



Senator Eliot Shapleigh

District 29

Texas Press Release



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HISTORIC HEALTH REFORM

"We so appreciate your courage and tenacity to deliver on the promise of fundamental change to fix what everyone acknowledges is a broken health care system. If "starting over" is what Republicans still want, then I ask you to review the history of health care in Texas from George W. Bush to Rick Perry—because "starting over" here means no action at all to address woefully inadequate health care access in the least insured state in the country."

State Senator Eliot Shapleigh (D- El Paso) sent a letter to President Barack Obama, House Speaker Nancy Pelosi, and Senate Majority Leader Harry Reid on March 22, 2010 to personally thank them for passage of the historic health reform legislation. The text of the letter is included below:

March 22, 2010

The Honorable Barack Obama
President of the United States
1600 Pennsylvania Avenue NW
Washington, D.C. 20500
Facsimile: (202) 456-2461

The Honorable Nancy Pelosi
Speaker
United States House of Representatives
235 Cannon HOB
Washington, DC 20515
Facsimile: (202) 225-4188

The Honorable Harry Reid
Senate Majority Leader
United States Senate
522 Hart Senate Office Bldg.
Washington, D.C. 20510
Facsimile: (202) 224-7327

VIA U.S. MAIL & FACSIMILE

Dear President Obama, Speaker Pelosi and Senate Majority Leader Reid:

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I want to personally thank you for passage of the landmark health reform legislation—H.R. 3590, the Patient Protection and Affordable Care Act. As a fifth generation Texan who is proud to have served for over a decade as state Senator from El Paso, Texas—America's least insured big city with fewer doctors, dentists and nurses per capita than any other large American city—we know exactly how important and historic your efforts have been. We so appreciate your courage and tenacity to deliver on the promise of fundamental change to fix what everyone acknowledges is a broken health care system. If "starting over" is what Republicans still want, then I ask you to review the history of health care in Texas from George W. Bush to Rick Perry—because “starting over” here means no action at all to address woefully inadequate health care access in the least insured state in the country. Please know that we will continue to support your efforts and, once the bill becomes law, to defeat any lawsuit by extreme elements in Texas who persist in fighting issues settled long ago in the Civil War.

By any measure, Texas is now "the ground zero" of health care in America. Texas has more uninsured than any state in the country. One out of four Texans—over six million—does not have health insurance. Not a single Texas city meets the national average in citizens covered with insurance—not Austin, not Dallas, not Houston. In fact, El Paso has more uninsured by percentage than any large city in the U.S. today. Contrary to the claims of some, even if non-citizens (who include legal residents as well as undocumented immigrants) were removed from the statewide estimate, Texas would still have the highest uninsured rate in the country with well over 4 million uninsured citizens. While our two U.S. Senators each compete to move from the right to the far right, they move further and further from what Texans want. And if any state in the U.S. needs health reform, it's the Lone Star state.

Consider this: one in six uninsured American children lives in Texas. We have 1.4 million uninsured children, more than any other state in percentage and total number. Many of these children are eligible currently for Medicaid and CHIP but not enrolled due to inadequate state agency funding.

Here's more:

- From 1996 to 2006, the cost of family coverage in Texas increased 86 percent—ten times faster than Texans' wages increased (8.6 percent). Rates are projected to increase another 7.3 percent in 2009.
- Texas businesses and families shoulder a hidden health tax of roughly \$1,800 per year on premiums as a direct result of subsidizing the costs of the uninsured.
- 17 percent of middle-income Texas families spend more than 10 percent of their income on health care.
- The percent of Texans with employer-sponsored coverage fell from 57 to 50 percent between 2000 and 2007.
- In 2008, only one out of three businesses with fewer than 50 employees offered health insurance. For businesses with fewer than 10 employees, only one out of four offered health insurance. In comparison, 92 percent of medium and large businesses offered their employees coverage.
- As you might expect in a state where one in four has no health insurance, health care professionals are in short supply. Texas ranks 46th in physicians per capita (only Idaho, Mississippi, Oklahoma and Utah have fewer physicians) and 47th in nurses per capita. Along the Texas-Mexico border, where I live, fewer doctors and nurses serve us than anywhere else in the United States.

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Facing these alarming statistics, Governor Rick Perry has chosen to play politics with children's lives. Last regular session, when it looked likely that the popular Children's Health Insurance Program (CHIP) was set to insure more Texas children via a bill filed by Senator Kip Averitt (R-Waco), Perry killed it by trumpeting to the media that he was opposed to any expansion of CHIP. That bill passed the Texas Senate by a vote of 29 to 2, but died in the House.

In 2003, Perry intentionally kicked over 230,000 Texas children out of CHIP and another half a million out of Medicaid. Then, he went to the Bahamas with Grover Norquist to brag about it. As you know, the federal government pays for the majority of CHIP. In Texas, for every total \$1 spent on CHIP, the federal government pays 72 cents while the state pays the remaining 28 cents. So, instead of using the nearly \$1 billion that the federal government set aside for Texans to expand CHIP to cover as many Texas children as possible, Gov. Perry sent scarce taxpayer dollars back to the federal government so that other states like Illinois could cover all of their children.

Perry's failed leadership results in real life tragedies. According to a 2008 Families USA study based on U.S. Census Bureau data, approximately 2,700 uninsured Texans of working age died because they didn't seek medical care. In other words, seven Texans a day died last year due to lack of health insurance.

Moreover, failed leadership on Texas health care is increasingly shifting health care costs to local taxpayers at county hospitals and clinics at the highest possible emergency room rates. In Dallas, Parkland Hospital provided \$512 million in uncompensated care last year. In Houston, the Harris County Hospital District spent about \$436 million.

Why is Texas so far behind when it comes to providing basic health care to more citizens? Because nowhere in America has Perry's basic hostility to responsible governance become so engrained and been so costly to working families. Even President George W. Bush's Centers for Medicare and Medicaid Services (CMS) refused to approve Rick Perry's Medicaid waiver application because it simply redirects scarce DSH and UPL dollars from Texas hospitals, which already use it to fund care for millions of uninsured Texans, to instead fund his proposed Health Opportunity Pool (HOP).

The HOP is intended to provide private insurance to the uninsured parents of children enrolled in Medicaid and CHIP. However, after Perry's administration released details as to how the HOP would work, consumer advocates expressed serious concerns as to the adequacy of the limited benefits and whether these low income Texans would even be able to afford the premiums. Hospitals in particular were concerned that Perry's plan would end up costing them millions of dollars more. And because Perry didn't reach an agreement with President George W. Bush's CMS, negotiations of this waiver application ended when President Obama took office.

In other words, despite the illusion that Perry is hard at work trying to resolve the health care crisis in Texas, nothing has been done on this application since January. Perry's tactic of robbing Peter to pay Paul—taking scarce direct care dollars to fund insurance companies in this case—is a tactic all too common in Republican health care plans.

The truth is that Texas can no longer afford to do nothing. The Robert Wood Johnson Foundation recently released a report compiled by researchers from the Urban Institute who used their Health Insurance Policy Simulation Model to estimate how coverage and cost trends would change between now and 2019 if nothing is done to reform the current system. The report, entitled "The Cost of Failure to Enact Health Reform," shows that within 10 years:

- The number of people without insurance could increase by more than 30 percent in 29 states. As many as 8.3 million Texans would be uninsured, up from 6 million this year.

- Businesses would see their premiums increase—more than doubling in 27 states. In Texas, employers' premiums would increase as much as 121 percent.
- Every state would see a smaller share of its population getting health care through their job. Half of the states would see the number of people with employer-sponsored insurance fall by more than 10 percent.
- Every state would see spending for Medicaid/CHIP rise by more than 75 percent. Texas' Medicaid/CHIP spending would increase as much as 117 percent.
- The average Texan's health care spending would increase as much as 81 percent, with those in middle-class working families impacted the most.
- The amount of uncompensated care in the health system would more than double in 45 states. In Texas, uncompensated care would increase by as much as 138 percent.

Sadly, our history in Texas over the last decade is this: unless the federal government by and through courts that enforce equal protection provisions of the U.S. Constitution aggressively step in—under this governor, the state government in Texas does the least possible to enforce a colorable claim to equal protection under federal minimum program requirements to protect a federal allocation—and never more. After nearly a decade under the leadership of Rick Perry, tax cuts for the wealthy trump care for kids, and resulting cuts to budgets rank Texas dead last in state per capita expenditures on our own citizens. All too often, the casualties are children and those in border regions and rural counties who can not afford to pay for an insurance policy that now costs almost twice as much as it did a decade ago. Over the years, from Medicaid to state services for the developmentally disabled to public education, we bear witness to government by lawsuit because that is the only refuge for those who seek equal protection under the law.

Here are some recent examples:

Frew v. Hawkins, a Medicaid class action lawsuit against the state of Texas, was filed in 1996. The plaintiffs sued the state for failing to provide adequate health care for children enrolled in Medicaid. The charges included poor screening, case management and outreach. Despite what seemed like an early resolution of the case with the state of Texas agreeing to improve children's access to and awareness of the Medicaid Early and Periodic Screening, Diagnostic, and Treatment program, the state did not honor the consent decree and years of litigation followed. Although the U.S. Supreme Court ruled in favor of the plaintiffs in 2000, the state persisted in its efforts, claiming that the consent decree could not be enforced because the state could not be sued. In early 2007, the case culminated when the U.S. Supreme Court declined to review the case again. As a consequence, the state of Texas entered into a corrective action plan with the plaintiffs. The Legislature in 2007 had to provide significant increases in reimbursement rates for doctors and dentists (25 percent and 50 percent, respectively) as well as set aside \$150 million each biennium for strategic initiatives intended to provide better, comprehensive health care to children enrolled in Medicaid. However, given that the state has only spent \$16 million of the \$150 million set aside for this biennium, the state might very well be in court again for failure to meet the requirements of the corrective action plan.

In another example of government by lawsuit, the Department of Justice (DOJ) has been conducting a civil rights investigation of Texas' state schools for the mentally retarded since early 2005. What started out as an investigation of one state school for abuses by direct care staff has broadened, first to another state school, and then the entire system. On December 1, 2008, the DOJ concluded that:

numerous conditions and practices at the Facilities violate the constitutional and federal statutory rights of residents. In particular, ... the Facilities fail to provide consumers with adequate: (A) protection from harm; (B) training and associated behavioral and mental health services; (C) health care, including nutritional and physical management;

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(D) integrated supports and services and planning; and (E) discharge planning and placement in the most integrated setting.

The DOJ's letter signified that the serious problems found initially at the Lubbock State School were not unique to one state school and indicative of systemic issues. The DOJ attributed these systemic issues to high staff attrition and vacancy rates for direct care staff and clinical professionals. Until the state can successfully train, supervise and retain their staff, we can not begin to address the problems and deficiencies identified by the DOJ.

Over and over, government by lawsuit is all that those of us who believe in government by and for *all* people have had to protect those whom the constitution binds us to protect. For many of us, health in Texas is the last frontier of civil rights, where the largest southern state continues to devalue the lives of minorities, the poor, and those most in need. In 2008, U.S. Senator John Cornyn showed just how out of touch he is when it comes to understanding the health care crisis in Texas. Despite the fact that Texas has led the country for years as the state with largest uninsured population, Senator Cornyn stated, "[w]e have created greater access to quality health care in Texas... [s]o, you have to understand what I mean when I say I want to make Washington, D.C., and the rest of our country more like Texas [because], frankly, we know the policies that actually work."

Despite clear C.B.O. budget projections that the bills passed by both the U.S. House and Senate would in fact lower the federal budget deficit by at least \$100 billion over ten years, the Republican leadership in this state continues to keep Texans from the truth by mischaracterizing these bills as "a government takeover of health care" that would lead to a single payer system. And of course, Cornyn, Hutchison, Perry and other Republicans continuously refer to current reform efforts as attempts to "socialize" medicine. Despite acknowledgement of our unsustainable, broken health care system, the sad reality is that most Republicans would rather trot out tired, old slogans than work on reform in a constructive manner. As you know, many of these phrases were first used decades ago against Social Security and Medicare—programs that are vital to many Americans today. Recent threats by Texas Attorney Greg Abbott to file suit to challenge H.R. 3590 based on the 10th Amendment to the U.S. Constitution are new versions of old, defeated theories of "nullification."

That's why we write you today—to thank you for doing the right thing for Texas and the nation. Without federal legislation that forces our state to act, Rick Perry will continue to leave one in four behind with the most vulnerable populations being denied access to basic health care. You have inspired a whole nation by making good on the promise of health care for all after nearly a century.

Very truly yours,



Eliot Shapleigh

cc: U.S. Secretary of Health and Human Services
ES/sj

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