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# Twelve Reform Steps for Texas

Texas needs to end its addiction to inefficient, unresponsive public policies. To that end, the Legislature should go cold turkey and consider 12 radical changes.

**Step No. 1: A Block Grant for Medicaid**. Medicaid now consumes one out of every four state dollars and is on a path to crowd out every other state program. Despite this looming fiscal crisis, Texas trails other states in requesting federal waivers and implementing reforms. Florida and South Carolina, for example, are using Medicaid dollars to enroll people in employer plans and other private insurance. They are also allowing Medicaid patients to manage some of their own health care dollars. Yet even these reforms fall short of what is needed. Texas should ask for a block grant with no strings attached. Then, it should empower enrollees to become prudent shoppers in a competitive medical marketplace.

**Step No. 2: Cheaper and Better Long-Term Care**. Long-term care is the biggest budget-busting part of Medicaid. To make things worse, a cottage industry of lawyers specializes in helping shield seniors' assets so Medicaid will foot all of their nursing home bills. Federal law requires states to recover costs from the estates of Medicaid enrollees who die in nursing homes. However, in the last national survey, Texas was one of the three worst states in enforcing that requirement. Texas subsequently implemented an estate recovery program, but there are many exemptions. For instance, family farms and businesses are exempt from recovery if they constitute the primary income of heirs. Texas needs 1) tighter rules, 2) financial incentives for seniors to choose community care over nursing homes, and home care over community care, and 3) the option (already available in four other states) to buy long-term care insurance that both pays for care and protects estates under Medicaid rules.

**Step No. 3: Unemployment Insurance Accounts**. Texas workers pay billions of dollars per year in taxes for Unemployment Insurance (UI) but receive meager benefits in return. Overall, Texans get back only one in every three dollars paid in taxes to the federal UI program. To make matters worse, nearly one in every five dollars Texas pays in benefits is paid out incorrectly due to errors and fraud. (California's overpayment rate is less than 5 percent!) Texas should propose a pilot program to allow some funds paid in taxes to go into interest-earning accounts owned by individuals. Under such a system, workers could draw on their accounts during periods of unemployment and accumulate the remaining funds to use in retirement. Chile already has such a system.

**Step No. 4: Private-Sector Workers' Compensation.** The high cost of the workers' compensation (WC) system is due to perverse incentives. Both employees and employers have incentives to treat injuries under WC rather than under the employer's health plan. Further, WC patients have incentives to overspend at taxpayer expense. Texas is the only state that allows employers to "opt out" of the statutory system. Firms employing almost one-fourth of workers in the state have chosen this option and most privately insure instead. These firms have fewer injuries, lower treatment costs and fewer sick days. Texas should build on this record. Employers who stay in the system should be able to combine WC health insurance with their regular group insurance (thus providing 24/7 seamless coverage). They should also be able to integrate WC disability insurance with other employer-provided disability insurance.

**Step No. 5: Portable Insurance**. This is an idea whose time has come. Texas should implement an NCPA/Blue Cross proposal to replace the dysfunctional small group market with a system in which employees own their own insurance and it travels with them from job to job. Employers would make defined-contribution premium payments, similar to 401(k) plan contributions. This reform can probably be enacted under current law, but the state should still ask for federal assurances.

**Step No. 6: Divorce by Contract.** Divorce is commonplace, and most divorces in this country take place by judicial decree. These are often bitter affairs, especially if child custody is involved. And since neither party typically likes the court's order, there are often multiple trips back before the judge. The alternative is divorce by contract. Spouses would be encouraged to barter, trade and reach a mutually beneficial agreement (for example, payment of child tuition or health insurance expenses in return for more visitation time). Because both parties would like the agreement better than a probable judicial decision, adherence is more likely and there will be fewer subsequent appearances in court.

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**Step No. 7: Real School Choice.** Texas was the first state to measure student performance and publish the results, almost two decades ago. Despite Supreme Court rulings, legislative battles, Robin Hood funding and billions of additional spending — for the most part, schools that were bad 20 years ago are still bad today. An entire generation of students has been lost. Wisconsin, Ohio, Florida and Arizona are far ahead of Texas in enacting needed reforms. Clearly Texans need more school choice. Schools should be allowed to specialize (like magnet schools) instead of every school trying to meet every student need. And the money should follow students from campus to campus — so principals and teachers can experience the rewards and penalties of competing in an educational marketplace.

**Step No. 8: Factories Behind Bars.** With more than 160,000 inmates, Texas has the second-highest incarceration rate in the country. Yet little is done to ensure prisoners learn marketable skills and engage in productive activities. People should not lose their right to work simply because they are in prison. Ideally, they should be able to work for any employer, consistent with the prison's need to maintain order and security. South Carolina, Connecticut and California allow inmates to work inside prisons for private-sector businesses, creating factories behind bars. Texas should do the same.

**Step No. 9: Enterprise Programs.** Many entrepreneurs responded to meet Katrina victims' needs for transportation, housing, medical care and other services. All too often they were breaking the law. The reason: in almost every Texas city low-income families are priced out of the market for essential services through unwise regulations. Under the enterprise program idea, cost-increasing (usually special-interest) regulations would be suspended for suppliers of essential services to the poor.

**Step No. 10: Insuring the Uninsured.** Texas has a higher percent of the population without health insurance than any other state (24.5 percent). At the same time, it has one of the worst records for enacting special-interest regulations that make health insurance expensive and unaffordable. And Texans spend an estimated $1,500 per uninsured person per year on free care (or $6,000 for a family of four). In Massachusetts, Gov. Mitt Romney has shown that free care money can be used to subsidize private insurance. Texas should follow his example, with modifications: no individual mandate, no additional spending and no special-interest mandates.

**Step No. 11: Liability by Contract.** In 2005, the Texas Legislature passed a package of comprehensive tort reforms, including damage caps on medical malpractice awards and limits on product liability and class action lawsuits. These reforms are reducing the number of lawsuits filed and the cost of liability insurance premiums, giving Texas an advantage over some other states. More needs to be done. Patients and providers should be able to agree in advance how patients will be compensated after adverse medical events — without lawyers, judges or trial expenses. Insurance companies that pay these awards would become monitors of health care quality and they could punish low-quality providers with high premiums. The Legislature is needed to set boundaries on what types of contracts are socially acceptable.

**Step No. 12: State Employee Benefits**. How much have the state and local governments promised employees in health and pension benefits after they retire? No one knows. Elected officials need to find out now and start funding obligations that need to be honored. At the same time, state employees need new options. It is scandalous that state employees cannot have Health Savings Accounts when a former governor is touting these accounts from the White House and they are available to employees of Wal-Mart, John Deere and many other companies. State employees also should have access to Roth 401(k) accounts, so they can have tax-free income during their retirement years.

**Building on Past Success.** Texas is one of the freest states in which to work and do business, ranking 5th out of all 50 states in the 2006 economic freedom index copublished by the Fraser Institute and the NCPA. This is mainly because Texas government has refrained from unwise actions. More can be done. What is now needed is reform of government institutions that are not working. Texas needs to lead, not follow.

***All supporting research can be viewed at http://www.ncpa.org/pub/ba/ba580/***