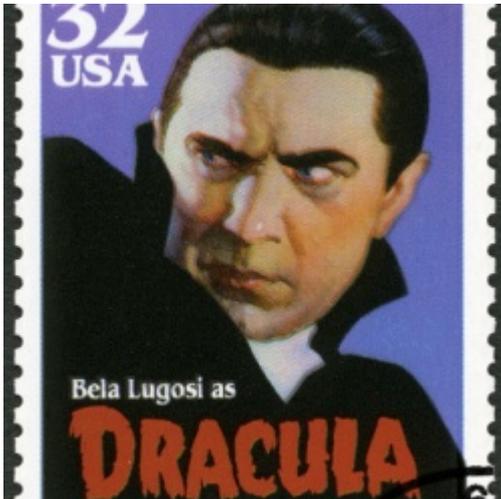


Is Independent Payment Advisory Board the First Skirmish in Repealing Obamacare?



By Chuck Dinerstein, MD, MBA — February 16, 2017



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Three separate bills have been introduced (2 in the House, 1 in the Senate) to drive a stake into a vampire like Board, which has no members, little funding and bipartisan support for its demise – the Independent Payment Advisory Board (IPAB). [1] Created as part of the Affordable Care Act, you know it as ObamaCare, it is a cost-control mechanism designed to maintain per beneficiary costs of Medicare within certain guidelines. IPAB's Renfrow, the person giving the undead Board life is Paul Spitalnic, the actuary for the Centers for Medicare and Medicaid Services (CMS) who believes that Medicare costs will exceed the statutory limits in 2017 and require awakening the IPAB.

Like other vampires, there are restraints on its powers. Specifically, it cannot reduce benefits and cannot increase beneficiary premiums or co-payments. It cannot raise taxes. It can only reduce Medicare payments to providers, the doctors, hospitals, device, and pharmaceutical companies. The recommended reductions trigger an expedited review in Congress. Congress can choose to enact their own cost savings, but if not, IPAB's recommendations automatically go into effect. And the legislative timeline, especially for a dysfunctional Congress coming into an election year is short – from January 2018 when the proposals are due to August 2018 when they automatically go into effect. No wonder the villagers with flame and pitchforks in their hands are anxious and concerned, they have tried to kill the IPAB since its inception, and now it appears that the IPAB, without funding or members, is alive nonetheless.

The villagers point to two flaws with the IPAB. First, it is unaccountable to elected representatives or in fact the electorate for its decisions. After all, IPAB members, if they existed would be appointed by the President with the approval of Congress. Second, IPAB can only recommend

reductions in payments; it cannot ‘nudge’ reform or efficiencies – it cannot recommend a structural change in healthcare. But before getting our pitchforks and jumping to join the villagers, it should be remembered that Congress created the IPAB as part of the ACA. While we are not privy to their thinking [2], the IPAB improved the Congressional Budget Office’s (CBO) scoring of the legislation, enhancing its chance of passage, because it enacted a fail-safe means of staying within the budget. As to the argument that it is unaccountable to the electorate and its representatives, IPAB shields the legislature from enacting cuts that are unpopular – why else create an appointed board?

In some ways, the fight about the IPAB should be reminiscent to stakeholders as the fighting around Medicare’s original control measure, the Sustained Growth Rate (SGR). Enacted in 1997 it featured the same mechanism of mandatory physician payment reductions when Medicare growth exceeded GDP. Every year, for the next 18 years, attempts were made to end the SGR. Congress instead pushed implementation a year or two further down the road. The annual efforts to institute a ‘doctor fix’ to prevent payment reductions was accompanied by lobbying and monies flowing into the election campaigns of Congress.

But not to worry, our story has a Van Helsing (the aged doctor and vampire hunter of Dracula). In the absence of the IPAB, the decisions over what is to be cut from Medicare, if anything, will rest with the Secretary of Health and Human Services, Tom Price. I am sure he will have many voices speaking to him on this issue, but two, in particular, are worth noting. The Medicare Payment Advisory Commission (MEDPAC) – a nonpartisan legislative branch agency providing Congress with analysis and policy advice on the Medicare program and the AMA’s Relative Value Scale Update Committee (RUC) – a multispecialty committee advising CMS on physician payment. To understand how physician providers fees are determined, and better understand the terrain of Transylvania Washington, we will provide an introduction to RUC later this week.

[1] You may remember earlier discussion of the IPAB, it was part of the death panels allegedly created by the ACA ‘identified’ by Governor Palin

[2] Remember Nancy Pelosi’s “But we have to pass the [health care] bill so that you can find out what’s in it....”

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