



# Real Health Reform Begins with Prevention

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Model Legislative Language

A report by

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## Model Legislative Language

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## INTRODUCTION

Preventive services and programs offer Americans the possibility of longer, healthier, and more productive lives. Because full realization of these benefits requires inclusion of prevention programs, policies, and services in health reform legislation, this paper presents model language for use in crafting legislation that explicitly embraces the implied intent of any health reform bill: **to maintain and improve the health status of the American people.**

Until now, the debate about health reform has focused primarily on increasing access to medical care services and controlling rising health care costs. The following model legislative language is designed to bring to center stage two additional priorities that are central to successful health care and public health reform.

- (1) Adopt "improving the health of the American people" as a primary goal of any health reform legislation.
- (2) Define prevention broadly to include evidence-based:
  - personal, clinical preventive services;
  - community-based prevention and public health interventions; and
  - social and economic policies central to health improvement.

How will we know whether sufficient prevention of the right types is incorporated into health reform proposals? One way to answer this question is to measure the bills against a "prevention standard."

## Meeting a Prevention Standard

The following nine components represent key elements of a prevention standard:

- Provision of high-value, evidence-based personal, clinical preventive services, fully covered in the core benefit package based on the findings of the *US Preventive Services Task Force (USPSTF)* and the *Advisory Committee on Immunization Practices (ACIP)*.
- Support for evidence-based community prevention and public health interventions at the national, state and local levels, based on the findings of the *Task Force on Community Preventive Services*.
- Identification of social and economic policy changes that are clearly tied to health improvement.
- Financial incentives to health organizations, employers, health insurers, and individuals to adopt effective prevention interventions, and rewards for the adoption of proven wellness programs.

- Commitment to strong and sustained support for stable public health funding to support the essential services of public health (defined below) at the national, state, and local levels and building the infrastructure needed to perform these functions.
- Assurance of the capacity for data collection and reporting for health status tracking, problem identification, and monitoring of implementation.
- Strategies for assuring the training and deployment of a public health workforce and a primary-care workforce, skilled in prevention and public health, adequate to meet the population's needs.
- Sustained public awareness interventions that contribute to an improved public understanding of the centrality of prevention to health and health care.
- Research to identify the most efficient and effective prevention services, programs, and policies.

We offer the following model legislative language with introductory comments and background for meeting the prevention standard in health reform legislation.

Prevention works. We believe that this report is unique in its specific, comprehensive approach to prevention and identification of the greatest opportunities to improve the health of the American people, overall and for specific vulnerable populations.

## MODEL LEGISLATIVE LANGUAGE

### 1. PURPOSE

#### PREAMBLE:

The PREAMBLE to all health reform bills should explicitly state that the intent of the legislation is **to improve and maintain the public's health**.

- To ensure individual, family and community health, and health security through comprehensive, affordable, high quality health coverage for all Americans in a manner that improves and maintains the health of the American people, and ensures access to core public health and prevention services.

#### FINDINGS:

In the section on FINDINGS, the current status of the health care and public health systems necessitating reform should be addressed and shall include the following:

- Rates of preventable illness, disability, and premature mortality are high and significant disparities exist in the health status of population subgroups, including persons with low incomes, the elderly, children, and specific minority groups.
- The actual leading causes of death are tobacco use, poor diet, and lack of physical activity.
- The public health systems operating at the state and local levels are under-funded, in need of improved infrastructure to support the essential services of public health, and poorly linked to the medical care system.
- The public health system lacks adequate and stable funding to perform essential public health services at the national, state, and local level.
- Any reform of the health care and public health systems requires a broad approach to prevention that incorporates clinical preventive services, public health and community-based interventions, and social and economic policy to promote health.
- Most health insurance plans do not cover a comprehensive package of benefits that meet the full range of health needs, including primary, preventive, and specialized services — such as substance abuse, vision, dental, and hearing services.

## **PURPOSE:**

A section on PURPOSES should describe broad-based health improvement goals of the legislation.

- To improve the health status of the population and attain the national health objectives as set forth in *Healthy People -- Objectives for the Nation*.
- To promote healthy behaviors of individuals and families and adopt policies that create and maintain healthy environments in institutions, worksites, and communities.
- To guarantee access to effective clinical and community-based preventive services.
- To guarantee the availability of the essential public health services in all States and communities with adequate and stable funding.
- To develop public policy with an understanding that the major determinants of health are environmental (physical, social, economic) and behavioral.

## **2. PUBLIC HEALTH ADVISORY COMMISSION**

Health reform bills will create a Public Health Advisory Commission to make recommendations to the President, Congress, and any future federal health organization on the allocation of federal funds to maximize impact on the health of Americans, on coverage of clinical and community preventive services, and on the health impact of federal policies.

- This independent body reports to the President, Congress, and any future federal health organization created by health reform legislation. Membership would be appointed by the Government Accountability Office (GAO).
- With respect to **CLINICAL PREVENTIVE SERVICES**, the Public Health Advisory Commission:
  - (1) shall review the findings of the U.S. Preventive Services Task Force (USPSTF) and the Advisory Committee on Immunization Practices (ACIP) for periodic, rigorous review of the most recent scientific evidence on the clinical effectiveness and relative cost-effectiveness of clinical preventive services for individuals and groups of varying age, gender, health status, and health risk.
  - (2) shall report on recommended revisions for the coverage and periodicity of clinical preventive services as specified in the standard benefits package, and provided under Medicare, Medicaid, and State Children's Health Insurance Program (SCHIP).

- With respect to **COMMUNITY-BASED PREVENTION**, the Public Health Advisory Commission:
  - (1) shall review the findings of the Task Force on Community Preventive Services for the continuous and rigorous review of the most recent scientific evidence on the most effective and cost-effective community-based and public health approaches to health promotion and disease prevention for healthy individuals, families and communities; and
  - (2) shall report on recommendations on the most effective community-based approaches to promote health. The recommendations made within each of the priority areas identified in the most recent version of the *Healthy People -- Objectives for the Nation* shall be listed in rank order based on their potential contribution to improving the population's health status.
  
- With respect to **SOCIAL AND ECONOMIC POLICY** for prevention, the Public Health Advisory Commission:
  - (1) shall delegate responsibility to an independent Task Force for Health Impact Assessment to establish criteria to assess health impacts and for the continuous and rigorous review of the most recent evidence on the health impacts of current and proposed social and economic policy.
  - (2) shall report on recommendations on the most effective social and economic prevention policies and recommend changes in public laws, regulations, and other public policies to improve the public's health.

## **MEMBERSHIP**

The following expertise shall be represented in the membership of the Public Health Advisory Commission.

- Expertise in population-based health information systems, public health, health economics and health promotion and disease prevention.

## **BIENNIAL REPORT:**

The Public Health Advisory Commission shall be responsible for monitoring and biennial reporting to the American public, the Congress, and the President on the health of the nation.

The Public Health Advisory Commission shall prepare an integrated report biennially to ensure that the priorities identified in each of the three essential areas of prevention - clinical preventive services, community-based prevention, and social and economic policy for prevention — are

coordinated and build on each other in such a way as to ensure the greatest improvements in the public's health. The report shall include:

- (1) Recommendations or changes in the administration, regulation, and laws related to the public's health and the coordination of public health and medical services.
- (2) Data needs related to health improvements in the population and high risk sub-population groups.
- (3) An update on the specific services covered as clinical preventive services and the periodicity schedules, as specified in the standard benefit package, and an update on the clinical preventive services provided under Medicare and Medicaid.
- (4) An update on the recommendations for public health funding allocation to be consistent with the evidence-based community interventions.
- (5) An analysis on the progress towards implementation of the recommendations on the most effective social and economic prevention policies and recommend changes in public laws, regulations, and other public policies to improve the public's health.

### **3. PREVENTION BENEFITS UNDER HEALTH REFORM**

#### **CORE BENEFITS FOR CLINICAL PREVENTIVE SERVICES**

Coverage of high-value, evidence-based clinical preventive services, based on the recommendations of the USPSTF and the ACIP, shall be included in any health reform bill:

- Full coverage for a core set of age-, gender-, and risk-appropriate, high-value, evidence-based clinical preventive services in the standard benefit package, including:
  - (1) Immunizations
  - (2) Screening tests
  - (3) Periodic clinician visits
  - (4) Preventive counseling and health education services
  - (5) Chemoprophylaxis.
- Covers age-, gender-, and risk-appropriate evidence-based preventive counseling and health education services provided by health-care professionals or community-based providers to individuals or groups for risk factors identified in the risk assessment provided as part of the periodic clinician visit (described below). These services include activities such as preventive

counseling and health education for diet and nutrition, exercise, injury prevention, tobacco use, alcohol and drug use, sexual health, and dental health.

- Increases reimbursement in federally-sponsored health insurance programs to provide an incentive to deliver cost-effective clinical preventive services.

#### **CLINICIAN VISIT:**

A periodic health exam provided during a visit to a health-care professional shall be covered at age-, gender-, and risk-appropriate intervals.

- The clinician visit shall include the following health professional services:
  - (1) Complete medical history.
  - (2) Age-, gender-, and risk-appropriate appropriate physical examination.
  - (3) Health risk assessment.
  - (4) Targeted brief health advice and referral to comprehensive health education and preventive counseling, as needed.
  - (5) The administration of age-, gender-, and risk-appropriate immunizations and screening tests.

#### **COST SHARING:**

- All preventive services recommended by the USPSTF and ACIP are covered services, but high-value, evidence-based preventive services that are cost-effective shall be exempt from all deductibles, co-payments and co-insurance, provided that their use is consistent with the recommended periodicity schedule.

#### **PROVISION OF EFFECTIVE RISK REDUCTION AND HEALTH PROMOTION PROGRAMS:**

Health reform shall require health plans to make available and refer patients, as indicated, to programs of established effectiveness in modifying health risks and promoting health.

- Health plans shall assess the availability of health education programs offered in the community, which have demonstrated their effectiveness in changing health behaviors, reducing health risks, and/or improving health status. Health plans shall offer and refer plan members to these health education programs based on an assessment of individual risks and learning styles.

- Health education programs may include health education classes and training classes, self-care modules, community-based programs, and computerized, web-based, and telecommunications venues.

#### **MEDICAID COVERAGE FOR CLINICAL PREVENTIVE SERVICES:**

Some bills incorporate Medicaid into a single national health insurance program and others leave it as a separate program. If Medicaid continues to be a separate program, Title XIX of the Social Security Act needs to be amended to require that all Medicaid recipients be fully covered for all of the clinical preventive services appropriate to their age, gender, and risk status, as recommended by the USPSTF.

- The Medicaid population shall receive the same age-, gender-, and risk-appropriate preventive services benefits as those included in any federally-defined standard benefit package.
- High-value, evidence-based preventive services that are cost-effective shall be exempt from all deductibles, co-payments and co-insurance, provided that their use is consistent with the recommended periodicity schedule.

## **4. COMMUNITY-BASED PREVENTION**

#### **SUPPORT FOR ESSENTIAL PUBLIC HEALTH SERVICES:**

Health reform legislation should ensure strong and sustained support for public health through appropriated funds as may be necessary to assure adequate and stable funding for essential public health services.<sup>1</sup>

The capacity of federal public health programs and state and local public health agencies must be strengthened to carry out the essential public health services and to increase the capacity of community-based providers to meet the special needs and concerns of the most needy and

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<sup>1</sup>The annual federal appropriation necessary to provide sufficient and stable funding for national, state and local core public health functions would be determined by the Public Health Advisory Commission and based on current scientific evidence. Until the time of the formation of the Commission, initial funding in the amount of \$20 BILLION in additional funding would be used for immediate public health needs (e.g. infrastructure, workforce, reducing the major drivers of ill health) (from Trust for America's Health. *Blueprint for a Healthier America*. Washington, D.C.: Trust for America's Health, October 21, 2008). Funds available through this mechanism would be used for restoration, maintenance and expansion of essential public health services and programs. Funds would be allocated to the Centers for Disease Control and Prevention to make grants (including formula grants) to units of State and local government, and, in the case of research and training, institutions of higher education. The allocations of funds between the ten essential public health services would be determined by the CDC based upon demonstrated need and revised as necessary based upon the recommendations of the Public Health Advisory Commission.

vulnerable population groups. The public health system requires significant improvements in the infrastructure needed to effectively carry out the essential public health services.

- Congress shall provide adequate and stable funds for federal, state and local public health programs for the essential services of public health and the infrastructure to support it. The essential services of public health are to<sup>2</sup>:
  - (1) Monitor health status to identify and solve community health problems (e.g. collecting vital health statistics; identifying community health resources; improving public health information systems).
  - (2) Diagnose and investigate health problems and health hazards in the community (e.g. supporting infectious disease epidemiology programs; improving capacity and access to public health laboratories).
  - (3) Inform, educate, and empower people about health issues (developing media campaigns and social marketing; building partnerships to implement and reinforce health promotion programs and messages).
  - (4) Mobilize community partnerships and action to identify and solve health problems (e.g. collaborating with statewide partners to identify public health priorities and create effective solutions to solve state and local health problems; building coalitions to improve community health).
  - (5) Develop policies and plans that support individual and community health efforts (e.g. aligning resources and strategies with a community health improvement plan; developing legislation, codes, rules, regulations, ordinances and other policies supporting health efforts).
  - (6) Enforce laws and regulations that protect health and ensure safety (e.g. protecting drinking water; enforcing clean air standards; regulating care provided in health care facilities and programs; enforcing laws governing the sale of alcohol and tobacco to minors, seat belt and child safety seat usage, and childhood immunizations).
  - (7) Link people to needed personal health services and assure the provision of health care when otherwise unavailable (e.g. assuring quality health care; coordinating provider services and clinical care; developing interventions that address barriers to care such as culturally and linguistically appropriate staff and materials and transportation services).
  - (8) Assure competent public and personal health care workforce (e.g. educating and training of health professionals; maintaining public health workforce standards,

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<sup>2</sup> National Public Health Performance Standards Program, Centers for Disease Prevention and Control.  
<http://www.cdc.gov/od/ocphp/nphpsp/EssentialPublicHealthServices.htm>.

including efficient processes for licensure/credentialing of public health professionals).

- (9) Evaluate effectiveness, accessibility, and quality of personal and population-based health services (e.g. determining effectiveness of health programs through critical review based on analyses of health status and service utilization data; providing the necessary information for allocating resources and reshaping programs; critically reviewing).
- (10) Research for new insights and innovative solutions to health problems (e.g. linking with institutions of higher learning and research; supporting research ranging from improvements in public health practice to formal scientific research; reporting results and implementing policy based on these results).

### **PUBLIC HEALTH REPORTING:**

Health reform legislation should require States and Territories that receive federal public health funding to submit annual reports to the Secretary of Health and Human Services on the health status of the population and measurable objectives for improving the public's health. States and Territories must prepare the reports as a condition of receiving funding for essential public health services.

State reports shall address the following:

- A comparison of outcome measures of the health status of the State's population (at the state and local levels) compared to relevant objectives set forth in the *Healthy People -- Objectives for the Nation*.
- A description of health status measures to be improved within the State (at the state and local levels) through expanded public health functions and health promotion and disease prevention programs.
- A report on implementation of effective, evidence-based community interventions, as defined by the *Task Force on Community Preventive Services*.
- Information regarding how federal funding has been allocated and has improved population-based prevention activities and programs.
- A description of how the essential services of public health have been implemented at the state and local level.
- A description of the relationships between the State's public health system, community-based health promotion and disease prevention providers, health plans, and health care system.

## **5. HEALTH IMPACT OF SOCIAL AND ECONOMIC POLICY**

Because many determinants of health are environmental (physical, social, economic), legislation should encourage greater use of health impact assessment in policymaking. Health impact assessment will provide policymakers with information on potential public health benefits and harms, differences of impacts, and alternatives for improving benefits and reducing harms of laws and regulations, including those outside the health sector. In order to examine the potential health effects of proposed policies, programs, and projects in a systematic way, we propose that legislation:

- (1) create a National Center for Health Impact Assessment to examine the potential health effects of a wide range of multi-sectoral proposed policies and programs, especially those that are not viewed as primarily health policies and programs, such as housing and urban renewal, land use, and agriculture.
- (2) require the Public Health Advisory Commission to report on recommendations on the most effective social and economic prevention policies and recommend changes in public laws, regulations, and other public policies to improve the public's health.
- (3) support research and innovation by local and state agencies, research institutions, non-profit organization, and others to increase utilization of health impact assessment.

## **6. HEALTH RESEARCH**

Legislation should provide additional funds to support health research initiatives that identify the most effective and cost-effective strategies to improve the public's health.

### **HEALTH RESEARCH INITIATIVES:**

- In carrying out this initiative, the Secretary shall give priority to conducting and supporting research:
  - (1) that reflects the full range of approaches identified in the priority areas of *Healthy People Objectives for the Nation*, including research to identify the most effective approaches to delivering clinical preventive services, community-based health promotion and disease prevention, public health systems, and social and economic prevention policy.
  - (2) on the appropriateness and comparative effectiveness of alternative community-based and clinical strategies for preventive care; integrating preventive services into primary care; effectiveness of policy interventions; effectiveness of preventive counseling and health education; efficacy and cost-effectiveness of clinical and community preventive services; the effectiveness of employer incentives to offer and strengthen worksite health promotion programs; and the effectiveness of community health workers on the quality and outcomes of care.

- (3) on the impact of health reform on health delivery systems; public health system, community-based injury and illness prevention; methods for risk assessment and risk adjustment; factors influencing access to primary care, preventive services, community-based health promotion and public health; individual health decision-making; and the feasibility of developing incentives for worksite health promotion programs.
- (4) that translates the scientific evidence-base for clinical preventive care and public health interventions into national guidelines, the dissemination of such guidelines, and the assessment of the effectiveness of such guidelines.

## **7. HEALTH DATA SYSTEMS**

### **NATIONAL QUALITY PERFORMANCE MEASURES:**

The health reform bills should require the development of standard measures of system performance and evaluation and reporting of performance that address health status and prevention, funded as part of the stable and adequate funding for essential public health services. The availability of uniform health data is critical to assessing the performance of the health care and public health systems. Prior to the development of national measures of quality performance and operation of a national health information system, the Secretary shall assess current measures and data systems to establish a baseline report of the performance of the system.

- The Secretary shall develop a set of national measures of quality performance of the health care and public health systems to be used to assess the health and risk status of the population, the provision of health services, access to such services, and the health impacts of federal policy. These measures shall be based on a review of existing national quality performance measures (e.g., those developed by the National Quality Forum, the National Committee on Quality Assurance, and the Healthy People Objectives for the Nation).
- The Secretary shall develop a system of financial incentives to reward health organizations that deliver high rates of clinical preventive services. The metrics developed as part of the national measures of quality performance shall be the basis for these performance rewards.
- National measures of quality performance shall be selected in a manner that provides information on the following.
  - (1) Health promotion, including population-based health status measures, prevalence of behavioral and environmental risk factors, incidence of preventable morbidity, injury, and mortality;
  - (2) Prevention of disease, disorders, and other health conditions;

- (3) Individual level health risk and health status, including behavioral health, and functional and mental status;
  - (4) The effect of policies intended to improve health at the national, state and local levels.
- The Secretary shall evaluate the impact of this Act on the health and risk status of the population, the quality of health-care services in the United States, and access of consumers to such services, and produce a biennial report to Congress and the President.

### **HEALTH INFORMATION SYSTEM:**

Health reform bills should include the development and implementation, by the Secretary, of an electronic health information system for the routine collection, reporting, and regulation of health information for evaluating the health care and public health systems, and for the provision of clinical and community preventive services.

- The health information shall be collected and reported in a manner that facilitates its use for the following purposes.
  - (1) Improving the ability of health plans, health-care providers, public health organizations, employers, and consumers to promote the health of the population.
  - (2) Monitoring changes in the health status of the population.
  - (3) Supporting essential public health services and objectives.
  - (4) Developing and evaluating policy and undertaking research by the federal, state and local governments.
  - (5) Improving the ability of health plans, health-care providers, and consumers to coordinate, improve, and make informed choices about health-care.
  - (6) Assessing and improving the quality of care.
  - (7) Measuring and optimizing access to care.

### **ENROLLEE DATA:**

- The bill shall include provisions for the collection of health and risk status data on all persons enrolled in the US health-care system by completing a consumer survey prior to enrolling in a health plan. These data will be used, per HIPAA regulations, for both personal health information systems for all eligible individuals, as well as for the collection of comprehensive population-based data on health risks and health status.

## **PUBLIC INFORMATION AND MARKETING:**

The public needs to be provided clear, factual information that allows them to make informed health choices. This information shall be culturally and linguistically appropriate and at an appropriate grade level (5<sup>th</sup> grade or less). This information shall incorporate a broad perspective on preventive services and programs, designed to both educate and encourage their utilization, and will be funded as part of the stable and adequate funding for essential public health services.

- A summary of the annual national quality performance report, including population-based health and risk status, health outcomes, and preventive services utilization, shall be made available to the public.
- Information on the annual performance of individual health plans in a state and local area, addressing the quality measures of population-based health and risk status, health outcomes, and preventive services utilization shall be made available to the public.
- Information on the extent and availability of individual and societal impact of preventive services and programs shall be publicly available. Information shall be designed and targeted to promote healthy behaviors and lifestyles in both general and specific at-risk populations.

## **8. TECHNICAL ASSISTANCE:**

Public health agencies at all levels are in need of infrastructure development and are poorly equipped and staffed in health information technology. Therefore, additional provisions need to be included in health reform legislation to provide information and technical assistance to States, health plans, and health-care providers to enable their full participation in and use of health information systems, funded as part of the stable and adequate funding for essential public health services. Specific attention needs to be given to the linkage of community-based information systems with patient care information systems.

- The Secretary shall provide information and technical assistance to the States, health plans, and health-care providers with respect to the establishment and operation of automated health information systems. Such assistance shall focus on:
  - (1) The development and strengthening of community-based health information systems.
  - (2) The linkage of community-based information systems with patient care information systems.
- The Secretary shall provide technical assistance to state and local public health agencies on how to most effectively and efficiently achieve the goals set forth in *Healthy People -- Objectives for the Nation*.

## **9. PROFESSIONAL TRAINING**

### **FUNDING PROGRAMS:**

Health reform bills shall provide adequate funding to train sufficient numbers of primary care and public health providers and to educate current health-care providers regarding preventive medicine, public health, and community-based health promotion, as part of the stable and adequate funding for essential public health services.

- The programs described in this section include programs to train sufficient numbers of health-care professionals in primary care, including programs to enhance training in clinical preventive services and health education, and training in community-based health promotion and disease prevention, addressing the relationships between the social, economic, and physical environments and the health of the population. These programs shall be available in accredited training programs of primary care providers, including physicians, physician assistants, nurse practitioners, certified nurse-midwives, nurses, and others.
- The programs described in this section shall include programs to educate current health-care and public health professionals, including community health workers, in community-based health promotion and disease prevention, including public health education, epidemiology, biostatistics, coalition-building, community development and participation, public policy, mediation, and advocacy.