

Jonathan Gruber, Transparency and Obamacare's IPAB



Economist Jonathan Gruber speaks at a conference of the Workers Compensation Research Institute in Boston on March 12, 2014.

Reuters

The administration faced a political firestorm last week, when videos emerged featuring MIT professor—and paid Obamacare consultant—**Jonathan Gruber** making comments on “the stupidity of the American voter,” and claiming that only a deliberately opaque and deceptive process was essential to the law’s enactment. But the administration may soon face a policy controversy as well—for the law features a board that can operate in nontransparent ways, and which will empower technocrats like Mr. Gruber himself.

While the Independent Payment Advisory Board, or IPAB, may bring to mind the latest Apple product offering, the reality is far different. Designed to control health spending, the board of 15 experts—nominated by the president, based in part on suggestions from congressional leaders, and confirmed by the Senate—will have the power to make binding rulings to slow the growth in Medicare outlays. Furthermore, the administration’s budget **proposed** giving IPAB even more authority, by reducing the caps on Medicare spending the board will be charged to enforce.

IPAB has yet to be constituted. The budget sequester and other savings proposals have thus far kept Medicare spending below the targets that would trigger IPAB recommendations, and Republican leaders have indicated to President **Barack Obama** their disinclination to provide the White House suggestions for nominees. As a result, the president has yet to make formal nominations—not least because, if the Medicare spending target is reached, requiring IPAB to make formal recommendations to Congress, but IPAB does not do so, that power would then lie within the Department of Health and Human Services itself.

IPAB faces several characteristics that could imbue it with the lack of transparency Mr. Gruber infamously discussed in his speeches:

- Former Obama administration official **Peter Orszag** wrote a **piece** for the New Republic in which he cited IPAB as one way to “counter the gridlock of our political institutions by making them a little less democratic.” In 2012, Politico **stated** that, while in the White House, Mr. Orszag had “pushed” to include the board in the law.
- Section 3403 of Obamacare, which creates IPAB, does not require the board to conduct any open meetings. The **law** merely says that “the board may hold such hearings...as the board considers advisable;” it does not require IPAB to do so.
- Likewise, while the law prohibits IPAB from “ration[ing] health care,” the term “rationing” is nowhere defined in statute. Former Health and Human Services Secretary **Kathleen Sebelius** conceded this point, and acknowledged that HHS would likely have to define “rationing” before the board could begin its work—but it has yet to do so.

Prior to the recent controversies, Mr. Gruber seemed like exactly the type of expert—an “individual with national recognition for [his] expertise in health finance and economics”—that might have received an appointment to IPAB. Interviewed for a **2011 article** about who might serve on the board, Mr. Gruber didn’t rule it out entirely, while admitting that statutory restrictions on IPAB members’ outside activities might dissuade individuals from applying.

As it happens, Mr. Gruber currently serves on the board of the Massachusetts Connector, an entity charged with implementing the Commonwealth’s health care overhaul. However, to judge from **comments** made to reporters last week, an aide to Gov. **Deval Patrick** seemed keen to downplay his influence: “When his term expires at some point, that will be a decision for someone else at that time.”

But beneath the political controversy lies a philosophical question. Fifty years ago last month, **Ronald Reagan** summarized the concern in his “**A Time for Choosing**” speech:

This is the issue of this election—whether we believe in our capacity for self-government, or whether we abandon the American revolution and confess that a little intellectual elite in a far-distant capital can plan our lives for us better than we can plan them ourselves.

Therein lies the Obama administration’s bigger problem—how to reconcile a law that increases the influence of independent experts with a high-profile example of such an expert who repeatedly treated American voters with open hostility and contempt. At a time when both the health care law and the federal government itself remain historically unpopular with voters, the Gruber controversy only heightens the perceived distance between the governing and the governed.

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