



Written by [Michael Tennant](#) on May 11, 2013

Boehner, McConnell Refuse to Help Fill ObamaCare Rationing Panel

House Speaker John Boehner (R-Ohio) and Senate Minority Leader Mitch McConnell (R-Ky.) have told President Barack Obama that they will not assist him in selecting members for ObamaCare's Independent Payment Advisory Board (IPAB) — the panel charged with deciding which procedures will be covered under Medicare and at what rates.



IPAB is the primary means by which the Affordable Care Act (ACA) seeks to control federal healthcare spending. The board, consisting of 15 members appointed by the president and confirmed by the Senate, has the power to force Medicare cuts in any year in which the program's spending is projected to exceed a target set by the ACA.

"Basically, there's a certain amount of money that's allocated for Medicare spending each year," Rep. Phil Roe (R-Tenn.) told the [Daily Caller](#). "Once you hit that amount that's been appropriated, this board, this bureaucratically appointed board, can then decide, not based on quality or need, but based on strictly cost" whether to pay for a particular treatment.

According to Wesley J. Smith in the [Weekly Standard](#):

IPAB possesses the raw power to force Congress to legislate via its "fast track authority"; IPAB's financial targets must be enacted into law by August 15 of each year, beginning in 2014. Not only that, if Congress refuses to legislate the level of cost containment demanded by IPAB (or if the president vetoes the bill), IPAB's original recommendation is automatically imposed. In other words, IPAB's cost-cutting word is law. And if that isn't enough: Congress can't dissolve IPAB until 2017 — and then only by a supermajority vote of both houses.

Thus, it's not hard to see why Roe declared that IPAB, not [the Medicare-paid end-of-life counseling](#) that rightly alarmed many Americans, is "the real death panel" in ObamaCare — a point on which even then-Rep. Barney Frank (D-Mass.), an ultraliberal, seemed to agree when he [cosponsored an IPAB-repeal bill](#) Roe introduced in 2011.

In a May 9 [letter](#) to President Obama, Boehner and McConnell expressed similar sentiments. Arguing that the ACA "raid[s] Medicare to pay for a massive new entitlement," the two congressional leaders wrote:

In order to allow supporters to claim that the law's Medicare cuts would be realized in the future, it tasked IPAB with reducing payments to providers or eliminating payments for certain treatments and procedures altogether. These reduced payments will force providers to stop seeing Medicare patients, the same way an increased number of doctors have stopped taking Medicaid patients. This will lead to access problems, waiting lists and denied care for seniors.



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The unfortunate result is that decisions which impact America's seniors will be made in the absence of the democratic process, without the system of checks and balances that would normally apply to important matters of public policy. Yet your recent budget called for expanding IPAB by tasking it with making even larger cuts to Medicare than those called for in the health law, even though the trustees of the Medicare program have told us that IPAB's provider cuts would be "difficult to achieve in practice," because of the denied care that seniors would experience.

While the ACA gives the president the ultimate authority to appoint the members of IPAB, it requires him to "consult with" the leadership of both houses of Congress on 12 of the members. By refusing to cooperate with Obama on this matter, Boehner and McConnell are making it clear that the responsibility for the "death panel" rests solely on Democrats. As Smith pointed out at [National Review Online](#), "It would be paradoxical to state on one hand that the IPAB is horrible policy, and then on the other, suggest people you would like to see in its leadership."

It is unclear whether Republican intransigence will prevent Obama from nominating a full complement of IPAB members. Even if all 15 members were to be seated, however, it wouldn't make much difference in the immediate future, says [Business Insider](#):

The IPAB is only needed if Medicare costs are projected to go beyond economic growth plus an additional percentage point in any given year, said Allison Hoffman, an assistant professor of law at UCLA. Right now, Medicare costs aren't growing fast enough to require the board to decide which cuts to make to Medicare providers.

"There's actually no work for the IPAB to do this year," Hoffman told *Business Insider*.

Still, once the board is seated, it will be that much more difficult to dislodge. After all, if it were to operate for a few years in which it had nothing to do, people might begin to believe that it would never do them any harm. Plus, once there are board members to dispense favors to certain constituencies, those constituencies will mobilize to protect IPAB from any efforts at repeal. Non-cooperation is therefore vital to the anti-IPAB movement.

Now that congressional Republicans have signaled their unwillingness to legitimize IPAB, what else can they do to rid Americans of the panel? Smith offers some worthwhile advice: "The next step is to use Senate confirmation hearings to educate the American people about why the IPAB is un-American and shatters representative democracy.... Then, Republicans and commonsense Democrats in the Senate should refuse to confirm any nominated members to the board, using a filibuster if necessary. After that, defunding and eventual repeal."

Photo of House Speaker John Boehner and Senate Minority Leader Mitch McConnell: AP Images



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