

# THE RIGHT TO HEALTH

## in the United States



### WHAT IS THE RIGHT TO HEALTH?

According to the World Health Organization, the right to health is “a state of complete physical, mental, and social well being” including the right to the enjoyment of a variety of facilities and conditions that are necessary for good health. These rights can be divided into two categories: those related to health care and those related to general living conditions affecting health, such as safe water, food, sanitation, shelter, and working conditions. The right to health does not mean that an individual has the right to be healthy, since no government can assure a specific state of health. Rather, the right to health can be understood as a right to an effective and integrated health system, encompassing health care and other determinants of health. The promotion and protection of the right to health is linked inextricably to the promotion and protection of other human rights such as the right to food, housing, education, and safe working conditions. The right to health is guaranteed under numerous United Nations documents including the Universal Declaration of Human Rights (UDHR) and the International Covenant on Economic, Social, and Cultural Rights (ICESCR).

### DOES U.S. LAW RECOGNIZE THE RIGHT TO HEALTH?

The U.S. is bound by the American Declaration on the Rights and Duties of Man, a regional treaty adopted in 1948 which calls on all states to preserve the right to health. Additionally, the U.S. has ratified (formally incorporated into domestic law) the International Convention on the Elimination of all Forms of Discrimination (ICERD), which prohibits discrimination in the realization of the right to health. Nonetheless, the U.S. has refused to recognize the right to health in its public policy and is one of the few industrialized nations that does not guarantee access to health care. This has contributed to the U.S.’s failure to adopt a national universal health care plan, adequately protect people from environmental and occupational health hazards, or even ensure sufficient access to nutrition, an essential component of health.<sup>2</sup>

### IS THE U.S. FULFILLING THE RIGHT TO HEALTH?

Although some of the best health care in the world is available in the U.S., the U.S. health care system falls far short of international human rights standards. Recent surveys show that the American public is unsatisfied with the system currently in place. Nine out of ten Americans “believe the U.S. health care system needs fundamental changes” while nearly two-thirds “support a government guarantee of health care coverage for all.”<sup>3</sup> Our government spends the most per capita of any nation on health care, totaling \$2 trillion.<sup>4</sup> Yet, according to the World Health Organization, the U.S. ranks below every other industrialized nation in life expectancy and infant mortality.<sup>5</sup> It has become increasingly clear that the current system is fundamentally flawed.

#### Availability of Health Care in the U.S.

Many Americans take access to skilled doctors and state of the art medical facilities for granted. However, an estimated 50 million Americans live in areas that have been identified by the federal government as “primary medical care health professional shortage areas,” meaning there are too few doctors to serve the population.<sup>6</sup> This need persists despite the fact that the number of doctors per 100,000 people has been increasing rapidly.<sup>7</sup> Shortage areas tend to be either rural communities or predominantly minority neighborhoods in cities. New York has 122.5 primary care physicians per 100,000 people while Idaho has only 56.7 per 100,000.<sup>8</sup> Furthermore, surveys have found that black and Hispanic communities of all income levels are 4 times as likely as others to have a shortage of doctors.<sup>9</sup>

#### Accessibility of Health Care in the U.S.

The high cost of health care acts as a serious barrier to treatment for many Americans. Most Americans depend on health insurance companies to cover their medical expenses. However, approximately 50.7 million Americans are uninsured.<sup>10</sup> Many of the uninsured would like to have health insurance but do not, because their employer does not provide adequate health insurance benefits and the cost of individual coverage is too high. Medical underwriting which requires those seeking insurance to undergo screening can lead insurance companies to reject applications because of “preexisting conditions.” Individuals with serious conditions such as cancer and heart disease, or minor conditions such as acne, back pain, or being 20 pounds over or underweight could be



### HEALTH MUST BE:!

**AVAILABLE** - with governments setting up all the necessary health facilities throughout their territory. These facilities should be provided with water, electricity, trained personnel receiving domestically competitive salaries, and all the essential drugs to serve the entire population.

**ACCESSIBLE** - to everyone without discrimination. Health care must be economically affordable, physically accessible, and accessible to non-English speakers (including people who are deaf or hearing impaired). Health care should give individuals access to relevant information concerning health issues.

**ACCEPTABLE** - requiring that health services are ethically and culturally appropriate, respectful of individuals, minorities, elderly people, and communities, and sensitive to gender and life-cycle requirements.

**ADEQUATE** - such that all health facilities, goods, and services are scientifically and medically appropriate and of good quality, with the necessary equipment, skilled medical personnel, potable water, adequate nutrition, and sanitation.

### EVERYONE HAS THE RIGHT TO HEALTH....

*“Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.” Article 25 (1)*

**Universal Declaration of Human Rights (UDHR), 1948.**



## Accessibility of Health Care in the U.S., continued

considered uninsurable.<sup>11</sup> This system can prevent individuals with relatively minor and treatable conditions from obtaining health insurance. Lack of health insurance leads to negative health outcomes as the uninsured receive less preventative care, less care for chronic illnesses, and fewer hospital services. They are also more likely to die prematurely.<sup>12</sup> Forty-five thousand people die each year because they are uninsured.<sup>13</sup>

The high cost of health care combined with a lack of health insurance affects some groups more than others. Hispanic children are more than 3 times more likely and black children are almost 50% more likely than white children to lack health insurance, leading to poorer health. Black and Hispanic children are almost 2 times as likely to be in less than “excellent or very good health.”<sup>14</sup> Americans with disabilities also face difficulties in accessing care. While people with disabilities are insured at the same rate as people without disabilities, they are four times as likely to have special needs not covered by their health insurance provider.<sup>15</sup> Additionally, one study found that 28% of people with disabilities had postponed needed care because of cost as compared to 12% of people without disabilities.<sup>16</sup>

Disparities are also glaring in the area of mental health. The Surgeon General’s report on mental health released in 2001 revealed that while mental illness is at least as prevalent among racial and ethnic minorities as in whites, minorities have less access to and are less likely to use mental health services, and receive poorer quality mental health care.<sup>17</sup> Subsequent independent reports done in 2003 and 2005 reveal that, since then, not much has changed and minorities continue to face a myriad of barriers in accessing appropriate mental health treatment.<sup>18</sup> Consequently, minority communities have a higher proportion of individuals with unmet mental health needs.

## Acceptability of Health Care in the United States

Linguistic and cultural differences as well as systemic racism can act as barriers to acceptable health care in the U.S. Historically, racist attitudes resulted in unethical research and experimentation on black Americans.<sup>19</sup> Even today, doctors may harbor unintentional racist attitudes which lead them to provide a lower standard of care for minority patients. Research shows that racial and ethnic minorities receive less care and lower quality care than white patients – a disparity that cannot be attributed to differences in income or insurance level.<sup>20</sup> This gap in care may account, in part, for differences in mortality rates from breast cancer. The mortality rate among black women with breast cancer is 68% higher than that of white women.<sup>21</sup>

Effective communication is essential to culturally competent health care,<sup>22</sup> and doctor-patient communication becomes an important issue in a country where 24 million people report speaking English less than “very well.”<sup>23</sup> Federal policy requires health care providers to offer translation services, but such services are not always available and informal translators are likely to make mistakes.<sup>24</sup> This can result in miscommunications which can have serious consequences for patients’ health. For instance, the Hmong language has no concept of cancer. In some cases, inexperienced translators have attempted to explain radiation by saying “we’re going to put a fire in you.”<sup>25</sup> Cultural differences can cause confusion and miscommunication as well. Different cultures may have different understandings of illness and health than doctors trained in Western medicine. For instance, while Western medical practice focuses on the individual, some communities require that the extended family play a central role in managing illness.<sup>26</sup>

## Adequacy of Health Care in the United States

The costs of the U.S. health system are nearly \$2.5 trillion annually<sup>27</sup> and are expected to reach \$4 trillion by 2017.<sup>28</sup> Yet, despite paying thousands of dollars per person on health care each year, Americans do not have better health outcomes. For example, a baby born in Cuba has a better chance of survival than a baby born in the United States.<sup>29</sup> The U.S. health care system is inefficient; its fragmented structure consumes 20-24% of spending in administrative costs, far higher than in countries with a government-run system.<sup>30</sup> Insurance incentives which encourage overuse of expensive medical services also raise costs. Other costs are directed to advertising expenses or profits rather than medical services.<sup>31</sup> Embracing a universal right to health care would not only allow for marginalized groups to access quality services but would also improve the physical, mental, and social well-being of all citizens in the United States.

## U.S. Government Obligations<sup>32</sup>

To ensure the right to health, the U.S. has the following obligations:

### RESPECT

Governments must refrain from interfering directly or indirectly with the enjoyment of the right to health and refrain from taking any retrogressive measures that are incompatible with the enjoyment of the right to health.

### PROTECT

Governments must take measures to prevent individuals and third parties, such as corporations, from interfering in any way with the enjoyment of the right to health.

### FULFILL

Governments must take deliberate, concrete, and positive measures towards the progressive realization of the right to health.

### TAKE STEPS

Governments must take steps to the maximum of their available resources, with a view to achieving progressively the right to health, based on the resources of the society as a whole, not only on the resources within the current budget.

### MEET MINIMUM CORE

Governments must ensure the satisfaction of minimum essential standards and immediately address extreme situations such as immunization against major infectious diseases and access to primary health care.

### NON-DISCRIMINATION

Governments must ensure equity and non-discrimination in access to health care and to the underlying determinants of health, in order to prevent inferior health care opportunities and outcomes for particular communities, whether due to class, race, gender, language or other factors.

### PROTECT MOST VULNERABLE

Governments must actively reach out to marginalized and excluded people, who face the greatest barriers in realizing the right to health.

### MONITOR AND REPORT

Governments must monitor and report on the right to health in relation to both conduct and results, so that the government is held accountable for its action or inaction.

Last updated November 2011

For citations and further information,  
[www.discoverhumanrights.org](http://www.discoverhumanrights.org)



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