



Center for Health Transformation E-Newsletters

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Newt Notes

The President's State of the Union Speech last week made it very clear that the two domestic policy agenda items he most wanted to emphasize were energy independence and healthcare.

On healthcare, the President's message was simple, "A future of hope and opportunity requires that all our citizens have affordable and available healthcare."

Acknowledging that the government bears a responsibility to help care for America's poor children, the disabled and the elderly, President Bush in his speech proposed that private health insurance is the best way to meet the needs of all other citizens. However, the President also conceded that many Americans cannot readily afford quality health insurance. In order to help those people who do not qualify for public assistance but do not earn enough to purchase their own coverage, the White House will now be emphasizing two big initiatives:

First, the President is proposing a tax-code approach to dramatically increasing the incentive for the self-employed and

lower-income workers to buy health insurance. The President's proposal is to offer a standard tax deduction for health insurance that will act like the standard tax deduction for dependents. The deduction would translate into lower tax bills for those whose employers provide coverage. For those Americans who do not receive health insurance through their employer, this initiative helps to "level the playing field" and put much-needed money back into their own hands. This is a bold step in the right direction, particularly when combined with Health Savings Accounts, Health Reimbursement Accounts, and consumer-oriented healthcare.

The second big push was to indicate very clearly that Secretary Leavitt will do all that he can to offer waivers to the states to give them the maximum amount of opportunity to experiment with methods of covering the uninsured and providing better healthcare. These "Affordable Choices" grants would give governors more money and more flexibility to get private health insurance to those most in need. With the potential for gridlock in Congress on these issues, there is a good chance that most of the real change will be occurring in the states.

As we wait for a formal Democratic response to the President's health proposals, the question now becomes, what will the substantive agenda of the 110th Congress be?

Early in February, CHT will release a list of health proposals we hope to advance during the next Congressional session. Please be on the lookout for the forthcoming announcement from CHT via e-alert.

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Project Spotlight

Health Justice Transformation and the CHT State Map

The Center for Health Transformation is pleased to announce that we have added an important new feature to the "State Transformation Map" displayed on our website. In addition to

including state-specific examples of 'Best Practices in Medicaid,' CHT's state map now incorporates a brand-new 'Health Justice Transformation' element.

To view the map, scroll over the U.S. map icon located in the lower-left of CHT's home page; *[simply click on a state to view the related material.](#)*

The Center's [21st Century Health Justice Project](#), led by CHT project director Wayne Oliver, is based on the premise that the current system of litigation is far too expensive and fails to provide justice for patients and their families. Our Project is committed to the development and accelerated adoption of a much fairer, less expensive and more timely system of health justice.

Perhaps nowhere else in American life is the broken litigation system more threatening to the lives of Americans than in the healthcare system. What was once a nuisance has grown into a genuine threat to the nation's health.

The recent doctor strikes, closures of hospitals, trauma centers and long-term care facilities – and the continuing outcry about the expense of the predatory trial lawyer litigation system – are all indications that we need to rethink the way we resolve conflicts about patients' rights in our healthcare system. The key is to ensure that we do what is right for the individual who has a legitimate grievance, for those who help maintain health, and for society.

A recent study published in the American Journal of Public Health reported that twenty-eight states have laws that limit payment in malpractice cases, and several studies indicated that these laws reduce the frequency and severity of malpractice claims and lower premiums. The AJPH study used multivariate models and relatively recent data to estimate the impact of state tort reform laws that directly limit malpractice damage payments on healthcare expenditures. This study revealed that "estimates from these models suggest that laws limiting malpractice payments lower state health care expenditures by between 3% and 4%." ("The Impact of State Laws Limiting Malpractice Damages on Healthcare

Expenditures," American Journal of Public Health, August 2006; Vol. 96, Issue 8; page 1375.)

Particularly important to note is that the estimates cited above only examined the impact on state expenditures; we argue that the savings could be even more significant when considered in conjunction with the federal government's participation in programs such as Medicaid.

As a building block for our 21st Century Health Justice Project, then, CHT is now closely monitoring health justice transformation efforts in all 50 states. We hope this new tool will become a valuable part of our ever-growing health policy arsenal.

The information listed in the interactive 'state transformation map' provides state-specific measures which have been adopted in each of the states. In order to assist key decision-makers and local leaders, we have provided detailed information on seven transformational areas commonly addressed in health justice transformation and civil justice reform legislation, as in the Texas contribution below.

Health Justice Transformation – Texas

Caps on Non-Economic (Pain and Suffering) Damages?

Texas has placed a \$250,000 cap on non-economic damages for judgments against healthcare providers; an additional \$250,000 cap on non-economic damages for judgment against first healthcare institution; and a \$250,000 cap on non-economic damages for judgment against a subsequent healthcare institution.

Joint Liability for Multiple Defendants?

Yes. Defendants are held responsible only for the portion of fault which is attributed to them.

Disclosure or Discoverability of Collateral Sources of Income or other Insurance Benefit?

No.

Provisions for the Periodic Payment of Damages Over Time?

Yes. Court must order payment of periodic damages if the present

value of damages in case equals or exceeds \$100,000.

Limitation of Plaintiff's Attorneys Fees?

No.

Provisions for Mandatory or Voluntary Arbitration and/or Mediation Procedures?

Not mandated by state law.

Standards for Expert Testimony/Witness

An expert witness must be a physician who is practicing medicine at the time such testimony is given or was practicing at the time the claim arose; has knowledge of accepted standards of care for the diagnosis, care or treatment of the illness, injury or condition involved in the claim; and is qualified on the basis of training or experience to offer an expert opinion regarding the accepted standard of medical care.

For more information on the Center for Health Transformation's Health Justice Transformation Project, please contact Project Director Wayne Oliver at (404) 201-7907 or Woliver@gingrichgroup.com.

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Member Update

The Center for Health Transformation would like to welcome our newest Charter member, [GlaxoSmithKline](#) and Platinum member [Barr Laboratories](#).

We are also pleased to recognize the following members for renewing at the Charter level: [Ford Motor Company](#) and [General Motors Corporation](#); Premier level: [AllScripts](#), [America's Health Insurance Plans \(AHIP\)](#), [College of Healthcare Information Management Executives \(CHIME\)](#), and [Quovadx](#).

Please visit the [list of members](#) often to keep abreast of who is joining the Center or the "[Member News](#)" page to learn about the awards or honors won by our members.

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Transforming State Solution

Texas & Proposition 12

Situation:

Prior to the state's successful health justice reform effort, personal injury lawyers had put Texas doctors on the run. According to the Texas Department of Insurance, the frequency of claims was increasing at a rate of 4.6% annually -- between 1996 and 2000 alone, one out of four doctors was sued.

These surging legal and insurance bills reduced patient access to healthcare: Texas fell to 48th out of 50 in physician manpower; there were 152 medical doctors per 100,000 citizens, well below the U.S. average of 196; some 158 counties had not a single obstetrician. Good, competent doctors were closing their doors, unable to afford the cost of insurance.

Other industry players suffered as well. Hospital premiums to protect against the onslaught of lawsuits more than doubled between 2000 and 2003. From 1999 to 2002, the annual per-bed cost of litigation-protection insurance in nursing homes increased from \$250 to \$5,000 -- a factor of 20.

Solution:

In the summer of 2003 the Texas legislature enacted important medical litigation reform. A voter-approved constitutional amendment, Proposition 12, followed later that year to solidify the changes.

At the core of House Bill 4 (led by state Rep. Joe Nixon and state Sen. Jane Nelson) was a hard, \$250,000 cap on non-economic damages for all physicians, with a separate \$250,000 cap on non-

economic damages payable by hospitals and other providers. The law keeps doctors, hospitals and nursing homes liable for all economic damages assessed by a jury. Modeled on California's successful 1975 Micra law, which still on the books, HB 4 keeps litigation-related costs under control and allows competent doctors and hospitals to continue providing care.

Additional provisions of HB 4 included periodic payments for all awards greater than \$100,000, procedural changes to address claim frequency, and Good Samaritan protections. This new law passed by a two-thirds majority in both chambers of the legislature and was integrated into the Texas constitution by voters later that same year. The constitutional amendment also prevents judges from ignoring the law and imposing a subjective opinion.

Better Health & Lower Costs:

After Proposition 12, insurance premiums to protect against frivolous lawsuits have declined dramatically, with the state's largest carrier reporting declines up to 22% and other carriers reducing premiums by an average of 13%. The number of lawsuits filed against doctors has been cut almost in half.

Most important, though, is that physicians are returning to the state, particularly to underserved specialties and counties. Texas has added more than 4,500 doctors since the passage of proposition 12, and the state now licenses an average of 400 more doctors per year than in pre-reform years.

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CHT in the News

'Four Cornerstones' Will Transform Health

CHT Founder Newt Gingrich and GE's Dr. Bob Galvin consider the building blocks of a value-based health system: information technology, performance measures, transparency and payment reform. (*Forbes.com*)

Price Shopping Can Lower Healthcare Costs

In an original CHT op-ed, Project Directors Laura Linn and Wayne

Oliver discuss Georgia's efforts to increase transparency in the healthcare industry. ([AJC](#))

The New Newt Thing

Fortune's Nina Easton profiles CHT Founder Newt Gingrich, including his work to transform America's failing health system. ([Fortune/CNNMoney.com](#))

Connecting the Data

The [Philadelphia Inquirer](#) reports on the power of health IT and CHT Founder Newt Gingrich's speech at the Siemens campus in Malvern, PA.

Healthcare Bandwagon Gets Rolling

As states use new initiatives to increase momentum for health transformation, CHT Founder Newt Gingrich says he believes "we may be closer than we've ever been" in making real progress on health policy issues. ([The Chicago Tribune](#))

GA Governor Announces Executive Appointments

Governor Perdue appoints CHT Project Director Wayne Oliver to the Georgia Commission on Men's Health. ([The Weekly](#))

Coalition to Provide Free e-Prescribing Software to Doctors

Newt Gingrich joins AllScripts and a wide coalition of technology companies and healthcare providers to announce the National ePrescribing Patient Safety Initiative, a new program committed to reducing drug errors. ([Reuters](#); [Government Health IT](#); [Digital Healthcare and Productivity](#); [ComputerWorld](#); [PC World](#), [AJC](#))

Newt Gingrich on (Nearly) Everything

Newt Gingrich delivers an address, "Saving Lives and Saving Money: Transforming Health and Healthcare in the 21st Century," to the Delaware chapter of HIMSS a Malvern, PA event sponsored by [Siemens Medical Solutions](#), [Microsoft](#), [Intel](#) and CHT. ([Siemens Webcast](#); [Digital Healthcare and Productivity](#))

Health IT and the 110th Congress

Project Director David Merritt discusses the viability of bipartisan health IT legislation in the new Congress. ([Government Health IT](#))

Making Medicaid Work - A Practical Guide for Transforming

Medicaid

CHT partners with SHPS to publish this new book, which explores solutions for transforming the Medicaid program and improving the lives of the Medicaid population. ([Pre-order/Learn more](#))

Getting the Healthcare Field Wired

In an op-ed for the [Philadelphia Inquirer](#), CHT Founder Newt Gingrich and Siemens' health IT division president Janet Dillione write that information technology is essential to transformation.

CA Gov. Proposes Health Plan

In a story for ABC News, State Project Director Jim Frogue describes a nationwide trend toward state-led health reform. ([VIDEO: CBNnews.com; "Good Morning America"](#))

Healthcare for All Urged in Missouri

As Missouri begins to tackle healthcare reform, CHT's Jim Frogue observes, "The key to making insurance more affordable is making people healthier." ([St. Louis Post Dispatch](#))

States to Expand Health Coverage

In this Page 1 story for [USA Today](#), State Project Director Jim Frogue says state legislatures are adopting policies that appeal to both conservatives and liberals.

Congress' New Health Policy?

As the 110th Congress prepares to convene, CHT Project Director Jim Frogue encourages states and the private sector to sustain the healthcare consumerism movement. ([Health Care News](#))

Laura Linn Named to GA Health IT & Transparency Board

CHT Georgia Project Director Laura Linn is appointed to the ad hoc advisory committee of the GA Dept. of Community Health's Health IT & Transparency Board. ([Press Release](#))

Pay for Performance: A Critical Examination

CHT Founder Newt Gingrich joins a panel of leading experts at this conference convened by the [National Committee for Quality Assurance](#) (NCQA). ([View the Webcast](#))

Upcoming Events

Newt Gingrich to speak to the American Academy of Dermatology Association

Sunday, February 4, 2007

Washington, DC

CHT Member Conference Call

Wednesday, February 14, 2007

Washington, D.C.

Newt Gingrich to speak to Quovadx

Monday, February 26, 2007

New Orleans, LA

CHT Member Meeting

Wednesday, March 7, 2007

San Diego, CA