

**WHAT SHOULD BE THE ROLE OF THE FEDERAL GOVERNMENT?  
– LEGISLATE, FACILITATE, AND REGULATE – BUT DON'T STIPULATE!**

**Stephen L. Bakke – September 9, 2009**

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*This is a follow-up to my recent report on suggestions for health care reform.*

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*“I predict future happiness for Americans if they can prevent the government from wasting the labours of the people under the pretense of taking care of them.”*

– Thomas Jefferson

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Of course there's a role for government, but not in the way the public option/single payer/universal system advocates would envision. My ideas are dealt with elsewhere in this report and are brought together here to more clearly show how the government fits in.

One statement by President Obama that gave me concern was when he announced that his plan was endorsed by the Mayo Clinic. I was a bit surprised but couldn't refute the statement. However, I found a report recently that summarized Mayo's latest policy perspective that, among other things, staunchly oppose a public plan for health care reform based on a government-run, price-controlled, Medicare-like insurance model.

My vision of the Federal government's role in this reform process uses existing agencies and bureaucracies rather than spending billions (probably trillions) of new dollars setting up new agencies, commissions, commissioners, committees, and hundreds of thousands of governmental employees. For example, I suggest that Congress simply legislates where necessary, and when financial implications need to be addressed in terms of incentives, deductions, or tax credits, we should use the tax code and the Internal Revenue Service. No new bureaucracy should be instituted – a huge cost savings!

Having said that, here is more detail of my vision of the Federal government's role:

- Legislate tax reform whereby health savings accounts (HSAs) are encouraged and broadly applicable. Generous tax deductibility and a sliding scale of tax credits should be made available to significantly cheapen the direct cost of health care for individuals.
- Legislate tort reform whereby victims still could still receive a fair settlement, but where punitive damages are firmly capped. For those concerned with the victims being denied rightful recovery, under the current system the trial lawyers are the ones really benefiting. The lawyers often take 60% of large recoveries plus reimbursement of huge trial costs. The victims are definitely not the largest beneficiary of the current system.
- There will probably need to be limited, straight forward legislation which would simply require all individuals carry at least the major medical/catastrophic type of

- insurance. Given the broadened applicability of HSAs and refundable tax credits, there would be very little excuse for not acquiring this insurance.
- Legislatively eliminate pre-existing condition penalties in private insurance policies. Where this is a problem considering wise underwriting standards, a “reinsurance cooperative” could be formed by the private insurance industry.
  - Legislate a requirement for portability in those cases where it would still not be available.
  - Legislatively prohibit the “out of network” provisions of current carriers.
  - Legislatively eliminate state mandates to insurance coverage.
  - Legislatively remove state borders as an obstacle to competition between private insurers.
  - Assume the responsibility of the insurance industry regulator – removing the responsibility from each state. This should not be suppressive or oppressive in its nature and should support innovation in the industry. In other words regulate, but facilitate.

And that’s it. The government shouldn’t run our health care system – rather it must limit itself to supporting and facilitating improvements to, and success of, the system.

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### **Sources of Information**

The major sources of information used in developing my health care commentaries were included in my recent report on health care reform recommendations.