Issue Brief Series on California's Reparations Task Force Newly Released Interim Report

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In our last blog, "Reparations in California: NHeLP Launches New Issue Brief Series on California's Reparations Task Force Newly Released Interim Report" we discussed the passage of AB 3121 in 2020 which formed the California Reparations Task Force. The Task Force was established to study the institution of slavery and its ongoing impact on African American Californians today. In June 2022, the Task Force released their interim report which proposes numerous recommendations for reparations, including compensation, rehabilitation, and restitution for African Americans, with special consideration to those who are descendants of persons enslaved in the U.S. Before July 1, 2024, the Task Force will issue a final report on recommendations for reparations before the scheduled repeal of the bill. The Task Force was supposed to issue the final report and sunset by July 1, 2023, but the deadline was extended to next year.

The interim report focuses on several areas of systemic and institutional racism at the federal, state, and local levels, including within the health care system. This issue brief focuses on those recommendations and ways that California is working to shift towards a future of health equity and ways it can do more to dismantle anti-Black health policies and practices.

Anti-Black Health Laws and Discriminatory Policies

The interim report calls for the identification and elimination of anti-Black health laws and policies and anti-Black discrimination in health care. Specifically, the Task Force recommends eliminating discrimination by health care providers, inequities to access care, and inaccessibility of health insurance coverage. They also recommend improving the lack of clinical research on health conditions that affect African Americans, the underrepresentation of African Americans among medical and mental health providers, and the lack of race-conscious

public health policy. Additionally, the Task Force recommends adequately funding the needs of health-focused community organizations who are on the ground addressing the health needs of Black and African American communities.

The implementation of U.S. federal and state anti-Black health laws and discrimination in health care was rooted in pseudoscientific racism and influenced by the eugenics movement. Eugenics is based upon the white supremacist ideology that white Anglo-Saxon people are an inherently superior race and any other race is inherently inferior. The eugenics movement was influential throughout the enslavement of Africans and the 1880s as a way to prove that Black people were biologically suited to slavery.

Due to this ideology, federal and state governments passed laws to further damage the health of enslaved people, while failing to provide them with public health and health care services. Enslaved people were denied treatment in hospitals, denied access to mental health care, were tortured by enslavers with no legal consequence, and physicians dangerously experimented with surgeries and procedures on enslaved people without repercussion. California was no stranger to enslavement. During the Gold Rush, white southerners migrated to California with hundreds of enslaved Black people, where they were forced to toil in gold mines, cook, serve, and perform manual labor, despite illness.

This ideology persisted post-enslavement. Eugenicists enacted laws that resulted in the forced sterilization of "undesirable races," specifically Black people, to create and maintain a white supremacist nation. In fact, California is home to some of the most influential proponents of the eugenics movement in the U.S. California was one of 30 states that enacted involuntary sterilization laws. The sterilizations were performed in state institutions, hospitals, and prisons.

In the 1920s, Black people constituted over one percent of California's population, but accounted for four percent of total sterilizations. By 1964, over 20,000 people were sterilized, which was more than any other state. Thousands of mental health patients were forcibly sterilized across California, in which Black patients were more likely to be sterilized than white patients. Although, in 1979, federal sterilization regulations required voluntary consent from the person being sterilized. Between 2006 and 2010, almost 150 people imprisoned in California's women prisons were sterilized without proper authorization while giving birth – among the women sterilized, many were Black and Latina. Moreover, some incarcerated women were not aware they had been sterilized until they requested their medical records with the help of a lawyer or social worker.

The legacy of enslavement and the implementation of discriminatory and anti-Black health laws has caused substantial harm to the health and well-being of Black Californians. As a way

to resolve some of those harms, California has implemented anti-discrimination laws. The Unruh Civil Rights Act (California Civil Code section 51 et seq.) provides that every person is entitled to equal access to services provided in all business establishments and public agencies—including medical clinics and hospitals—without regard for the person's sex, race, color, religion, ancestry, national origin, disability, medical condition, genetic information, marital status, sexual orientation, citizenship, primary language, or immigration status. In addition, in 2021, California became the third state to offer reparation payments, setting aside $7.5 million for victims of forced sterilization.

In conjunction with codifying anti-discrimination laws and offering monetary reparations, California needs to do more to address the physical and mental trauma inflicted onto Black Californians. Due to the passage of discriminatory laws, forced sterilizations, medical experimentation, and many other forms of state violence, health disparities still heavily impact Black communities. Health disparities occur when there is a lack of trust in medical providers, lack of access to resources, and lack of culturally competent medical care, which is prevalent within predominantly Black communities. To address these health disparities, it will require creating new systems rooted in culturally humble, linguistically appropriate, and experientially informed essential services to assist Black Californians in navigating the physical and mental trauma and receiving the care they need and deserve.

Provide Support Services to Black Californians Impacted By Anti-Black Health Policies

Several recommendations in the report propose compensation and access to free, quality health care programs, services and supports. Particularly, for individuals permanently damaged by anti-Black health care system policies and treatment. California, like other states and the federal government, actively participated in subjecting African Americans to cruel and dehumanizing state-sanctioned practices such as forced sterilization, medical experimentation, racist sentencing disparities, police violence, environmental racism, and psychological harm. While many believe these violent and harmful practices are in the past, they are not. Therefore, it is foundational and necessary in order to disrupt and eliminate barriers to health care.

While a lot has changed in the health system, health disparities persist for underserved populations, including among Black communities. Major health reforms like the Affordable Care Act certainly changed access to care for the better, but disparities remain.

Recently, California has implemented changes that aim to advance health equity, particularly through the multi-year California Advancing and Innovating Medi-Cal (CalAIM) Initiative. One

of the core objectives of CalAIM is to improve health outcomes among underserved populations. Black populations make up approximately 6% of the state's population and 28% of Medi-Cal enrollees.

For example, California's elimination of the Medi-Cal asset limit and premiums, which unfairly applies only to the Non-MAGI programs, is a major win to making Medi-Cal a more equitable program. These exclusive requirements of Non-MAGI not only take away monthly income out of the pockets of low-income older adults and persons with disabilities, the asset limit is a strict rule that requires such enrollees to remain in poverty by making them choose health coverage at the expense of accumulating wealth. The U.S. has a long history of racist policies that undermine intergenerational wealth accumulation for Black people. Since Non-MAGI enrollees usually require ongoing access to medical care, this rule exacerbates disparities especially for Black enrollees. Both eliminations are major wins to expand eligibility and retention of Medi-Cal for people who cannot afford interruptions in coverage and already experience inequities in accessing care. The asset limit has a long history of exacerbating racist policies for Black Californians. Both eliminations will significantly expand the number of Californians, including for Black populations, who can qualify for free, full scope Medi-Cal coverage and not have to constantly spend down their hard earned assets.

In the same vein, California must go further. For example, advocates have long pushed for getting rid of the Estate Recovery Rule, which also has a long racist history of widening the wealth gap among Black communities. Health programs like Medi-Cal must not only be available to all, but low-income individuals and families, including those who are historically underserved, should not have to worry about what will happen to their assets or taking care of their families after they pass away.

Reform Medical Education and Access to Health Care

The Task Force also recommends that the state provide ongoing medical education, including about illnesses and other health conditions that have historically impacted African Americans. It is well established that the medical system, including medical academic institutions, hold biases and do not provide sufficient education to mitigate racial biases in the medical field. The failure of our larger medical system to confront racial prejudices and biases means that Black patients bear the burden of sub-quality, discriminatory, and unsafe health care when our health system should protect Black patients. This leads to incorrect diagnoses and damaging health consequences.

Historically, California also perpetuated anti-Black policies and practices as a recipient of Hill-Burton Act funds. The Hill-Burton Act allocated federal funding to segregated health care

facilities, which resulted in racist and inadequate health care, discrimination against Black providers, as well as outright refusing health care to Black patients.

Today, the state is gradually addressing gaps in education about race in medical schools and provider spaces, but it is not moving fast enough. Due to the ways that power and privilege have been leveraged within the medical system against Black patients, there remains deep mistrust in the medical field at large. Recent reports of widespread racism and ongoing mistrust today negatively impacts the health of Black patients. Until education about race is more thoroughly integrated and prioritized into medical institutions, our medical field will continue to fail Black patients who deserve respectful and quality health care.

Continue Reforms on Medi-Cal Benefits and Services

The interim report also calls for continuing to reform the Medi-Cal program. The recommendation suggests implementing "benefits and services to increase flexibility for the use of community evidence practices designed, tested and implemented by the Black community and reduce the tendency to use culturally bankrupt evidence based practices that are not field tested."

Medi-Cal was created to provide health coverage for low-income Californians, including children and their parents, pregnant people, seniors, people with disabilities, non-elderly adults, and immigrants. There is an array of benefit services that Medi-Cal covers which includes reproductive and sexual services, mental health services, substance use disorder services, gender affirming care, and other services and supports necessary.

As mentioned earlier, Black Californians are overrepresented in Medi-Cal. California holds the fifth largest Black population of any state. Research has shown that racism and structural barriers in the health care system prevent Black Californians from achieving the health they actively seek and the Medi-Cal program is no different. According to the *Listening to Black Californians* report, nearly four in ten Black Californians with Medi-Cal coverage have been treated unfairly by a health care provider because of their race or ethnicity, and more than one in three report avoiding care out of concern they will be treated unfairly or with disrespect.

Although Medi-Cal is a health care program created to provide health care services to low income Californians, the process to receive care can be complex and unmanageable for an individual to navigate. The CalAIM initiative seeks to address these issues through the implementation of several programs. The goal of CalAIM is to extend services beyond hospitals and health care settings directly into California communities in order to meet people where

they are in life, address social drivers of health, and break down the walls of health care. CalAIM is a commitment to address barriers that Black Californians disproportionately experience when navigating the Medi-Cal system.

Additional benefits that have been incorporated into Medi-Cal to help increase flexibility and accessibility to community evidence practices, include full spectrum Doula Care and the Community Health Worker/Promotores benefit.

Doulas are an integral part to securing birth justices for Black pregnant persons. Doulas have supported Black families in addressing factors that impact birth outcomes, such as income, environment, nutrition, and housing. Doulas have transpired and developed from the destructive effects of oppression and exclusion from health care systems and programs due to racism and anti-Blackness. As a result, Black communities have pursued health by relying upon their own knowledge, community-defined practices, and resources through establishing funded and operated hospitals in underserved areas and medical schools.

Similar to doulas, community health workers have also impacted the health outcomes of Black communities through providing health knowledge and self-sufficiency through outreach, community education, informal counseling, and social support and advocacy. Please note that "community health workers" is an umbrella term used to encompass a range of titles in reference to community-based health workers.

Although doulas and community health workers are necessary to help address some of the health inequalities that exist within the health care system, it is not the only solution. Health disparities and inequities must be addressed through systematic and structural change.

Addressing Disparities at the Intersection of Race and Gender

Key recommendations in the Reparations Task Force's interim report calls on identifying and eliminating biases and discriminatory policies that lead to higher rates of maternal injury and death among Black women. The report adds that the state must ensure that Black women and LGBTQ+ Black people have access to competent, trained medical care for reproductive and sexual health services.

California has taken incremental steps to address the ongoing disparities for Black Maternal Health and LGBTQ+ health. Effective in 2020, the state passed the California Dignity in Pregnancy and Childbirth Act (SB 464) without opposition. The new law requires certain providers and facilities that provide perinatal care and other birthing services to offer evidence-based implicit bias programs with a refresher course required every two years. The

courses must cover 10 specific topics, including unconscious biases and misinformation, power dynamics, the histories of oppression against "minority communities," and local perspectives on provider-community relations. The Act is the first of its kind in the U.S.

California also passed the Transgender-Inclusive Care Act (SB 923). This bill requires cultural competency training to address harmful biases and discrimination for Transgender, Gender-Diverse, and Intersex (TGI) patients, which disproportionately impacts TGI patients of color. However, such courses and trainings must be required for all health providers, because racial biases and discrimination show up in all corners of the health system. There also needs to be a level of oversight and monitoring to ensure accountability. Education alone will not fix the health system. It must be matched with action.

This year California, in partnership with advocate stakeholder groups ,worked to protect access to abortion and reproductive freedom in response to the Supreme Court's *Dobbs* decision. The state recently launched a dedicated website on abortion access. In November, California voters overwhelmingly voted to enshrine a fundamental right to abortion and contraceptives in the California constitution.

Conclusion

The path to reparations and collective healing from California's racist past and present requires a lifelong commitment. The Reparations Task Force's interim report is a sobering account of the legacy of anti-Black violence and oppression in the state and how it has manifested into the health care system today. California must continue to invest resources beyond the interim report, and the Reparations Task Force; it must invest in putting their recommendations into solid and consistent action.