



Written by [Joe Wolverton, II, J.D.](#) on May 17, 2010

## Bill Turns Doctors Into Federal Fat Police

If Representative Ron Kind (D-Wis.) has his way, the federal government will soon mandate that state agencies maintain a database of how fat the kids in their jurisdiction are getting. Too fat or too skinny, the government needs to know.

If enacted, every state receiving grant-in-aid funds under the provisions of the bill would be required to under Title 1, Section 101 of the bill to annually track the Body Mass Index of all children ages two through 18. Additionally, the same section obliges all healthcare providers in the state to determine the Body Mass Index of all their minor patients and then forward that data to the appropriate state clearinghouse or agency. Then, the state government must pass on the information collected to the U.S. Department of Health and Human Services for further analysis.



[The Healthy Communities Through Helping to Offer Incentives and Choices to Everyone in Society Act of 2010](#), introduced by Representative Kind, a member of the House Ways and Means Committee, funds a dizzying roster of programs and regulations aimed at reducing obesity rates by such means as putting nutritional labels on the front of food products, subsidizing businesses that provide fresh fruits and vegetables, and offering taxpayer-funded counseling to overweight children and their enabling parents.

The aforementioned Section 101 of the bill amends the Public Health Services Act. The relevant portion of the bill alters current law and mandates that healthcare providers record "the age, gender, height, and weight of each person vaccinated to calculate the body mass index of such person." Further on the law instructs doctors to "report to the relevant department of the State in which such health care provider practices the data collected."

When asked about the requirement that such data not only be collected, but reported to the states and federal government, a spokesman for Representative Kind remarked, "However, it is important to note that no one is forced to come in for a doctor's visit to get their BMI tested. BMI will be taken at times when the child makes an otherwise scheduled doctor's visit." That response was apparently intended to quell the fears of parents concerned that by taking their children to the doctor they will open themselves to monitoring by state and federal agencies regarding the manner in which they raise their children. So, according to the Congressman's office, there is a simple way around getting caught in that trap: don't take your kids to the doctor.

For those who have never struggled with your weight, you might be unfamiliar with BMI. Body mass index (BMI) is calculated by dividing one's weight in pounds by one's height in inches squared, and then multiplying that number by 703. Any number over 24 is considered overweight, with higher



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numbers resulting in a diagnosis of obese (BMI = [weight / (height x height)] x 703).

Section 102 of the bill requires that all "eligible entities" have "the capacity to store basic demographic information (including date of birth, gender, and geographic area of residence, height, weight, and immunization data for each resident of the State." Then, the information must be made available to all "doctors, nurses, other licensed medical professionals, and officials of the relevant department in the State charged with maintaining health and immunization records."

To fund all this collecting, collating, exchanging, and analyzing of "each resident of the State," this same section offers grants to the states so that they can buy the necessary equipment and hire the necessary personnel in order to get their data collecting infrastructure up to par. This includes "purchasing new computers, computer equipment, and software."

For those doctors who are concerned that they are not trained to carry out such mandates, the bill provides grant money to be spent on "training programs for medical professionals to aid such professionals in taking BMI measurements and discussing such measurements with patients." Federal money, federal taxpayer dollars, are to be used teaching doctors and nurses to measure the height and weight of patients. Who needs medical/nursing school when you've got federal overseers with deep pockets?

There are a few conditions set for receiving this boon. First, states must "ensure that BMI measurements will be recorded for children ages two through 18 on an annual basis; second, that for "each child in the State for whom such measurements indicate a BMI greater than the 95th percentile for such child's age and gender," the parents or guardians must be given information on how to reduce that number and information on appropriate state programs aimed at eliminating childhood obesity.

Section 102 (f)(2) of the bill requires that the Secretary of Health and Human Services share all the data collected under the provisions of the bill with Congress and other government officials, including the Secretaries of Education and Agriculture, and that this be accomplished within one year of the analysis of the information. The purpose for which the legislative and executive branches of this government must be brought into the loop is not addressed in the bill.

The bill's cosponsors include Representatives Earl Blumenauer (D-Ore.), Mary Bono Mack (R-Calif.), Marcia Fudge (D-Ohio) and Gregorio Sablan (D-Mich.).

At a press conference last week to announce the introduction of the bill, Kind emphasized it would help "busy American families. " Hard-working moms and dads are too busy to raise their children in the manner deemed most fit by our Parents on the Potomac, so their natural authority must be circumvented and the work must be done for them. We must keep them working, however, so that programs like this may continue to be funded from the tax dollars tautologically extorted from them for the continued growth of the government.

The involuntary recruitment of medical professionals in the federal government's mission to accumulate and analyze the most personal data of every man, woman, and now child in the United States in reprehensible and frightening. This relationship is likely to create a chilling effect on the willingness of parents to take their kids to visit the doctor. How anxious will parents be to see the pediatrician if they know that the results of any tests, treatments, or counsel regarding their child's health are going to be recorded and reported to the federal government?

What will be the long-term costs of instilling this fear in moms and dads? Will reluctance to make the federal government a partner in the rearing of their children cause otherwise concerned and committed



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parents to reconsider taking their children to the doctor? Will ailments go untreated because parents refuse to allow the federal government to be informed as to their children's health? While the supporters go to great lengths lamenting the crippling "costs of fighting obesity," there is not a single syllable spoken on these other more universal and potentially more harmful costs that would accompany the enactment of such a law.

Another more crucial omission is the reference in the bill to any constitutional basis for implementation of such a program. Article 1, section 8 of the United States Constitution enumerates the powers granted to Congress and nowhere therein is there mention of the weighing, measuring, or monitoring of our nation's youth.

Perhaps the health and welfare of all citizens of this Republic would be better served if the obesity of our national government were treated. The federal fitness program would not include "bike paths" and "health eating options," rather it would mandate chaining down the government and refusing to feed it until it reaches a healthier size and weight. To assist us in reaching our goal, we could devise a formula similar to BMI in order to measure the overall health of the government. We could call it CMI or Constitutional Mass Index.

CMI would be calculated by taking the number of provisions in a bill that are not within Congress's enumerated powers and adding that to the cost in dollars of such an unlawful measure. Then, that sum would be multiplied by 1787 (the year the Constitution was signed) with any result over 0 being rejected for registering too high on the CMI scale.

HR 5209 is currently awaiting deliberation by the House Subcommittee on Highways and Transit.



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