

Overview of Independent Payment Advisory Board (IPAB)

Also known as Independent Medical Advisory Board.

Everyone with an interest in health care needs to know about the far-reaching control being given to the Independent Payment Advisory Board (IPAB). These political appointees will not be subject to either Congressional or Judicial oversight – they will have far reaching control over not just health care, but any other segment of our country having any interaction with health care – which is almost everything. IPAB will be deciding how and what health care you will be receiving.

All Americans – liberal, conservatives, and moderates alike – should be concerned with the unchecked power given to IPAB and the Secretary of Health and Human Services (HHS) by the Patient Protection and Affordable Care Act (PPACA). Our government was founded on a system of checks and balances so that no one group could easily run over the rights of others.

Pending court cases are currently challenging regulations issued by the Secretary of HHS for what some view as violations of religious rights. However, the additional powers granted with IPAB will not be appealable to the courts. With a change in the ruling party, IPAB also could eventually be used by conservatives, or other groups - without the ability of either Judicial or Congressional oversight. Absolute powers are the essence of dictatorships, not democracies. Is this what we want for our country? We need checks and balances where both the Congress and Courts can protect any group against tyranny.

The Patient Protection and Affordable Care Act (PPACA) sets up a 15-member review board appointed by the President and charged with reducing the per capita growth rate of Medicare spending – in itself a good goal.

Looking at the actual law is important. The original wording in PPACA is difficult reading, but **the 18 pages setting up IPAB in the Social Security Act, Sec. 1899A are readable and should be mandatory reading for anyone interested in health care – patients, doctors, and legislators.**

Key points of IPAB:

- 1) IPAB mandates cuts in Medicare spending using a flawed methodology which already has been shown to be unrealistic and unworkable when only applied to physicians(*). IPAB cuts will now be based on all Medicare spending and will therefore be even larger and more unrealistic.
- 2) Hospitals, long-term care facilities, and suppliers of goods are exempt from cuts until 2020 – even though they account for over 30% of Medicare payments.
- 3) Essentially physicians, and Part C and D of Medicare will shoulder the cuts.
- 4) “The proposal shall not include any recommendation to ration health care, raise revenues or Medicare beneficiary premiums...increase Medicare beneficiary cost sharing (including deductibles, coinsurance, and copayments), or otherwise restrict benefits or modify eligibility criteria.” Sounds good, but indirect rationing of healthcare will occur from the loss of healthcare providers, who won't be able to stay in business with large cuts in

reimbursement, at the same time that healthcare needs are increasing as many baby boomers enter Medicare.

- 5) IPAB proposals for Medicare can only be changed by a 60% vote in each house of Congress plus the consent of the President – a nearly impossible hurdle.
- 6) IPAB makes recommendations to the Secretary of HHS on the rest of health care (private sector, non-government paid services) and there is no Congressional oversight of IPAB or the Secretary on the rest of health care outside of Medicare.
- 7) There is no judicial review of any policies implemented by the Board or HHS.
- 8) The Secretary of HHS has all the same powers as IPAB.
- 9) The board can only be discontinued by Congress with a 60% vote in both houses, plus the approval of the President, and more importantly – only during a 6 month window in 2017. So, for the next 5 years, Congress cannot repeal IPAB unless PPACA is repealed. **
- 10) Defunding the Board will not work as it can take donations or the Secretary of HHS alone has all of its powers.
- 11) “The Board may secure directly from any department or agency of the United States information necessary to enable it to carry out this section.” (This includes evaluating all things affecting private sector medical care.)
- 12) The members of the board are to have no other job, and no more than half of the members can have been providers or managers in health care.

The Secretary of Health, and appointed bureaucrats, are given wide ranging powers to make essential health care decisions which are not under the oversight of either Congress or the Judicial System. They have the power to set criminal and civil fines and penalties. Practicing physicians, or others actively engaged in Health Care are prohibited from decision-making. Hospitals, which receive over one third of all Medicare spending, will be included in the cost estimates but not shoulder any of the payment reductions for the next seven years. The public is given the illusion this will improve access and quality of care.

The creation of the Independent Payment Advisory Board (IPAB) embodies the heart of the Patient Protection and Affordable Care Act (PPACA – Obama Care). PPACA is not the same as Romney Care. It is not just about providing health care to the uninsured or providing supposedly “free” benefits to people like insurance for kids up to age 26 and portable health care with no restrictions on preexisting conditions – those could all be done with simple legislation – perhaps with bipartisan support. The problem with both IPAB and PPACA is about giving uncontrolled power to non-elected political appointees.

Don’t listen to the news reporters, organizational lobbyists, or fact checking groups all of which may have their own political objectives – go to the source document your self! It is only 18 pages.

You can Google the 18-page Law “Social Security Act, Sec. 1899A”, or you can read an attached highlighted copy of the Law with commentary to help with understanding it.

* (SGR – Sustainable Growth Rate is a flawed method of trying to control the costs of physician charges in Medicare by not allowing them to grow faster than the national economy. There are multiple problems with the way it calculates these cuts so it has never been implemented and has gotten a “temporary” delay each year by Congress for a decade. Currently if implemented, SGR would cut physician payments approximately 30%.

** This is as written in law but Congress may be able to overwrite any law.