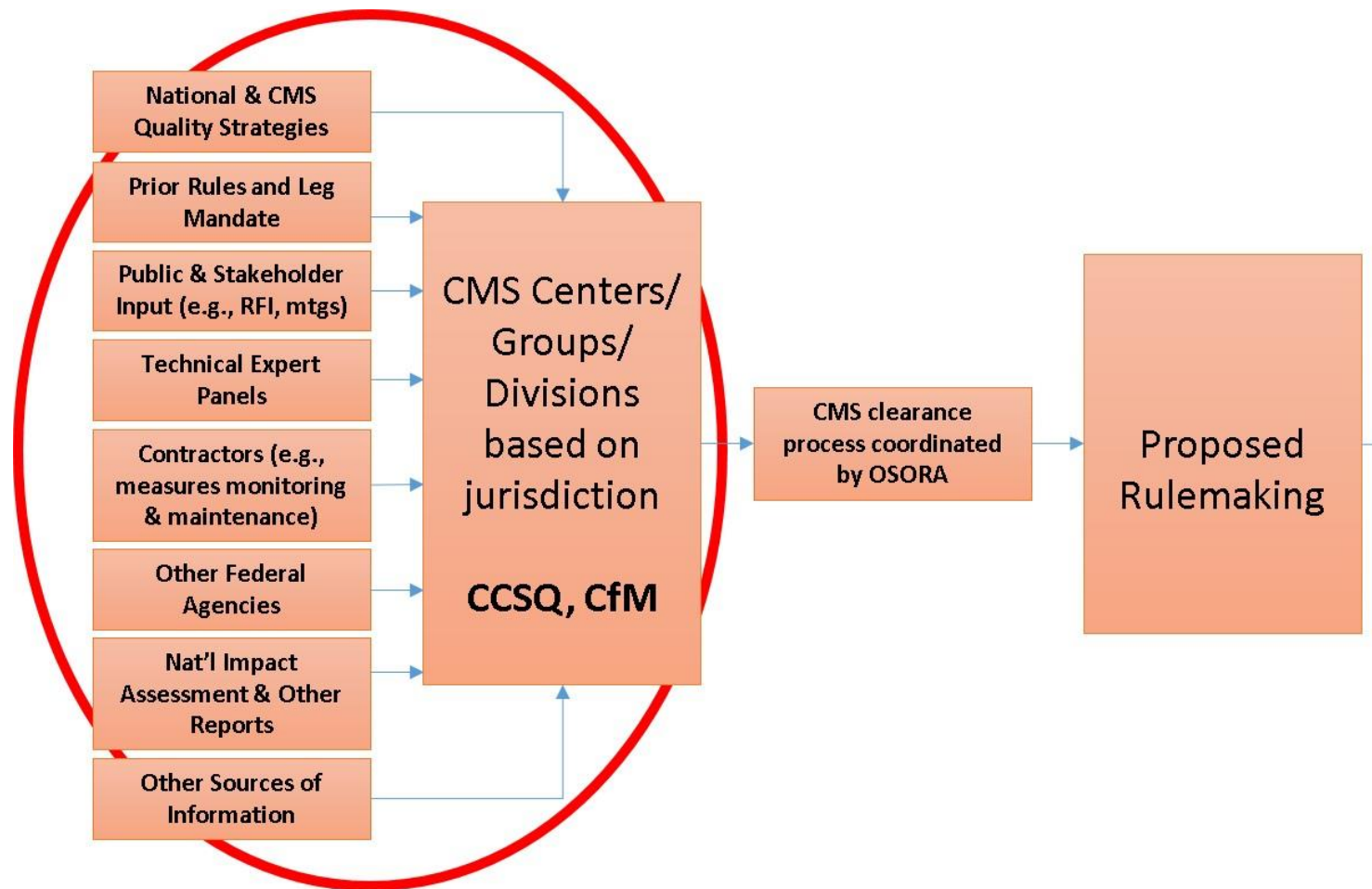
Publication

Law

Source: https://commons.wikimedia.org/wiki/File:Visualization-of-How-a-Bill-Becomes-a-Law_Mike-WIRTH.jpg

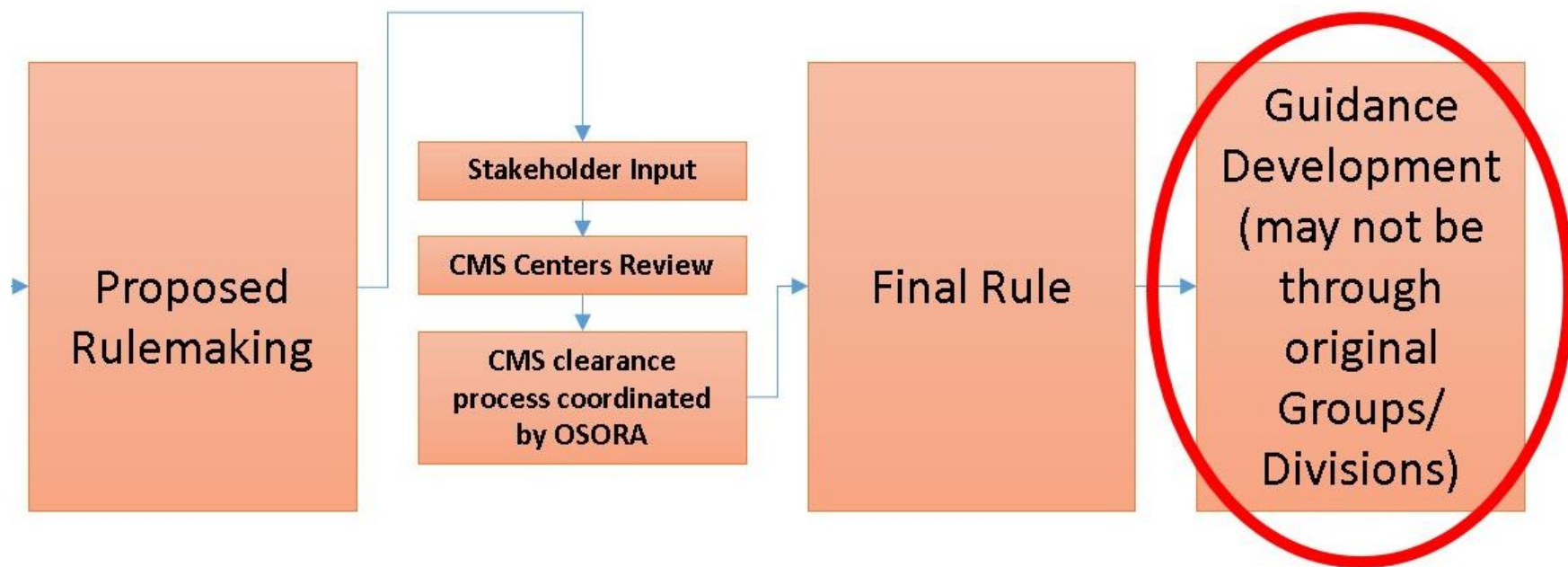
See Also: <https://www.youtube.com/watch?v=FFroMQIKIag>

Regulatory Process – CMS Example



Most regulations must go through the formal federal rulemaking process, which includes many opportunities for input throughout. For instance, the Centers for Medicare and Medicaid Services (CMS) often provide multiple channels for feedback and information while they are developing or updating regulations. Then once regulations are drafted, they are made available for public comment – usually for a period of 30-60 days. You can find proposed rules that are open for comment on <https://www.federalregister.gov/>.

Regulatory Process – CMS Example



Comments submitted by stakeholders are reviewed by the relevant centers within CMS **(they are legally required to review every comment submitted by the deadline)**. These are used to inform the final rule, also published in the Federal Register and the Code of Federal Regulations (<https://www.ecfr.gov/cgi-bin/ECFR?page=browse>). After that, “some agencies also publish guidance or other policy statements, which further clarify how an agency understands and implements existing laws and regulations. Guidance and other policy statements describe suggested or recommended actions.” (Source: <https://www.phe.gov/s3/law/Pages/default.aspx>)

APPLICATION TO PALLIATIVE CARE

Legislative Branch (Congress → Laws)

Palliative Care Key Audiences and Relevant Jurisdiction

→ Senate

- Senate Committee on Health, Education, Labor & Pensions ([HELP](#)) – matters related to education, labor, health, and public welfare
- Senate Committee on Finance ([SFC](#)) – matters related to entitlement programs (e.g., Medicare, Medicaid, CHIP)

→ House

- House Committee on Energy & Commerce ([E&C](#)) – matters related to health care, health insurance
- Ways & Means Committee ([W&M](#)) – matters related to Social Security, Medicare

Executive Branch (President, Federal Agencies → Regulations)

Key Agencies within HHS Relevant to Palliative Care

Centers for Medicare and Medicaid Services ([CMS](#))

- (**Majority of CAPC's policy attention**) Administers the Medicare program and works in partnership with state governments to administer Medicaid and the Children's Health Insurance Program (CHIP). Key player in payment and quality; through CMMI, administers new demonstrations and models that provide new opportunities for palliative care.

National Institutes of Health ([NIH](#))

- The primary agency of the United States government responsible for biomedical and public health research. Advocacy goals include expanding palliative care research across all institutes.

Centers for Disease Control and Prevention ([CDC](#))

- Protects public health and safety through the control and prevention of disease, injury, and disability in the US. A key issue in recent years has been guidance regarding opioid prescribing.

Executive Branch (President, Federal Agencies → Regulations)

Key Agencies within HHS Relevant to Palliative Care (cont'd)

Agency for Healthcare Research and Quality ([AHRQ](#))

- Conducts and supports research, demonstration projects, and evaluations; develops guidelines; and disseminates information on health care services and delivery systems. Periodically produces palliative care content.

Health Resources & Services Administration ([HRSA](#))

- Improves access to health care services for people who are uninsured, isolated or medically vulnerable through leadership, training, and financial support for health care providers.

Administration for Community Living ([ACL](#))

- Coordinates efforts of the Administration on Aging (AoA), the Administration on Intellectual and Developmental Disabilities (AIDD), and the HHS Office on Disability to serve as the Federal agency responsible for increasing access to community supports, while focusing attention and resources on the unique needs of older Americans and people with disabilities across the lifespan.

Executive Branch (President, Federal Agencies → Regulations)

Key Agencies within HHS Relevant to Palliative Care (cont'd)

Indian Health Service ([IHS](#))

- Operating division within HHS responsible for providing direct medical and public health services to members of federally-recognized Native American Tribes and Alaska Native people.

Food and Drug Administration ([FDA](#))

- Responsible for protecting and promoting public health through the control and supervision of prescription and over-the-counter pharmaceutical drugs (medications), vaccines, biopharmaceuticals, blood transfusions, medical devices, among other things.

Substance Abuse and Mental Health Services Administration ([SAMHSA](#))

- Charged with improving the quality and availability of treatment and rehabilitative services in order to reduce illness, death, disability, and the cost to society resulting from substance abuse and mental illnesses.

Drug Enforcement Administration ([DEA](#))

- Tasked with combating drug trafficking and distribution within the United States (has played a recent role in the opioid epidemic).

Legislative vs. Regulatory Approaches

- Palliative care champions must understand the change they are trying to make and which branch has jurisdiction
 - E.g., the Palliative Care and Hospice Education and Training Act (PCHETA) creates a new program and appropriates new money, and certain telehealth changes require statutory changes – legislation is the best approach
 - E.g., the Quality Payment Program (QPP) needs additional palliative care-related measures, CMS can change the valuation of CPT codes – regulation is the best approach
- Some advocacy efforts will include both legislative and regulatory strategies

Coalitions Supporting Palliative Care Policy



<https://www.nationalcoalitionhpc.org/>



<http://patientqualityoflife.org/>



<https://www.thectac.org/>

How Individuals Can Affect Policy

- Be informed on issues, politics, players
- Join professional associations, respond to calls for action
- Write representatives regularly, offer to be a resource; meet when they are in town
- Participate in state capitol and Washington, DC visits

Palliative Care Messaging for Policymakers

- Quality of life for people living with serious illness
- Achieves quadruple aim: improves quality, health, clinician experience, reduces cost
 - Cost reduction is a by-product – only mention *after* discussing other benefits
- For more messaging guidance, visit <https://www.capc.org/toolkits/marketing-and-messaging-palliative-care/>

To Learn More About Palliative Care and Federal Policy

- Review the State-by-State Palliative Care Report Card at <https://reportcard.capc.org/>
- Visit <https://www.capc.org/toolkits/federal-policy-resources/>
- Contact paymentandpolicy@capc.org