

## How to Fix Health Care – Free the Market and Give Individuals Control – Part V

### Why Government Control is not a Solution, but a Certain Path to Catastrophe

#### Democrat Health Care Reform Policies Will Cause Costs To Rise

**Like anything else, the extent to which the government has already become involved, or interfered with market competition, or limited insurance choices, are themselves a primary cause of cost increases.** In the last 40 years the per-patient cost of government-run medical care has risen far more than the cost of privately-purchased medical care. All of the new taxes and mandates and bureaucracies required under Democrat health care plans combine to make it *certain* that medical care costs will skyrocket. Cost control will only occur when government is no longer the market obstructionist.

“Medicare may not pay much to doctors, but taxpayers pay plenty to Medicare. As my recent Pacific Research Institute study shows, since 1970, Medicare’s costs have risen 34% more, per patient, than the combined costs of all health care in America apart from Medicare and Medicaid. Medicare’s costs have risen \$2,511 more per patient. Across nearly four decades, government-run health care has been far more expensive than privately run care.

It comes down to a simple comparison and an obvious verdict: Privately run care offers choice and is cheaper. Government-run care denies choice and is more expensive.”

-- Jeffrey H. Anderson,  
Senior Fellow in health care studies at the Pacific Research Institute

If you increase demand for a product or service, what happens? The cost of that product or service rises. What will the government do by giving 47 million more people health insurance coverage for no cost or at a better-than-market rate? It’s going to dramatically and immediately increase the demand for medical services. Some estimate that this increase in demand alone will cause insurance premiums to rise by at least 10%.<sup>1</sup> The existing supply of medical services (and related infrastructure) will not be able to keep up with that demand – prices will therefore rise, as will the rate of health care inflation. The U.S. will need an additional 124,400 front-line physicians by 2025, according to the Association of Medical Colleges, not including the 15,585 new primary-care providers that will be needed according to government estimates.<sup>2</sup> There is a distinct difference between promising coverage, and delivering care. All the government-paid-for coverage you could dream of won’t matter if all you’re really getting is a place in waiting lines that grow longer every day as overburdened and undercompensated medical personnel reduce their workload or get out all together.

So who thinks that government increasing demand for medical services is going to somehow magically cause the cost of medical care to go down? Only ignorant and naïve government officials who don’t know any better. These people don’t understand that the laws of economics, like the laws of nature, can’t be changed or defied to suit their policy prescriptions. But Obama and Pelosi would have us believe that increasing demand without an equivalent increase in supply will lower prices. Lowering demand or increasing supply or both will lower prices. How do you lower demand? Encourage and reward healthy behavior. How do you increase supply? Increase the benefits and reduce the burdens of medical practices.

As explained above, there’s no way these policies will actually add 47 million to the ranks of the insured. But even if you could suddenly add 47 million more to those demanding health care, what does that do to the system’s ability to respond? If 47 million new people are suddenly able to go get medical care at someone else’s (read: government’s) expense, or at a lower rate than they’re now getting it for, there will be a flood of demand, and the

existing health care providers and systems will be overwhelmed, causing additional problems that will be used to justify yet more draconian “government” intrusions. Those already insured and responsible enough to take care of themselves at their own expense will suddenly be getting much less for their money, and much longer waits, because much less of everything will be available. You just can’t add 47 million to the demand for services, without increasing supply of services, *and* lower costs, *and* not deny a single medical treatment (rationing). It’s impossible, but this incredible feat is what Democrats proclaim their plan does. It’s a brazen lie, uttered to deceive the ignorant.

Under the House bills those who have health insurance they like are going to be paying both for their insurance, *and* they’re going to pay (as taxpayers) for their neighbor’s new government insurance. So they’re going to be paying more, but getting less. It’s crazy and it won’t work. It will fail.

**Providing more health insurance and cutting medical care costs are flatly contradictory objectives, yet Democrats say they are going to deliver both?** Health insurance is the main source of medical care cost increases. Why? When a third party (the insurance pool) pays for something you consume, the consumer has no incentive or reason to seek lower medical care costs, no *need* to reduce costs. Consumers don’t question the need for or limit their use of what is being paid for by others. They don’t shop for price and value. This inflates demand. As demand increases supply decreases, and prices go up. Why? Because no medical provider has an incentive to offer a better value at a lower price. They take whatever the insurance company is paying.

Costs are held down when patients have informed choices among providers competing on price and value. They act like consumers and make the right choice when it affects them. With insurance in between the provider and the consumer, the patient’s choices are limited, and there are no incentives to make wise, informed choices about consuming health care services ... because it doesn’t directly affect their own pocket. As long as the insurance company (or government) is paying the provider’s bill, there’s no reason for the consumer to look out for themselves. The more services you insure, and the more people you insure, the more consumption you will have that is untethered to the “affordability” imperative. This actually reduces demand for cost-effective medical services.

Politicians seem willfully blind to these economic realities.

Democrats complain that other industrialized nations spend much less on health care per capita and are just as healthy. The innuendo is that they get just as much quality health care as we do but for a much lower price. We do spend more here for all the reasons stated above. They spend less in those other countries because the government controls (decides) who gets what care, and what care is available. They ration care to spend less. Government-run health care systems are only equal in their shared scarcity. They spend less because individual citizens *aren’t permitted* to spend more. They don’t have the *choice* to spend more. They aren’t just as healthy; if they were, they wouldn’t be flocking to the U.S. for medical care.

Lawmakers need to face the revolution they've fueled with their bailouts and takeovers. Washington has acted like King George III and "erected a multitude of new offices and sent hither swarms of officers to harass" Americans "and eat out their substance."

It is meddling in people's lives and has no business going into the private places it is invading. Americans have both the right and the duty to stand up to forces that want to subjugate them.

Polite discourse is always preferred, but when liberty is threatened by an aggressive government, civil dialogue is not enough. Voters need to exercise their right to press their representatives and influence legislation.

Lawmakers should not be allowed to hide behind claims that they are being accosted by rabble. If they're going to put a boot on people's necks, the people have the right to confront their oppressors.

– **Investors Business Daily** August 5, 2009

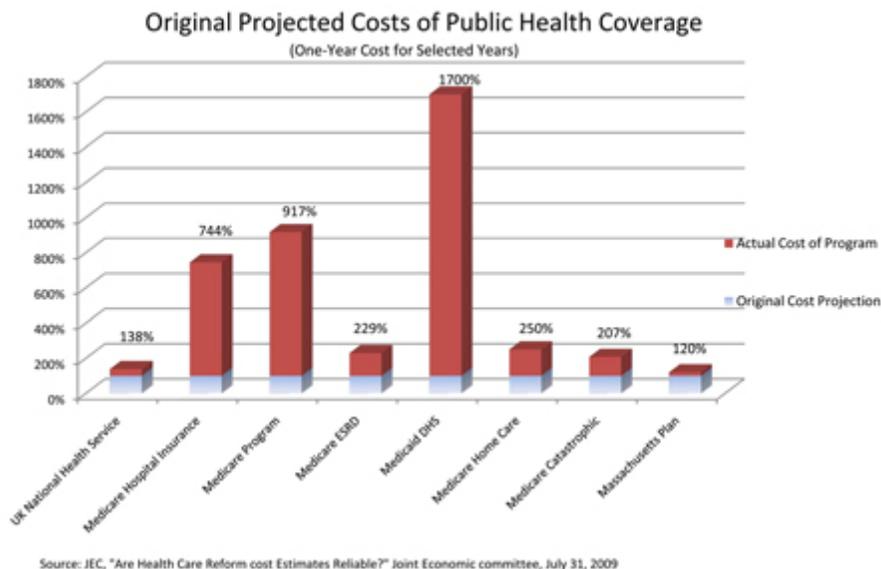
## Other Problems, Costs, and Consequences of “Nationalizing” Health Care

### **Democrats’ “reform” policies (expanding the federal role in medicine) are built on budgetary irresponsibility.**

It’s incredible that anyone in or out of government would assume that a monstrous new government program will ensure the delivery of better, *less expensive* medical care, or reduce the budget deficit by \$80 billion (as the Baucus bill supposedly does)! There is no evidence in the government’s performance record to support that conclusion. None. There is overwhelming evidence of the historic results of government-run health systems. Medicare and Medicaid are bankrupt; veterans’ care is plagued with quality and access problems. In the 40 years since their inception Medicare’s and Medicaid’s costs have skyrocketed:

- Medicare spending has increased a shocking 85.5 times, from \$5.1 billion in 1968 to \$436.0 billion in 2007.<sup>3</sup> Medicare is running a deficit of about \$40 trillion on a discounted present-value basis over the next 40 or 50 years.<sup>4</sup>
- Medicaid spending has, unbelievably, increased even more – 105.9 times – from \$1.8 billion in 1968 to \$190.6 billion in 2007 (and this doesn’t include an equal amount spent by states).<sup>5</sup>
- Medicaid now costs 37 times more than when it was launched—after adjusting for inflation. Its current cost is \$251 billion, up 24.7% or \$50 billion in fiscal 2009 alone. This is before the health-care bill covers millions of new beneficiaries.<sup>6</sup>

**Government’s record of predicting the cost of health care programs is abysmal (or fraudulent).** Below are notoriously inaccurate forecasts of first year costs:



Government has a painfully long and well-documented track record of ineptitude in matters relating to the use of taxpayer money. The fact is that once any federal benefit program is established, spending grows relentlessly, resulting in dramatically higher costs than what legislators’ “expected.” If the government can’t properly estimate its own costs (in May 2009 federal spending projections were at \$7 Trillion, but in August were changed to \$9 Trillion – just a 30% difference), can’t effectively administer a simple program like “cash for clunkers,” and it has bankrupted Medicare and Medicaid while permitting criminals to rip those programs off for \$80 - \$120 billion per year, how can any politician suggest with a straight face that the government is qualified to or capable of efficiently and properly administering a nationalized health care system for 307 million people, *while lowering costs for everyone?* It’s absurd on its face.

Why would sensible people trust government with their health and their life when government already does so many things poorly and inefficiently, and clearly can't handle the health care programs it already administers? It is abundantly clear, given the U.S. government's history, that regardless of the form it finally takes this legislation will cost countless billions (trillions) more than estimated. Congress' promises are never kept, because their accounting tricks are fiction. Americans should know by now: plan on ten to 100 times more actual cost over time than what Congress estimated and peddled to the public. It's that simple and that sad.

**But, no one is interested in these stubborn facts;** in fact, we are asked to ignore them. We are asked to judge government by its promises and declarations, not by its results. While Democrats aren't heralding the cost-reducing efficiencies of Medicare and Medicaid, they are flatly stating that Obamacare, an unprecedented expansion of the government's health insurance role (as regulator or provider), will *reduce* costs. Such Democrat declarations are fantasy or fraud or both. There is no miracle that will make "this time" different from government's established experience in mismanaging medical costs (except permitting the market to work, as it was under the 2003 Medicare prescription drug program, the only program with actual costs lower than projected costs). Disrupting the private insurance market by injecting federal competition, or a heavy new dose of federal dictates, and expecting it to increase competition or improve the private market's performance is naïve wishful thinking.

	Year	Predicted Cost*	Actual Cost
Medicare	1965	\$12 bill.	\$110 bill.
Medicare Hospital	1965	9	67
Medicaid Hospitalization	1987	1	17
Medicare Home Care	1988	4	10
Schip	1997	5.4	6.8
Medicare Prescription Drug	2003	49	41

\*Predicted cost for year(s): Medicare and Medicare Hospital, 1990; Medicaid Hospitalization, 1992; Medicare Home Care, 1993; Schip and Medicare Prescription Drug, 2008

**Government control of the health care sector will collapse the private health insurance market,** which presently serves 265 million, 85% of whom are happy with their coverage. The number of "government" option enrollees will accelerate dramatically as businesses switch off their private coverage, choosing to pay the penalty rather than the cost of insurance. With fewer people buying private insurance, insurance companies will have to

increase rates or reduce coverage, and many private insurers will go out of business, no longer able to make a profit. The government-run option, or co-op, or paying the penalty, will be cheaper *for employers* than providing private insurance, and millions of them will pick the cheapest option, against their employees' wishes.

Government Program	Year Established	Years of Operation	Financial Status
U.S. Post Service	1775	234	Bankrupt
Social Security	1935	74	Bankrupt
Fannie Mae	1938	71	Bankrupt
War on Poverty	1964	45	Bankrupt
Medicare and Medicaid	1965	44	Bankrupt
Freddie Mac	1970	39	Bankrupt

\$1 trillion of taxpayer money is confiscated each year and transferred to "the poor"; it hasn't worked. Trillions of dollars in the massive political payoff called the TARP bill of 2009 shows NO sign of working. With a 100% failure record Democrats want Americans to believe they can be trusted to get it right with a government-run health care system representing 1/6 of our economy?

This is confirmed by a Towers Perrin poll finding that 87% of

midsize and large businesses would reduce benefits "if health care reform increases employer costs,"<sup>7</sup> which Democrat reform proposals unavoidably will. Prominent industry consultants estimate that a "public option," or other such artifice with Medicare-like reimbursement rates, will cause 118 million to lose their private insurance and be forced into government-run care.<sup>8</sup> One study by the Lewin Group<sup>9</sup> recently concluded that an estimated 119 million of today's 170 million insured Americans would lose their current coverage under Democrats' plan.<sup>10</sup> Employers faced with the need to choose between dropping employee coverage and paying a fine, or paying unaffordable policy premiums, will also face another cost-control choice: downsizing the workforce.

This public plan enrollment increase, when combined with declining federal revenues (triggered by increasing tax rates) will make it impossible to maintain health care service levels. Many things will have to be cut or excluded. When the government is your insurance company, how much pain can you handle? If you think the private insurance companies aren't doing a good job of making insurance available, affordable, and easy to administer claims (when it's already the government that's tying their hands), wait until the government is itself insuring everyone or dictating all terms of insurance coverage, and your private health insurance industry is gone.

Democrats' purpose here is to make citizens dependent on the government for the most important needs of their lives. It's sinister to deliberately advocate for such dependency, except to socialists. If government is responsible for providing its citizens' health care, it necessarily increases government's influence over their lives, including how they eat, how they drive, how they live, and how they make moral decisions. Citizens who rely on the government for these things are no longer free. Under these Democrat bills power is transferred from individual citizens to Washington elites on a massive scale. Along with such a power transfer, the opportunities for back-room political favoritism, earmarks, and social engineering explode.

Health insurance choices will be reduced, because of government mandates on what "acceptable" coverage is. Treatment choices will also be limited by bureaucrat decision makers. An IBD/TIPP Poll, taken in June, found Americans by more than 2-to-1 believe health care reform will mean lower-quality care.<sup>11</sup> Scarcity-induced socialized rationing will affect the elderly particularly hard. They will have much less access to quality medical care because bureaucrats will subtly decide "they don't deserve" or "they are not worth the cost." Yes, nameless, faceless bureaucrats who don't know you will make these "who gets what care" decisions in this cold, detached, impersonal manner. Not exactly a good approach to health care decisions.

**What is the cost of the proposed solution in dollars, diminished freedoms, and foreseeable negative consequences?** It's incalculable. Expanding government's health care role will have "devastating consequences," including steep reductions in employer-sponsored health insurance. The CBO says the congressional Democrats' health care plans will cost in the range of \$1 trillion plus over 10 years. This doesn't exactly square with their stated goal of reducing health care costs. It would add at least \$239 billion to the deficit and impose new taxes on all Americans.

Nailing proponents' claims about cost savings to the wall, Congressional Budget Office chief Doug Elmendorf's said in a letter to House Majority Leader Steny Hoyer on Saturday July 25, 2009 that "the probability is high that no savings would be realized" over 10 years.

The plan is being sold as essential to general economic recovery, the idea being that rising health care costs are a terrible economic ball and chain. While that may be true, no one, including the CBO, believes that this monstrous government takeover will reduce costs. Precisely *how* government's takeover would reduce costs isn't identified. It's just declared to be so. The only way the government program can reduce or contain costs is to ration care by determining which services will be available to whom when. Inarguable evidence has established that government fails at reducing medical costs: Medicare and Medicaid. Why would anyone think that "this time" it will be different?

This is how doctors and patients make shared decisions—by considering expert guidelines, weighing why other experts may disagree with the guidelines, and then customizing the therapy to the individual. With respect to "best practices," prudent doctors think, not just follow, and informed patients consider and then choose, not just comply.

If doctors and hospitals are rewarded for complying with government mandated treatment measures or penalized if they do not comply, clearly federal bureaucrats are directing health decisions.

-- Dr. Jerome Groopman and Dr. Pamela Hartzband

Many people do not understand that it is not just a question of whether government bureaucrats will agree to pay for particular medical treatments. The same government-control mind-set that decides what should and should not be paid for can also decide that the medical technology or pharmaceutical drugs that they control should not be for sale to those who are willing to pay their own money. — Economist Thomas Sowell

At a congressional hearing in July 2009 Sen. Kent Conrad, D-N.D., chairman of the Senate Budget Committee, and Douglas Elmendorf, head of the CBO, had the following exchange:

Conrad: "From what you have seen from the product of the committees that have reported, do you see a successful effort being mounted to bend the long-term cost curve?"

Elmendorf: "No, Mr. Chairman. In the legislation that has been reported, we do not see the sort of fundamental changes that would be necessary to reduce the trajectory of federal health spending by a significant amount. And on the contrary, the legislation significantly expands the federal responsibility for health care costs. . . . The (cost) curve is being raised."

**Government-subsidized unlimited coverage for everyone will vastly compound government's already out-of-control health care spending, with catastrophic financial and budgetary consequences.** Yet Obama and Pelosi and Democrats repeatedly declare that their takeover will reduce costs. It's impossible. You can't expand access and control costs at the same time. Well-dressed rhetoric doesn't make the impossible possible.

The Democrat bills don't offer any mechanisms to reduce costs. CBO says they will raise government outlays. They will destroy jobs by taxing small businesses. CBO Director Douglas Elmendorf's testimony before the Senate Budget Committee that H.R. 3200 would actually increase the long-term trajectory of federal healthcare spending was decisive. His Congressional Budget Office reported that such a health care bill would not save money, as suggested by Democrats, but would instead cost more than a trillion dollars in the next decade.

**Is the government's health care program going to be less expensive or of better quality?** Of course not. Under government control, the quality of care will deteriorate. As noted by Dr. [Thomas Sowell](#) -- price controls will reduce quality care because they reduce the incentive to provide quality. Price controls also reduce the *ability* to provide quality. According to a survey by Investor's Business Daily of 1,376 physicians, 65% believe that government reform of the medical industry will lead to lower-quality care for seniors; only 28% said it would be better care for seniors.<sup>12</sup> In the same survey, 45% said, shockingly, that they would consider leaving medical practice altogether or retiring early if HR 3200 or similar reforms become law.<sup>13</sup> These same doctors fear that government's notorious lack of success in running any enterprise, and Congress' lack of requisite knowledge to effectively manage health care, means that government control in the health care realm will dramatically increase waste, interfere with their practices and their right of conscience, cause fees (reimbursement) to doctors to decline driving them out of medical practice, increase the paperwork burden for doctors, require rationing, long waiting lines, and denial of care at all levels.<sup>14</sup> One doctor concluded bluntly, "It will take away consumer choice, drive up health care costs, and drive down health care quality. It will sharply increase the demand for health care providers and sharply decrease the supply as doctors like me will retire early and students will avoid the field."<sup>15</sup>

The impact of Democrats' health care bills will be destructive on every level—for the health-care system, for the country's fiscal condition, and for American freedom and prosperity.<sup>16</sup> **Predictable "unforeseen" consequences of H.R. 3200 or similar legislation include:**

[Complexities, Bureaucracies, Regulations Will Encumber Everyone](#)

- The complexity of the Democrats' health care reform proposals is nothing short of absurd. Nobody wants more complexity – the reason reform advocates *want* "reform" is to get rid of *existing*

complexity and inefficiencies plaguing the system. You don't reduce costs and streamline the system by making it more complex. This complexity does nothing to improve care, but does ensure monumental new bureaucracies. It is a nightmare, as illustrated in the chart in Appendix "A."<sup>17</sup>

- H.R. 3200 and Democrats' other healthcare bills will create a massive new government bureaucracy, shut down private health insurance, tax Americans, kill small businesses, and *not solve* the problems in healthcare.
- A web of restrictions, fines, and mandates will radically change health care coverage, individuals will lose the freedom to choose what's in their own health plan, instead being forced to select from only those options deemed qualified by the government and offered through each states' health care exchange. These plans will really just all be the same (i.e., conform to government mandates).
- H.R. 3200 and the other bills are so poorly written that they invite **decades of complex litigation** without resolution, and will force judges to guess about what Congress meant, leaving it to the judiciary to tell us who is doing what right or wrong in the medical system. This will add to the costs of running our medical care system.
- Once the government has a vested interest in "health costs" and "prevention," it will be used as justification for unleashing a flood of *additional* government regulations on individual conduct.

#### Medical Professionals Will Leave the Business

- As reimbursement rates decline and private, higher-paying insurers are driven out of business, Doctors will retire in droves, and would-be doctors will pursue other careers, to avoid a being a part of a system modeled on Britain's draconian National Health Service. The best and the brightest won't be attracted to a profession where their every move occurs amid stifling government rules, regulations, and financial dictates and where individual initiative and innovation are not rewarded.
- The extraordinary progress in medicine that we have witnessed and come to expect will slow. When the government decides what research is appropriate and what outcomes are approved, and it has erased the profitable allure of the U.S. Market, medical innovation will be non-existent.
- When the government has the power to decide what doctors and other providers will be paid, and what services they can provide, **doctors will quickly stop being doctors**. Highly qualified doctors will leave the profession. Why? Because no one with a brain or self respect will subject their lives and fortunes to the faulty risk-filled decision-making apparatus that is the federal government.
- Universal coverage has caused a primary care physician shortage where it has been tried (e.g., Massachusetts). With ObamaCare, such a shortage will also emerge nationwide. The Association of American Medical Colleges predicts a primary care physician shortage of 46,000 by 2025, and a 25% higher shortage if universal health care is passed.<sup>18</sup> In Massachusetts doctors are so dissatisfied with the practice environment's overbearing workloads (expected to increase by 29% in the next 15 years) and administrative bureaucracy that 33% of primary care physicians are considering changing professions, and more than 50% of the state's resident physicians choose to practice elsewhere.<sup>19</sup> Adding a new national government insurance bureaucracy will only serve to further complicate doctors' lives and medical practices. With physician supply declining while government-sponsored demand for medical services increases, consumers will quickly see the nightmare Congress has wrought.
- Medicare is our current single payer system. Doctors are actually pulling out of Medicare now because they can't afford to run their practices while accepting Medicare reimbursement rates.

### Mandates Will Force Changes in Behavior and Eliminate Freedom of Choice

- Mandated coverage will crush a large number of small companies. The plan will raise taxes and eliminate jobs, triggering both layoffs and wage stagnation as employers offset the costs of government insurance mandates. Private sector jobs will be lost and many private sector businesses will be extinguished as employers' cost of employment increases due to health care related mandates. A House Republican study concluded the plan could result in the loss of up to 5 million jobs over the next 10 years.
- The individual and employer mandates, impose the equivalent of *new* tax burdens, with unavoidable negative consequences for the economy. When government forces people to purchase something they otherwise would not purchase, it is a tax, because it denies the individual or business the valued use of that portion of its property. This is true even if the government doesn't receive that money, because the government forced it out of private hands.
- Individuals will lose the freedom to be rewarded for being healthy, as insurers are banned from charging premiums based on an insured's health condition. The freedom to choose high-deductible coverage will be gone, as the government dictates what minimums all plans must offer.
- Various programs will encourage those facing serious illness to give up the fight, avoid an aggressive (expensive) medical regimen, and enter hospices to minimize costs to the government.
- Democrats' medical system takeover will also perpetuate and expand Medicare's unsuccessful fee-for-service payment model in any government option or national co-op program. This model fixes prices without regard to a physician's quality, experience, or service outcome, thus rewarding low and high quality care equally, which destroys the incentive to provide high-quality care.
- Tens of millions of low and moderate-wage people will be turned into scofflaws as they choose to pay the heavy federal penalty for not purchasing insurance, rather than paying the much higher cost of rising insurance premiums made worse by the government's own takeover program. Bad, dysfunctional, laws encourage defiance.
- H.R. 3200's 5.4% tax surcharge on high earners will not pay for the program, because it will cause revenues to the treasury to *decline*, as millionaires step up their tax-avoidance activities, which includes reducing their economic activity.
- Insurance rates for policyholders will increase substantially as a direct consequence of the many new mandates and limitations imposed by Congress on existing insurance policies and insurers. Price Waterhouse Coopers released an analysis in October 2009 detailing the cost impact of the Senator Baucus' Finance Committee bill passed out of committee the same week. It warned that the cost of medical insurance coverage for the average family will rise by \$4,000.00 over the next 10 years as a direct result of new taxes imposed on health care entities, and estimated that the average family policy for a family of four will be \$25,900 by 2019.
- Democrats' "reform" doesn't do anything to address the many specific root causes of cost increases – with one exception: they will shut down medical innovation and its attendant costs. Democrats appear to not have even a rudimentary understanding of the economic issues in play.

### Government Controls Will Foster Bad Medical Decision-Making

- **With government involvement (i.e., paying the bills) comes government interference and control.** Once the government is paying the bills and controlling who is entitled to what medical care, it will begin telling people how to conduct their lives and what lifestyle and consumption choices are acceptable or unacceptable. If you aren't sufficiently healthy, then you are costing the government

money and driving up premiums for everyone else. You will be required to change your conduct, and will be penalized if you don't conform. Freedom and liberty are leaving the stage.

- **Detached government regulation of medical decisions, based on government-managed “comparative effectiveness research,”** denies doctors and patients, at the point of medical decision making, the opportunity to consider and reflect on the cost and *value* of various options. Government regulators must act in a one-size-fits-all universe, and are incapable of properly scrutinizing the merit or cost considerations of individual medical decisions. Only patients and doctors, who have a personal stake in the price and the outcome, and control over their own resources, can make informed, successful medical judgments. When government inserts itself into this equation, the result is bad decisions, and an abridgment of individual liberty. What qualifies government to discern “health care that works” anyway? In 40 years government hasn't successfully discerned “education that works.”
- **What government decision-maker is able to get between a patient and the doctor?** Any time this occurs it fundamentally corrupts the process. When governments establish protocols for medical professionals, doctors will start doing only what the protocol says ... nothing more. This puts an end to innovative thinking and risk-taking by doctors. It shuts down doctors' drive and incentive to learn and expand their knowledge through the thoughtful trials of practice. They'll just do what they're told. (How many medical innovations emerged from the Soviet Union?)
- **Democrats advocating government run health care assume that medical judgments are easy.** They think it's OK for bureaucrats in Washington, who follow guidelines designed to “bring down the cost” to second-guess and overrule doctors who have detailed knowledge of individual patients' medical needs. Are decisions made by doctors who have treated the same patient for years to be over-ruled by such bureaucrats? Unfortunately, the variability of disease, human biology, and patient preference make individual decisions essential to medical success. Medicine is a highly complex science in which evidence about what works and what doesn't continuously and quickly changes. Policy makers simply can't properly dictate clinical practice. If bureaucrats make medical decisions by prescribing best practices based on “studies,” they're dealing in averages only (studies can't possibly anticipate every individual's unique circumstance) and decisions will not respond promptly to changes on the ground, or the emerging facts of individual cases. If the government can mandate best practices in the delivery of health care, bureaucrats writing regulations could easily require treatments that violate patient autonomy.

"It's hard to know whether President Obama's health care 'reform' is naive, hypocritical, or simply dishonest. Probably all three. The president keeps saying it's imperative to control runaway health spending. He's right. The trouble is that what's being promoted as health care 'reform' almost certainly won't suppress spending and, quite probably, will do the opposite." --columnist **Robert Samuelson**

"A government bureaucracy controlling your medical care is likely to combine the efficiency of the post office with the compassion of the IRS. Imagine a trip to the Department of Motor Vehicles -- but to secure lifesaving treatment for yourself, a spouse or child, rather than simply to obtain a driver's license. What a nightmare."

--columnist **Carol Platt Liebau**

"Only a Washington economist can argue with a straight face that providing quality health care to 46 million Americans who are now uninsured and assert it will save 'between \$75 billion and \$125 billion per year.' Folks, that's how government and deficits keep getting bigger."

--columnist **Debra Saunders**

"The problem in the next four years will be not just that the president of the United States serially does not tell the truth. Instead, the real crisis in our brave new relativist world will be that those who demonstrate that he is untruthful will themselves be accused of lying."

--columnist **Victor Davis Hanson**

"If anybody thinks that all of this bureaucracy is needed to fix our health care system, I plainly disagree," said. "What this is going to do is ration care, limit the choices that patients and doctors have and really decrease the quality of our health care system."

--Republican House Minority Leader **John Boehner**

- **Conclusions derived from clinical studies become outdated very quickly;** at 5.5 years, 50% are contradicted.<sup>20</sup> How fast will remote policy makers in Washington D.C. be able to respond? Unfortunately, bureaucrats' decisions will respond primarily to budgetary constraints and other *government* needs. This is a very bad prescription for responding to patients' *medical* needs. Broad prescriptions and rigid government schemes for what ails us all is a sure path to failure.
- **Government "guidelines" relying on "studies" will encumber the process of rejecting bad ideas.** Once the government legitimizes a study's conclusions by recognizing them as official medical protocol, medical progress will slow as the free-market of ideas is interrupted and discouraged. This will stifle the emergence of alternate effective therapies, and will encourage adherence to authority. As Albert Einstein said, "a foolish faith in authority is the worst enemy of truth."<sup>21</sup> Overreliance on what "the government" says is best is inevitable once government starts dictating what is best. Only the free market encourages and delivers essential self-correction through innovation.
- **Government "guidelines" will stand between the doctor and the patient.** Doctors can't simultaneously serve the government's objectives and the patients' needs. These different missions inevitably conflict, because there are no "average" patients. When doctors evaluate patients they must respond to unique facts, and they must be free to examine each case individually. When the guidelines don't embrace the entirety of particular medical circumstances, adhering to guidelines that conflict with a doctor's own evaluation poses serious risks both to patients and to the health care system.
- **Physicians will face real risks and battles** if they determine that a bureaucratically-approved "effective treatment" doesn't work in a particular case. Fighting the system on behalf of getting it right for the patient will become increasingly difficult. Government guidelines for medical care will discourage (and ultimately forbid) superior "top-of-the-line" medical care. Doctors who want to and can deliver "the best" care will be left giving "average" care, because that's all that guidelines will permit.

### Economics

- The more government involves itself in the medical economy, the less efficient that economy will become. The health care system would grind to a near halt under Democrats' bills.
- When the government is the only payer it will destroy both insurance companies and the medical profession.
- This system will cause an end to Medicare.
- American citizens (taxpayers) will be forced to pay for the medical care of 12 million illegal aliens, which will encourage more illegal immigration.
- Shortages, quality deterioration, black markets. Price controls result in rationing, waiting lines, and the denial of care, affecting seniors and the uninsured the most. This is axiomatic. Rationing, inability to get quality-of-life treatments, such as hip or knee replacements, less access to quality medical care.
- Single payer systems ration care – this means that access to care on a timely basis is denied, which in turn means that people's health is compromised (i.e., people die).

As the list above illustrates, it's clear that Democrat 1000 to 2000-page fixes for health care create problems infinitely worse than the imperfections the system suffers presently.

While the system presently has problems in need of a fix, doing nothing would be far better than implementing Democrats' monstrous government takeover. It is nonsensical and deeply un-American for the government to be running a health-care company or dictating private individual health care matters.

In mid-August, 2009, after a groundswell of public outrage about the proposed government takeover of healthcare, Democrats began talking about jettisoning the “public option,” no doubt assuming this would assuage public fears (of course, they then promptly changed their minds again in September). But, the problem isn’t just the public option, it’s the government mandating what insurance providers must offer, setting the terms of coverage, dictating what employers must do, and many other things that add up to government controlling the system rather than free markets and self-governing individuals. Under the Government’s massive legislation, we will still suffer skyrocketing costs from tens of millions of people added to the rolls by mandate — compounded by costly new regulations for private insurers.

## Why Rationing is Inevitable Under Government-Controlled Health Care

There are only two ways to allocate goods or services that are not available in infinite supply: through market-established prices, or by lines dictated by government. Government insurance will have huge costs, which government must control, so rationing is essential, and long waits for care inevitable. Extending coverage to 50 (or is it 30) million new people -- without a commensurate increase in medical professionals and facilities -- creates scarcity, which in turn requires rationing, to the disadvantage of those deemed “less valuable,” like the elderly. Unavoidably, the more the government spends to keep people alive, the more those lives become a cost / benefit analysis.

A shortage of doctors, finite funding, and increased demand leads to rationed care. This unavoidable rationing will occur through government boards or commissions who, under the guise of “best practices,” decide who gets hip and knee replacements, bypass surgeries, and other medical treatments. These boards will instruct insurance providers on what medical procedures are to be approved, and at what cost. As rationing unfolds, doctors will have less time to spend with each patient, will order fewer procedures, and they will leave the profession or not enter it in the first place, all making scarcity worse. End result: the elderly will be denied care that they presently get on demand, as the bulk of the burden will fall on them – the high-cost segment of the population.

Advocates of government health care paint the insurance industry as greedy deniers of medical claims. But, the government is already the biggest denier of medical claims, a signal indicator of future rationing. The fact is that government’s denial of claims tops the list at 6.85%.<sup>22</sup> The vast majority of private insurers have a dramatically lower rate of claim denial than Medicare – the industry average is 4.05% (the industry average without Aetna is only 3.08%). It is government that has the institutional propensity to ration, not the private sector. To stay competitive and remain in business private insurers must balance keeping customers happy against the need to control costs. The government doesn’t need to keep customers happy. The government isn’t morally superior to or more caring than the private sector in administering insurance claims.

In the unamended Baucus Senate bill (pgs. 80-81), for example, doctors are directly discouraged from consuming treatment resources. In any year in which a doctor’s average per-patient Medicare costs land in the top 10%, the government will penalize the doctor by *reducing* the doctor’s payments by 5%. The government is saying, don’t spend too much money on treating your patients, or else. The reduction in the doctor’s remittance occurs

### In Denial

The private insurance industry, which critics portray as heartless, can’t equal Medicare’s claim rejection rate. (3/01/2007 – 3/10/2008)

Payer	Count of Records	Denied Records	% of Claim Lines Denied
Medicare	6,938,431	475,566	6.85%
Aetna	637,239	43,317	6.80%
Anthem	250,070	11,546	4.62%
Health Net	4,975	193	3.88%
Cigna	263,728	9,060	3.44%
Humana	1143,026	4,142	2.90%
Coventry	20,487	590	2.88%
UHC	1,127,691	30,177	2.68%
<b>Industry Average</b>			<b>4.05%</b>

Source: American Medical Assn.

regardless of outcome, quality, results, efficiency, or necessity. If the doctor authorizes expensive care, regardless of its success, the doctor will be penalized through a lower reimbursement rate. Medicare doctors will now have a high-pressure incentive to provide less or cheaper care to all patients. As the average level of spending declines, doctors will have to spend less and less each year to avoid the 10% trap. This will also discourage the use of new technologies and treatments since they are most expensive when not widely used.

Care will be denied in order to cut costs and save government the trouble of doing everything possible to serve patient needs. The elimination of market-based health care options and choices, through government's one-size-fits-all "solution" that decides when and who will receive care, is itself rationing and a grave impediment to health care access.

Rationed medical care is immoral, as is the intrusion of government into individual health choices. Governments ration care by targeting those who hold the least political power. Government has the power to hold down costs by starving those who have no choice but to sell to their biggest customer (doctors, hospitals, and drug companies). But over time rationing inevitably cripples the system, as doctors retire or refuse new patients, waiting lists lengthen for scarce resources, and medical innovation stagnates as investor capital migrates to other less dysfunctional (more lucrative) sectors.<sup>23</sup>

It seems, contrary to Democrat protestations, that death panels are now in the U.S., as they have been for some time in Britain and Canada. Key Obama health care adviser Dr. Ezekiel Emanuel, brother to White House Chief of Staff Rahm Emanuel, has described the concept behind deciding who lives and who dies and how finite resources should be allocated. In his paper, "Principles for Allocation of Scarce Medical Interventions," he explains "The Complete Lives System" for allocating treatments and resources:

"When the worse-off can benefit only slightly while better-off people could benefit greatly," he says, "allocating to the better-off is often justifiable."



Emanuel also stated in a January 2009 white paper that health care should be rationed in a way that "promote[s] and reward[s] social usefulness," saying that age can play a factor in determining who has access to health-care resources.<sup>24</sup> The President's health advisor added, "[S]ervices provided to individuals who are irreversibly prevented from being or becoming participating citizens [in the body politic] are not basic and should not be guaranteed. An obvious example is not guaranteeing health services to patients with dementia." It's really not a stretch to characterize this "social utility" metric as death-panel-type thinking. This formula is a prescription for rationing, forcing developmentally disabled children and the elderly to take a number and get in a very long line.

Robert Reich, Bill Clinton's Secretary of Labor, was even more honest in a 2007 speech at U.C. Berkeley in which he articulated what a presidential candidate would say if he was speaking the actual truth about health care:

"And by the way, we are going to have to -- if you're very old, we're not going to give you all that technology and all those drugs for the last couple of years of your life to keep you maybe going for another couple of months. It's too expensive, so we're going to let you die.' [applause]

"Also, I'm going to use the bargaining leverage of the federal government in terms of Medicare, Medicaid -- we already have a lot of bargaining leverage -- to force drug companies and insurance companies and medical suppliers to reduce their costs. But that means less innovation, and that means less new

products and less new products and less new drugs on the market, which means you are probably not going to live that much longer than your parents. [applause] Thank you.”<sup>25</sup>

President Obama promised to create "an independent commission of doctors and medical experts charged with identifying more waste in the years ahead. Such "commissions" and government-conducted "comparative effectiveness research" are clearly not what Democrats paint them as – an earnest government just trying to help doctors be smart about the best treatments (medical journals do this quite well already) – but a mechanism for establishing official criteria for denying reimbursement for treatments the government doesn't deem appropriate, thus enabling public plan cost savings through procedure denial. Denial will occur indirectly through administrative decisions designed to eliminate futile and unnecessary care. Medicare reimbursement decisions will be made through a detached "commission" that is under great pressure to minimize costs, especially as taxpayers finance ever-more health costs. Medicare will stop paying for procedures it considers questionable, thus forcing doctors to change how they practice medicine, and sacrificing quality care in the process. The plan is one big government-mandated "do not resuscitate" order for the elderly; what some call "creeping euthanasia."

### [The Question No One Asks: Is It Constitutional?](#)

The questions, "Is government's mandate that all individuals buy insurance permissible under the U.S. Constitution?" and "What is the constitutional authority for any version of health care legislation now before Congress," are an essential part of the debate, yet we're not debating these questions, and we're not demanding answers from legislative leaders. Most Members of Congress arrogantly believe there is no constitutional issue regarding their legislative propositions, and condescendingly dismiss such questions. Today, American apathy about the Constitution is such that many think that Congress is *itself* the ultimate authority, and can do anything it wants as long as it has a majority vote; most citizens think that's okay. It's not okay. They assume laws passed by Congress are constitutional merely because Congress passed them. Sadly, the vast majority of federal programs today are arguably (some would say clearly) without constitutional authority.<sup>26</sup>

Congress' ability to legislate is constrained (ahem) by the Constitution's enumerated powers clause, Article I, Section 8. It can't regulate just because it sees a problem that it wants to fix or conduct it thinks unwise; it must have the constitutional authority or jurisdiction to regulate. While the Supreme Court has broadly construed the Constitution's Commerce Clause to permit the maze of federal regulations we see today, important limits remain. The Supreme Court has ruled that Congress can only regulate human activity that is truly commercial at its core.<sup>27</sup> Private visits between medical professionals and patients are not commercial activity.

The unprecedented mandate that every American obtain health insurance or face a penalty is highly questionable and may not pass Supreme Court muster, because it isn't a "regulation of commerce." The government is ordering citizens to buy something they wouldn't otherwise buy. It is ordering individual citizens to engage in a particular activity. It doesn't proscribe activity, and it doesn't regulate an "activity" that citizens are already choosing to engage in. Simply being a living, breathing citizen makes the mandate operative (the mandate is not in exchange for a particular privilege like the right to use public roads).

The liberty we enjoy in America requires limits on government power, and those limits come primarily from the Constitution. Our written Constitution delegates only certain powers to the federal government and Congress must point to at least one of them as authority to pass legislation.

This means, of course, that the Constitution might not allow some things Congress might want to do.

It is tempting to brush the Constitution aside to pursue political objectives, to let the ends justify the means. But if politics trumps the Constitution, the Constitution cannot limit government and, therefore, cannot protect liberty.

Senator **Orrin Hatch** (R-Utah)

The "American Health Choices Act" is calling for a complete overhaul of how the American health care system works by transferring all the power to the federal government. The price tag is, ominously, yet to be determined.

-- Patriot Post June 12, 2009

A fine or penalty on the uninsured is constitutional only if a person's private choice to not buy insurance has a "substantial effect on commerce." This is a real stretch by constitutional standards, and prevailing in this argument will be very difficult. The state can't force individuals to buy health insurance just because it might be good for them or help the economy or the treasury. As Utah Senator Orrin Hatch has aptly pointed out, if *this* is constitutional, why didn't Congress just order citizens to buy cars or energy-efficient appliances or bank stocks, instead of bailing out the banks with TARP and passing the cash for clunkers and other recent cash bribe (rebate) programs?<sup>28</sup>

Its advocates will be hard pressed to identify the constitutional authority for this government intrusion into private lives and conduct. The Constitution and its amendments (The Bill of Rights), and the Declaration of

Independence never mention the words "health," "medicine," or "medical." Not once. Article 1, Section 8 of the Constitution never endowed Congress with authority to subsidize or engage in the delivery of health care products or services. This was intentional because government was deemed not responsible for matters of self-governance.

Even if the mandate's penalty is characterized by its proponents as an exercise of the government's taxing authority (rather than a regulation of commerce), any tax that falls on everyone who doesn't do what Congress says is beyond Congress' authority. Otherwise, Congress has no meaningful constitutional limits (Congress could penalize anyone who doesn't eat certain foods or drive certain cars or work a certain number of hours a day.)<sup>29</sup>

The fine is actually a direct tax on individuals, because it applies when they *don't* do something. It's not an excise tax because an excise tax applies to economic *transactions* (e.g., purchases). As a direct tax by the federal government on individuals, the tax must be apportioned among the states based on population in order to be constitutional. The [BNA Daily Tax Report](#) has published an analysis confirming that the penalty imposed upon those who don't buy health insurance would be an un-apportioned direct tax in violation of the Constitution.<sup>30</sup>

Another constitutional concern is whether government-controlled mass collection and dissemination of private (highly personal) medical records violates citizens' Fourth Amendment's right "to be secure in their persons, houses, papers and effects."

No one in Congress is addressing these important constitutional matters, recklessly setting the stage for court battles. They seem at ease trampling American's constitutional rights and the country's constitutional history. They care more about getting votes than honoring the constitution because they can – no one is holding Congress accountable for their egregious constitutional overreaching.

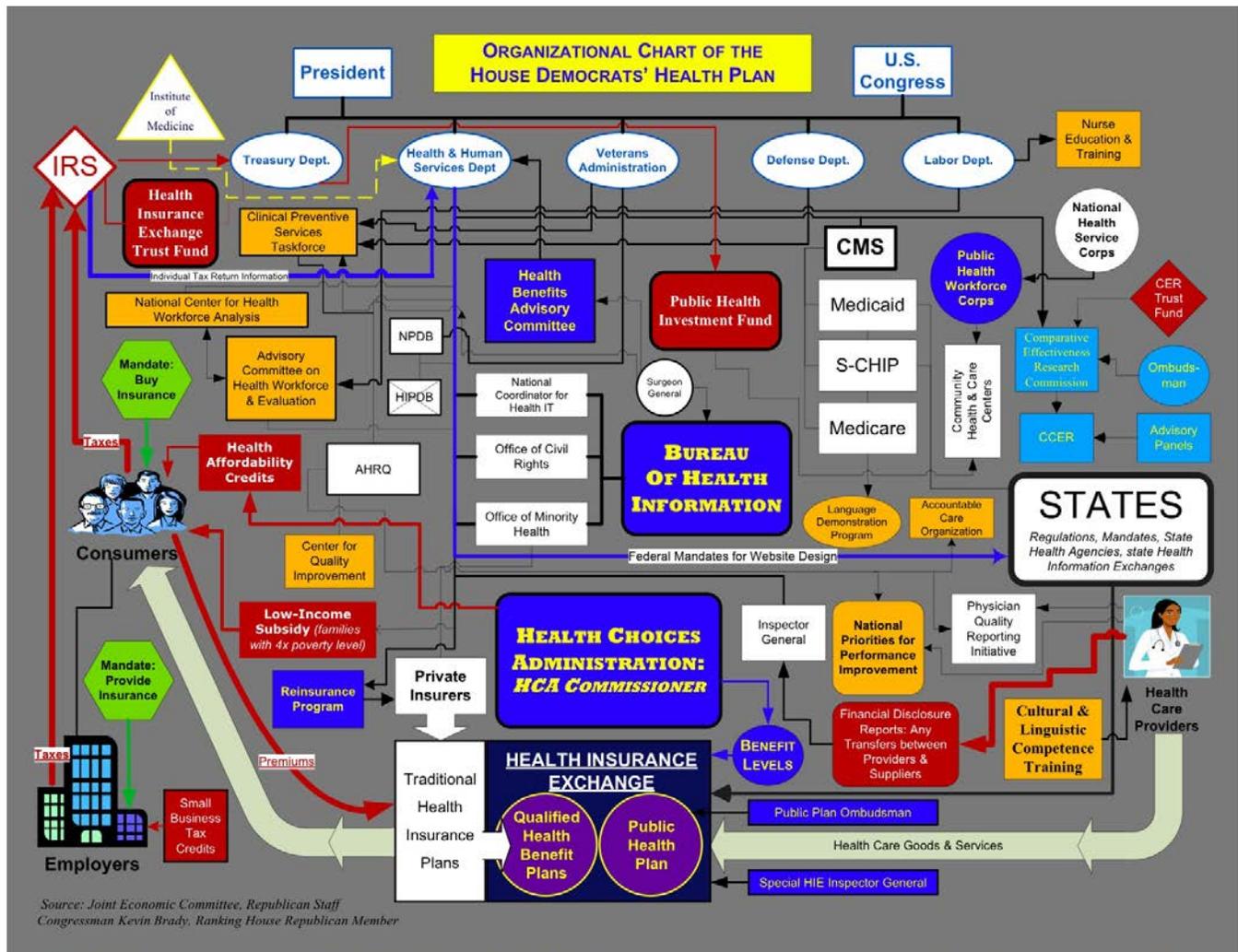
"Can President Barack Obama and Congress enact legislation that orders Americans to buy broccoli? If so, where did they get that authority? What provision in the Constitution empowers the federal government to order an individual to buy a product he does not want? This is not a question about nutrition. It is not a question about whether broccoli is good for you or about the relative merits of broccoli versus other foods. It is a question about the constitutional limits on the power of the federal government. It is a question about freedom. Can President Obama and Congress enact legislation that orders Americans to buy health insurance? They might as well order Americans to buy broccoli. They have no legitimate authority to do either."

-- Columnist **Terence Jeffrey**

"[G]iving [Congress] a distinct and independent power to do any act they please which may be good for the Union, would render all the preceding and subsequent enumerations of power completely useless. It would reduce the whole [Constitution] to a single phrase, that of instituting a Congress with power to do whatever would be for the good of the United States; and as sole judges of the good or evil, it would be also a power to do whatever evil they please. Certainly, no such universal power was meant to be given them. [The Constitution] was intended to lace them up straightly within the enumerated powers and those without which, as means, these powers could not be carried into effect."

-- **Thomas Jefferson**

# Appendix "A"



## Endnotes

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