

Testimony of Senator John Cornyn
House Energy and Commerce Committee Subcommittee on Health
July 13, 2011

Chairman Pitts, Ranking Member Pallone, and members of the Committee, thank you for the opportunity to testify before you regarding the Independent Payment Advisory Board (IPAB) created in the Patient Protection and Affordable Care Act.

The goal of the IPAB is one we all share: we must find some way to control the costs in Medicare. The Medicare Trustees' warned Congress in May that Medicare will be insolvent in 2024, five years earlier than they predicted last year. They noted that Medicare's unfunded liabilities, the gap between Medicare's future benefit costs and future taxes and premiums it expects to collect, are more than \$24 trillion and growing. The Medicare Trustees' have now issued a Medicare funding warning every year since 2006, in which they have alerted Congress that more than 45 percent of Medicare's funding will come from general revenues.

The nonpartisan Congressional Budget Office (CBO) issued a warning of its own in June in its 2011 Long-Term Budget Outlook. CBO projects that, if current laws remain in place, spending on the major mandatory health care programs alone will grow from approximately 6 percent of GDP today to 9 percent in 2035 and would continue to increase thereafter.

Something must be done about the unsustainable growth rate of the Medicare program. We should all be able to agree on that. Like many Americans and many members of this committee,

however, I believe that IPAB is not the answer. Members of this committee are familiar with how the IPAB is supposed to function. Here are my concerns.

First, I am concerned that the only tool in the IPAB toolbox will be cutting payments to providers, and we are already seeing how government price controls are restricting access to care. The American Medical Association estimates that one in three primary care doctors limit the number of Medicare patients they see¹ and in my home state of Texas, 42 percent of physicians are considering opting out of Medicare completely due to reimbursement issues.² Although there has been some concern recently about the rhetoric surrounding the IPAB, continuously cutting reimbursement to Medicare providers will prevent access to care for Medicare beneficiaries.

Second, I am concerned that IPAB's enormous power will grow at the expense of Congress and the people's elected representatives. Congress created the Medicare program in 1965 and it should be Congress that is held accountable to the millions of seniors who use Medicare for their health care. The creation of IPAB, however, takes the accountability from the American people and Congress and places it in the hands of 15 unelected, politically appointed members. Seniors subjected to IPAB recommendations cannot challenge the recommendations in court or remove members from the Board. The only way a member of the Board can be removed is by the President for neglect of duty or malfeasance in office.

¹ "AMA Online Survey of Physicians: The Impact of Medicare Physician Payment on Seniors Access to Care." May 2010.

² Texas Medical Association 2010 Physician Survey.

My concerns should be familiar to many of you because these are the same concerns I am hearing from my constituents, and which I suspect you are hearing from yours. Scott and White Healthcare located in Temple, Texas, recently wrote to me in support of repealing IPAB saying, “SWH is supportive of initiatives to identify fraud and waste in the healthcare system and to incentivize high value healthcare in this country, but we have concerns and questions about the process that will be used by the IPAB to implement cost savings in Medicare and Medicaid.”

On June 24, 2011, over 270 organizations from the Pennsylvania Medical Society to the New Jersey Academy of Ophthalmology, wrote members of Congress regarding their concerns that IPAB will “not only severely limit Medicare beneficiaries’ access to care but also increase healthcare costs that are shifted onto the private sector.” They also cited concerns about IPAB’s lack of accountability and inability to improve the quality of care in the Medicare program.

I want to thank members of the House of Representatives – both Democrats and Republicans – for being skeptical of the IPAB from the beginning, and for supporting repeal now. In January 2010, 72 House Democrats joined Republicans asking then Speaker Pelosi to take IPAB out of the health care bill. On Monday, Congressman Pallone was quoted in Politico stating, “I’ve never supported it [IPAB], and I would certainly be in favor of abolishing it.” Congressman Roe enjoys bipartisan support for his legislation repealing IPAB and I hope some of my Democratic colleagues in the Senate will cosponsor my bill to repeal IPAB in the near future.

As we repeal the IPAB, we must find a better way to achieve our bipartisan goal of reducing the unsustainable growth rate of Medicare spending. One model is the Medicare Prescription Drug

program, which has come in under budget by over 40 percent. The Prescription Drug program has achieved these results by injecting competition and choice into the system. Many other programs at the state level and in the private sector have also cut costs without sacrificing quality or access to care, and Congress should take a look at them as well.

Medicare beneficiaries have paid their hard earned money into Medicare for years and it is should be these same beneficiaries, their families, and their providers, who determine the health care that is right for them.

Thank you for allowing me to testify today. I am happy to take any questions members of the committee may have.