



Written by [Raven Clabough](#) on December 27, 2010

Death Panels May Be Back

The [New York Times](#) writes:

Under the new policy, outlined in a Medicare regulation, the government will pay doctors who advise patients on options for end-of-life care, which may include advance directives to forgo aggressive life-sustaining treatment.

Congressional supporters of the new policy, though pleased, have kept quiet. They fear provoking another furor like the one in 2009 when Republicans seized on the idea of end-of-life counseling to argue that the Democrats' bill would allow the government to cut off care for the critically ill.



While the final approved version of ObamaCare authorizes Medicare coverage of yearly physical examinations, the new rule would force Medicare to cover "voluntary advance care planning," to discuss end-of-life treatment during annual visits.

The *New York Times* explains:

Under the rule, doctors can provide information to patients on how to prepare an "advance directive," stating how aggressively they wish to be treated if they are so sick that they cannot make health care decisions for themselves.

Proposed end-of-life planning faced harsh opposition when former vice-presidential candidate Sarah Palin used the term "death panels" to describe the consultations found in Section 1233 of the healthcare bill prior to the final congressional vote. The section even allowed three states to advise patients to seek a legal assisted suicide.

The Obama administration has managed to circumvent Congress by achieving the formation of death panels through the regulation-writing process. [The Blaze](#) indicates, "Despite the political firestorm of controversy surrounding such end-of-life planning, the Obama administration insists that research supports its decision to move forward with the controversial measure."

According to the preamble of the administration's Medicare regulation, which quotes the *British Medical Journal*, "Advance care planning improves end-of-life care and patient and family satisfaction and reduces stress, anxiety, and depression in surviving relatives."

Democrats Representative Earl Blumenauer of Oregon and Senator John D. Rockefeller IV of West Virginia are leading proponents of end-of-life planning as a service under Medicare. Blumenauer authored the end-of-life proposal. "It will give people more control over the care they receive," he contended. "It means that doctors and patients can have these conversations in the normal course of business, as part of our health care routine, not as something put off until we are forced to do it."



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According to the *Federal Register*, “voluntary” advance care planning is defined as follows: “(1) an individual’s ability to prepare an advance directive in the case where an injury or illness causes the individual to be unable to make health care decisions [and] (2) Whether or not the physician is willing to follow the individual’s wishes as expressed in an advanced directive.”

[Life News](#) reports that the new rule was issued by Donald Berwick, “the prominent rationing advocate pro-life groups strongly opposed.” Berwick, *Life News* continued, “was given a recess appointment when Republicans in the Senate blocked his confirmation to head Medicare and Medicaid and lead implementation of Obamacare.”

Opponents of the proposal assert that it will encourage patients to forgo life-saving care. Elizabeth D. Wickham, executive director of a pro-life Christian advocacy group, remarked, “The infamous Section 1233 is still alive and kicking. Patients will lose the ability to control treatments at the end of life.”

Likewise, John Hayward, writer for the conservative *Human Events*, indicates, “A recent report from The Physicians Foundation showed 74 percent of doctors polled were considering restrictions on their practice over the next three years due to Obamacare, while 40 percent were making plans to drop out of private practice altogether. Those grim numbers only describe the effect of rationing on the existing supply of medicine. The tidal effect of fewer medical students will be devastating in years to come.”

As expected, the administration has challenged news of the proposal, which went viral this weekend, asserting that it is nothing new. White House spokesman Reid Cherin claims:

The *Times* story is wrong. This benefit was signed into law under President Bush. The only thing new here is a regulation allowing the discussions — authorized in 2003 by the prescription drug benefit — to happen in the context of the new annual wellness visit created by the Affordable Care Act.

But, as noted by *Life News*, “the crux of the issue” for opponents is the financial incentive to doctors to push a potential rationing or revocation of treatment, a measure proposed by the Obama administration, not the Bush administration.



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