A WORKABLE PLAN FOR HEALTH CARE REFORM

Stephen L. Bakke – September 4, 2009

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Background

In my opinion, health care reform dwarfs all other issues we have faced in recent years. Tax increases (the essential element of other issues – stimulus, bailouts, government takeovers, cap and trade, etc.) can be reversed if there is enough public outcry. A transformation of our health care system, on the other hand, has a huge impact beyond just financial considerations. Once implemented, there will be no turning back – at least not for a generation or more! We must work diligently on much needed reform, but we must not rush the process!

Definitions

Here is a review of some of the terms that I have been been throwing around.

Health Care Reform – Many equate health care reform with universal health care. It is not. Reform just means change. Universal care is just one type of reform. Comprehensive reform does not necessarily imply a move to socialized medicine, universal care, single payer, or public option. It just means that significant changes are being made.

Universal Health Care – This refers to a scenario where everyone is covered for basic health care services, and no one is denied care as long as they are legal (sometimes even illegal) residents in the geographical area covered. This concept is often equated to a single payer system but they are not necessarily the same.

Single Payer System – This type of system is one in which health care is paid for by only one entity. Many supporters of universal care, single payer, and socialized medicine try to create clear distinctions between these three concepts. The differences are often just nuances and they sometimes create distinctions without real differences. For example, creation of a universal system generally leads to a single payer system, and in 100% of single payer systems, that payer is the government. And I think most would find that even in the least socialized of universal

systems, perhaps Canada is an example, a significant portion of health care decisions are made bureaucratically, or by the government. Decisions made by the government; payments made by the government; and control of processes in the hands of the government; those characteristics come very close to characteristics of socialized medicine.

Socialized Medicine – This type of system goes a step farther than either universal or single payer systems. Under a socialized system, the government employs all health care personnel, and all providers of services are part of government. All decisions are made by government and the system is also both a universal and single payer system.

Benefit Mandate – This is a law (usually state) that commands a health plan to cover a specified treatment or type of provider. Most of these mandates were legislated without formal review of costs and benefits. The Pacific Research Institute recently reported that each additional benefit mandate explains an increase in the number of uninsured of about 0.25%. Why? Because adding mandates costs money. Stated another way, these mandates require Americans to pay for coverage they don't need or prefer not to have. Some suggested reforms recognize this and propose having limited benefit plans (e.g. major medical or catastrophic coverage) more readily available, or perhaps a "shopping cart" of benefits that could be chosen individually. The proponents of limited plans make solid arguments that this would promote cost savings.

Public Alternative – The current administration has advanced this as a central point in its vision for reform. Critics believe the President chose this approach because a single payer/socialized approach was politically impossible to achieve – at least as of now. Generally, this refers to a governmental owned insurance alternative which is created, ostensibly, to create competition for existing commercial insurance companies and to "keep them honest". It is taxpayer subsidized. Critics state this is "the camel sticking its nose under the tent" – i.e. just the first step in eventually becoming a single payer system, and which brings us ever closer to complete government control and socialized medicine.

Commentary

I am completely satisfied with the evidence I have found and presented which debunk the "oft' quoted" projects by the World Health Organization, The Commonwealth Fund, and the "hero" of the radical left, Michael Moore. Refer to the Point/Counterpoint summary in a separate report and also the summary of the positive aspects of our system, also in an earlier report. We have a system we can be proud of in many, many ways. Yet it is flawed and should be improved.

The work done by the National Center for Policy Analysis (NCPA), the Dartmouth Institute, The Pacific Research Institute (PRI), The Heritage Foundation, Mayo Clinic, as well as many others, have been most helpful to me. Refer to the Sources of Ideas and Information at the end of this report for a full list.

I think it's important to note that the health care reform debate is NOT mainly about access to medical treatment since a level of access is already guaranteed to all by federal law. Specifically, *The Emergency Medical Treatment and Active Labor Act* (EMTALA), a federal law enacted in 1986, requires hospital emergency departments to treat emergency conditions

regardless of a patient's ability to pay. That's just one aspect. As we all know, basic care is also available under Medicaid benefits. Any reform must deal effectively with those who are chronically uninsured, e.g. two years or more – those that have truly "slipped through the cracks." Most Americans agree that everyone should have access to affordable health insurance coverage. But the debate really is centered on: How do we expand the number of insured? Who will pay the costs of expanded medical care? And, what is the proper payment arrangement?

Sally C. Pipes of PRI, a well-known expert and writer on health care reform, categorizes reform proposals into two competing visions: one focuses on government, mandates and taxes; the other focuses on markets, consumer free will, and innovation. The first promotes universal coverage; the second promotes universal choice (a new term).

I believe the key elements of sound health care reform are competition, consumer control, and free market influences. Many of our problems, some of which are serious, stem from departures from free market principles, tax manipulations in the system, costly insurance mandates, and bureaucratic interference. Well over 50% of all health care expenditures are made by government. Also problematic is a lack of spending "consciousness" by consumers resulting from 6 of 7 dollars being spent by third party payers. The central focus of any serious reform effort should be a vibrant and competitive free market for private health care, with a wide choice of physicians and treatments and a variety of ways to pay for them. There should also be a competitive market for private health insurance – one that offers a wide choice of health plans.

Consumer-directed health care initiatives, under which individuals manage some of their own health care dollars through systems such as Health Savings Accounts (HSA), are superior to traditional first dollar coverage, especially under insurance programs designed and controlled by government. There is considerable evidence that consumer-directed programs reduce costs. When the cost of health care drops, health insurance premiums drop, and paying cash for care becomes easier. Paying cash for some services further reduces costs by eliminating the overhead costs of third-party payment systems. There is no evidence that expansion of government health programs decreases costs. In fact, there is evidence that such programs actually increase costs.

Tort reform is an important element for saving health care costs, but it has been ignored in all of the democrat legislative proposals thus far. When asked about this, former DNC Chairman Howard Dean recently showed unusual candor and a real sense of the obvious:

> *"Here is why tort reform is not in the bill. When you go to pass a really enormous bill like that, the more stuff you put in, the more enemies you make, right? And the reason why tort reform is not in the bill is because the people who wrote it did not want to take on the trial lawyers in addition to everybody else they were taking on, and that is the plain and simple truth."*

While America's current health system has clear strengths, it also has significant things to correct. For all the success at helping people live longer and healthier lives, America's system seems too costly, confusing, inefficient, and uneven in its results, and it leaves too many people without adequate access to its benefits. Correcting those faults while maintaining the history of innovation and creativity is what we must achieve.

Following is a quote from the Federalist Papers. I hope my proposal would even be suitable for our legislators. So far they aren't including themselves in the reform.

> *"The house of representatives ...can make no law which will not have its full operation on themselves and their friends, as well as the great mass of society. This has always been deemed one of the strongest bonds by which human policy can connect the rulers and the people together. It creates between them that communion of interest, and sympathy of sentiments, of which few governments have furnished examples; but without which every government degenerates into tyranny."* – Federalist No. 57, February 19, 1788.

Summary of Reform Elements

Thus far I have just offered criticism, while presenting theory, and philosophy. Ultimately I have to offer suggestions. Here are my ideas of a framework for workable health care reform:

Changes Affecting the Insurance Industry and Insurance Coverage

- Individuals should be the key decision makers in a reformed system. Individuals should buy and own their own health coverage. Once consumers actually control the treatments and costs, they collectively will apply pressure to get more value for it.
- Individuals should have periodic opportunities to change health coverage.
- Prices for coverage, services, or products should be transparent to the individual.
- We should have portability provisions which separate the coverage from employment.
- Individuals should be required to purchase major medical/catastrophic insurance. The current system is tied to the much more expensive and less important comprehensive "first dollar coverage." This coverage would be in the form of a higher deductible policy, e.g. $5,000 or $10,000 (or whatever the consumer chooses), and would be surprisingly inexpensive. The costs would be mitigated by the new tax provisions discussed below.
- Given the requirement to purchase at least major medical coverage, that coverage must be available for all individuals. "Pre-existing conditions" provisions of insurance coverage must be prohibited. To the extent this is found to be actuarially unwise or burdensome for any single insurance company, something like a "reinsurance cooperative" should be created which would be owned jointly by the many insurance companies in the country. This would spread the risk system wide – that's what insurance is supposed to do.
- Individuals should be allowed to buy insurance across state lines. State borders now act as unnecessary regulatory walls. This would permit shopping among a robust variety of insurers. They all currently exist – we just can't access them outside of our state of residence. Each consumer now has very few options, thereby limiting competition.
- Converting to a national insurance market would cause a huge change in insurance regulation. Now it is done at the individual state level. After this change insurance regulation could be applied uniformly at the state level, but I would prefer it be consolidated at the federal level.
- We should eliminate "out of network" provisions used by many insurers today.
- Government (usually state) mandates for insurance coverage should be eliminated and we should move closer to a "shopping cart" approach to buying insurance – subject to the

required minimum major medical coverage discussed above. This would allow insurers to offer a range of plans – from basic/lower cost to comprehensive/higher cost coverage – which would meet a variety of individual needs and preferences while making access more affordable. Mandates have been estimated to increase the cost of health care for a typical individual by 50%. Having eliminated the state mandates, we must be careful not to reintroduce similar problems at the federal regulatory level.

- This change to a national insurance market could encourage introduction of a system which permits a variety of insurable pools (trade associations, civic organizations, professional association, business groups, etc., etc.) If created, these pools could choose from a variety of carriers for their members. Each consumer would own their own policy, and could even choose from a variety of pools for negotiating the best deals.

Changes Affecting the Tax Code

- We should change the tax code to allow all medical related expenditures, up to a generous maximum, to be deductible (not limited by a percentage of income). And we should also implement a refundable tax credit as part of this tax reform. We should encourage concepts such as health savings accounts (HSAs) through the tax code and permit the consumer/owner of the HSA to build a tax deductible/tax sheltered "next egg" to be used in future years and during periods of unemployment.
- The tax provisions should encourage widespread use of HSAs in tandem with a relatively inexpensive, higher deductible insurance policy designed to cover major medical or catastrophic expenses.
- We should consider selective and prudent implementation of limited direct tax credits for certain other expenditures. Since taking care of children is such a "hot button" (witness SCHIP), we could implement limited tax credits for health care expenditures for persons under the age of 21 in families below the median U.S. income. This would replace the existing SCHIP program which provides government paid health care to the children of families well beyond the poverty level, **and even well above average income levels**.
- Tax legislation should recognize the plight of the poorest taxpayers by having a sliding scale of subsidies based on income – thereby focusing specifically on this group. The levels of tax deductibility, tax credits and refundable tax credits would vary with income.

Other Changes

- Tort reform should occur by eliminating abusive and unnecessary lawsuits and settlements. This should include a cap on non-economic damage awards. The result would be more reasonable awards and also a reduction, over time, in the expenses of defensive medicine.
- Health care providers should be allowed and encouraged to offer affordable care at convenient locations such as retail clinics at malls, walk-in centers, etc.
- All persons using emergency rooms or walk-in centers should, as part of their treatment, be directed to the parts of our system from which they could benefit.
- I understand there is a shortage of doctors and nurses in our health care system as it exists today – particularly those in "primary care" practices. This is particularly troublesome considering there could be many millions becoming insured as a result of reform.

Dealing with this will very difficult and will take time. If there are artificial barriers to the number of professionals our system develops, then this must be changed. That would include expanding medical and nursing school enrollment or even encourage adding medical schools in certain areas of the country. This could be done partially through our tax system whereby appropriate personal and corporate incentives would be developed. Imaginative planning could come up with many other constructive programs.

- There are several more elements which should be mentioned here such as streamlining provider administration through "paperless office" practices and administrative technologies. Also, "wellness" programs should be encouraged by using the same tax incentives mentioned above. **But it is becoming ever more apparent that preventive care and wellness programs will make us healthier, but are not likely to reduce health care costs in the long run. More on that in a later report.**

Focus on the Uninsured

How should we deal directly and specifically with the approximately 47 million uninsured? I believe the following would deal with those currently uninsured in a "smart" way. Some of these are incorporated in what has been discussed above.

- The transitional uninsured (between jobs or temporarily unemployed) should be dealt with through the new portability provision. Payments would be made by the insured with generous refundable tax credit allowances.
- There is a group of citizens that, for various reasons, chooses to "roll the dice" and not spend for health care coverage – even though they could afford it. The approach I suggest should convince many that these provisions make coverage cheaper, more attractive and, I believe, they would buy it. This is where use of HSAs, unbundled major medical coverage, tax deductions and credits, price transparency, etc. would make a difference in the number of uninsured. But since you can't mandate "smarts", that's why I would make a make a minimum requirement of purchasing at least major medical/catastrophic coverage. Of course, generous tax treatment would apply.
- We should aggressively deal with the chronically long-term uninsured (e.g. over two years and nothing else works) through a system which combines the revised tax credit provisions with the creative use of vouchers for a private insurance pool set up for this purpose. Or we could issue the medical equivalent of food stamps (using restricted debit cards) for their use, thereby subsidizing their catastrophic health insurance premiums – but through private insurance companies, not a government alternative. This would encompass approximately 10 million people.
- We should limit illegal immigrants to taxpayer paid coverage provided in hospital emergency rooms or at walk-in centers only. Any person residing in the U.S., however, should be free to purchase their own coverage on the open market.

We must maintain a free market system of providers, insurers, technology development, pharmaceutical development, manufacturing of equipment and drugs, and marketing of all these products and services. Ours is the system which develops virtually all new medical technologies, new pharmaceuticals, and which has the best treatment outcomes on the planet. We must retain

the best of what we have while we fix the problems. The government health care system and public insurance option is not the way to do it.

Future reports focus on other aspects of this debate including delivery of services, government's role and what in my recommended approach will save costs.

Sources of Ideas and Information

This is not intended to be a complete bibliography or list of notes and references which would be adequate for publication or other wide use of this report. Within this report I have given specific attribution to very few quotes and statistics. The following is intended to relay the nature, extent, and sincerity of my effort to become personally more knowledgeable. I hope it lends some measure of credibility to the information provided.

Following is a list of books, papers and research studies (including one documentary movie). The majority were obtained and read or reviewed entirely by me. For the balance, I used substantial information found in summaries or excerpts.

- *A Federal Health Insurance Exchange Combined with a Public Plan: The House and Senate Bills* by Robert E. Moffit, Ph.D. – Published by The Heritage Foundation
- *A Foundation for Health Care Reform Legislation – Mayo Clinic's Point of View* – Published by Mayo Foundation for Medical Education and Research
- *A Framework for Medicare Reform* by John C. Goodman, Ph.D. – Published by National Center for Policy Analysis
- *American Health Care: Government, Market Processes, and the Public Interest* – Edited by Roger D. Feldman
- *Americans at Risk: One in Three Uninsured* – Published by Families USA
- *America's Uninsured Crisis: Consequences for Health and Health Care* – Published by the Institute of Medicine
- *A Perspective on Current Health Reform Issues* – from Mayo Clinic Leadership
- *A Principled Path to Rational Health Care Reform* – by Nina Owcharenko – Published by The Heritage Foundation
- *Bankruptcy and Health Care* – Generic title covering several studies by Harvard University and the University of California at Davis
- *California's Newest Chronic Disease: "Preventionitis"* by John R. Graham – Published by Pacific Research Institute
- *Calls to Inaction? Three New Books on Health Reform* by Diana M. Ernst – Published by Pacific Research Institute
- *Canadian Health Care We so Envy Lies in Ruins, Its Architect Admits* by David Gratzer – Published by Investors' Business Daily
- *Crisis of the Uninsured* (several annual reports) by Devon Herrick – Published by National Center for Policy Analysis
- *Critical Error: Tom Dashle's Blurred Health Care Vision* by John R. Graham – Published by Pacific Research Institute
- *Critical: What We Can Do About The Health-Care Crisis* by Tom Daschle
- *Downgrading American Medical Care* by Betsy McCaughey – Published by The American Spectator
- *Draft Health Care Legislation, HR 3200 and others* – HR 3200 reviewed in total
- *Doctors Weigh in on the Healthcare Initiative – U.S. Healthcare Reform Survey* – Published by ChangeWave Research

- *Ensuring Access to Affordable Health Insurance* by Stuart M. Butler, Ph.D., and Nina Owcharenko – Published by The Heritage Foundation
- *Escaping From Unhealthy Health Care Dependency: Lessons From Down Under* by Diana M. Ernst – Published by Pacific Research Institute
- *Exposing the Myths of Universal Health Coverage* by Devon Herrick – Published by National Center for Policy Analysis
- *From Heart Transplants to Hairpieces – The Questionable Benefits of State Benefit Mandates for Health Insurance* by John R. Graham – Published by Pacific Research Institute
- *Government Health Care Competition: The Audacity of Hope Against Experience* by John R. Graham – Published by Pacific Research Institute
- *Health Care Policy and Freedom* – Published by The Heartland Institute
- *Health Care Reform: Design Principles for a Patient-Centered, Consumer-Based Market* by Edmund F. Haislmaier – Published by The Heritage Foundation
- *Health Care Reform: Do Other Countries Have the Answers?* by John C. Goodman, Linda Gorman, Devon Herrick, and Robert M. Sade, MD – Published by National Center for Policy Analysis
- *Healthcare Reform Must Be Patient-Centered* by Congressman Tom Price – Republican Study Committee
- *Health Care Reform: 31 New Federal Programs, Agencies, Commissions & Mandates* by Jessica R. Towhey – Appearing on Ohio's 8th Congressional District Blog
- *Health Care Spending, Quality, and Outcomes: More Isn't Always Better*- Published by The Dartmouth Institute for Health Policy & Clinical Practice
- *Health, Politics and Revolution in Cuba Since 1898* by Katherine Hirschfield
- *House Democrats Introduce Bill to Provide Quality, Affordable Health Care for All Americans* – House Energy and Commerce Committee website.
- *How to Fix Health Care Delivery in the United States* by Tor Dahl
- *How Reforms to the Tax Treatment of Health Insurance Benefit the Middle Class* by Greg D'Angelo, Rea S. Hederman, Jr., and Paul L. Winfree – Published by The Heritage Foundation
- *Illusions of Cost Control in Public Health Care Plans* by Robert A. Book, Ph.D. – Published by The Heritage Foundation
- *Improving Quality and Curbing Health Care Spending: Opportunities for the Congress and the Obama Administration* – A Dartmouth Atlas White Paper – Published by The Dartmouth Institute for Health Policy & Clinical Practice
- *Is Health Care Spending Out of Control?* by Eugene Steuerle, Ph.D. – Published by Pacific Research Institute
- *Medical Bankruptcies: A Data-Check* – ABC News Blog
- *Medical Malpractice Reform* – Published by National Center for Policy Analysis
- *Medicare Spending Across the Map* by Amy Hopson and Andrew J. Rettenmaier – Published by National Center for Policy Analysis
- *Miracle Cure: How to Solve America's Health Care Crisis and Why Canada Isn't the Answer* by Sally C. Pipes – Published by Pacific Research Institute
- *Mirror, Mirror on the Wall: An International Update on the Comparative Performance of American Health Care* by Karen Davis, Ph.D. et. al. – Published by The Commonwealth Fund
- *Mythbusting Canadian Health Care, Part II: Debunking the Free Marketeers* by Sara Robinson – Published by OurFuture.org
- *Next Steps for Health Savings Accounts* by Diana M. Ernst – Published by Pacific Research Institute
- *Pharmaceutical Price Regulation* by Joseph H. Golec and John A. Vernon – Published by American Enterprise Institute
- *Ranking Health Care in the States: The Most important Input is the Patient* by John R. Graham – Published by Pacific Research Institute
- *Reforming the U.S. Health Care System* – Published by National Center for Policy Analysis
- *Ruin Your Health With the Obama Stimulus Plan* by Betsy McCaughey – Published by Boomberg.com
- *Rules for Radicals: A Pragmatic Primer for Realistic Radicals* by Saul Alinsky
- *SCHIP Bill: Top 10 Changes for Congress to Consider* by Dennis G. Smith – Published by The Heritage Foundation
- *Sicko* (documentary movie) – with Michael Moore as writer, director, producer and star

- *Single Payer: It's Time to Have Hope* by Sara Rogers
- *State Health Care Reform: Key Questions and Answers* by Linda Gorman and R. Allan Jensen – Published by National Center for Policy Analysis
- *10 Myths About Canadian Health Care, Busted* by Sara Robinson – Published by Physicians for a National Health Program
- *10 Steps to Free Our Health Care System* by John C. Goodman – Published by National Center for Policy Analysis
- *10 Surprising Facts about American Health* Care by Scott Atlas – Published by National Center for Policy Analysis
- *Ten Ways to Trim Your Health Care Costs* by Devon Herrick, PH.D. – Published by National Center for Policy Analysis
- *The Doubt of the Benefit: Why State Benefit Mandates are a poor Prescription for Health Insurance* by John R. Graham – Published by Pacific Research Institute
- *The Economic Impact of Healthcare Reform on Small Business* – Published by Small Business Majority
- *The Folly of Health Insurance Mandates* by Devon Herrick – Published by National Center for Policy Analysis
- *The Impact of the American Affordable Health Choices Act of 2009* – A Memo from the Center for Health Policy Studies, The Heritage Foundation
- *The Impact of the House Health Reform Legislation on Coverage and Provider Incomes* – Testimony before the Energy and Commerce Committee, U.S. House of Representatives by John Sheils, VP, The Lewin Group
- *The New SCHIP Bill: The Senate Must Protect Private Coverage* by Paul L. Winfree and Greg D'Angelo – Published by the Heritage Foundation
- *The Obama Health Plan: Rationing, Higher Taxes, and Lower Quality Care* by Peter Ferrara – Published by The Heartland Institute
- *The Quality of Medical Care in the United States: A Report on the Medicare Program* – Published by the Center for the Evaluative Clinical Sciences, Dartmouth Medical School
- *The Stealth Mental Health Parity Act: An Attack on Innovation and Choice in Health Care* by John R. Graham – Published by Pacific Research Institute
- *The Top Ten Myths of American Health Care – A Citizen's Guide* by Sally C. Pipes, Forward by Steve Forbes – Published by Pacific Research Institute
- *The World Health Reports* – Published by the World Health Organization
- *Understanding the Tax Implications of Single-Payer Health Care* by Jason Clemens and Adam Frey – Published by Pacific Research Institute
- *U.S. Cancer Care is Number One* by Betsy McCaughey – Published by National Center for Policy Analysis
- *U.S. Health System Performance: A National Scorecard* by Karen Davis, Ph.D. et. al. – Published by The Commonwealth Fund
- *What Government Does Better: Health Care* by Howard A. Green, MD, FACP, FAAD, FACMS – Published by Physicians for a National Health Program
- *Where Civic Republicanism and Deliberative Democracy Meet* by Ezekiel J. Emanuel – Published by The Hastings Center (1996)
- *Who Should Pay for Health Care?* by Sally C. Pipes – Published by Clare Boothe Luce Policy Institute
- *Why the American Health Care System Needs Reform*
  Understanding Health Care Reform–Rethinking the Business of How Americans Receive Their Health Care
  What is Universal Health Care Coverage? – It's Not the Same as Single Payer Healthcare
  What is a Single Payer Healthcare System?
  What is the Difference Between Universal Healthcare and a Single Payer System?
  These were written by Trisha Torrey for About.com, a patient empowerment organization and website.
- *Your Life, Your Choices – Planning for Future Medical Decisions: How to Prepare a Personalized Living Will* – Federal Government Publication

In addition to this list I have studied the material of dozens of writers, columnists, commentators, educators, scientists, reporters and editorial sources – some are experts, others not. There are also many websites and online newspapers and publications from which I received information and ideas – many of these I monitor regularly.