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Farenthold
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Fattah
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Flake
Fleischmann
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Frank (MA)
Franks (AZ)
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Fudge
Gallegly
Garrett
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Gingrey (GA)
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Grimm
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Hartzler
Hastings (WA)
Hayworth
Heinrich
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Herger
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Hultgren
Hurt
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Jones
Jordan
Kaptur
Kelly
Kildee
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Langevin
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Larsen (WA)
Larson (CT)
LaTourette
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Levin
Lewis (CA)
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Lipinski
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Lofgren, Zoe
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Lungren, Daniel E.
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Maloney
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Ross (AR)
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Tsongas
Turner (NY)
Turner (OH)
Upton
Van Hollen
Velázquez
Walberg
Walden
Walz (MN)
Wasserman Schultz
Watt
Waxman
Webster
Welch
West
Westmoreland
Whitfield
Wilson (FL)
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Wittman
Wolf
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Yarmuth
Young (FL)

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Amodei
Andrews
Baldwin
Benishek
Bilbray
Bishop (NY)
Boswell
Brady (PA)
Burgess
Capuano
Castor (FL)
Chu
Clyburn
Coffman (CO)
Conaway
Costa
Costello
Courtney
Cravaack
Critz
Cuellar
Dent
DesJarlais
Dold
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Stivers
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Waters
Woodall
Yoder
Young (AK)

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Gohmert
Owens

NOT VOTING—19

Bachus
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Bono Mack
Canseco
Chaffetz
Davis (IL)
Gonzalez
Jackson (IL)
Kinzinger (IL)
Lee (CA)
Manzullo
Marino
Neugebauer
Paul
Rangel
Rogers (MI)
Rokita
Shuster
Young (IN)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining.

□ 1505

So the Journal was approved.

The result of the vote was announced as above recorded.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3697

Mr. BUCSHON. Mr. Speaker, I ask unanimous consent that I be removed as a cosponsor on H.R. 3697.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3359

Mr. CLAY. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor from H.R. 3359.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

PERSONAL EXPLANATION

Ms. JACKSON LEE of Texas. Mr. Speaker, on H. Res. 591, roll call vote 119, I was detained on official business, and I would like to indicate that I would have voted ''no'' on H. Res. 591, the rule to H.R. 5.

PROTECTING ACCESS TO HEALTHCARE ACT

Mr. UPTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the legislation and to insert extraneous material on H.R. 5.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The SPEAKER pro tempore. Pursuant to House Resolution 591 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the state of the Union for the consideration of the bill, H.R. 5.

□ 1505

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H.R. 5) to improve patient access to health care services and provide improved medical care by reducing the excessive burden the liability system places on the health care delivery system, with Mr. WESTMORELAND in the chair.

The Clerk read the title of the bill.

The CHAIR. Pursuant to the rule, the bill is considered read the first time.

General debate shall be confined to the bill and amendments specified in House Resolution 591 and shall not exceed 6 hours equally divided among and controlled by the respective chairs and ranking minority members of the Committees on Energy and Commerce, the Judiciary, and Ways and Means.

The Chair recognizes the gentleman from Michigan (Mr. UPTON).

Mr. UPTON. Mr. Chairman, I yield myself such time as I might consume.

I rise today in support of the PATH Act, which addresses two of the most glaring deficiencies in the President's overhaul of the health care system.

By what it does and also by what it fails to do, the health care law threatens access to quality health care for literally millions of Americans.

Section 3403 of the Affordable Care Act established the Independent Payment Advisory Board, or IPAB. A panel of 15 unelected, unaccountable bureaucrats will be given the power to make major decisions regarding what goods and services are valuable. These decisions will then be fast-tracked, essentially bypassing the legislative process, with almost no opportunity for discussion or review. The PATH Act prevents this by repealing IPAB.

I suspect that most Americans still believe that patients and their doctors should have a voice and should be able to decide what health care services that they find valuable. I think that they still believe that major policy decisions affecting the Medicare program and the health care system in general need to go through the regular legislative process and be subject to the normal system of checks and balances according to the Constitution.

It is encouraging that the cosponsors of legislation to repeal IPAB include 20 Democrats and that the bill was favorably reported out of the Energy and Commerce Committee earlier this month without any recorded opposition—a voice vote.

I encourage my colleagues on both sides of the aisle to support repealing IPAB and not to block its passage at the expense of our seniors in a blind effort to defend the President's signature legislation.

The legislation today also includes reforms that will actually lower the

cost of health care, a glaring omission in the President's health care law. The health care law failed to provide any meaningful reform to the broken and costly medical liability system, which is currently one of the largest cost drivers of our health care system.

The current system is responsible for as much as $200 billion a year in unnecessary spending on defensive medicine. It fails to compensate injured patients in a fair and timely matter, and it threatens access to quality health care by driving good doctors out of high-risk specialties such as obstetrics and neurosurgery.

□ 1510

According to the CBO, these commonsense reforms will reduce the Federal deficit by $48.6 billion over the next 10 years.

How have opponents proposed to fix this present system? They want to spend more; $50 million in grants for State demonstrations, as called for in the health care law, is not a solution. It's an abdication of responsibility. The President promised to look at Republican ideas for medical liability reform. Passing this legislation is the very first step towards allowing the President to make good on that promise.

Health care decisions should be made between a doctor and a patient. That relationship doesn't work when bureaucrats and trial lawyers come between them. So I urge my colleagues to vote in support of this legislation.

Mr. Chairman, I reserve the balance of my time.

Mr. WAXMAN. Mr. Chairman, I yield myself such time as I may consume.

I rise in opposition to H.R. 5. It combines two very bad ideas into one terrible bill that is anti-senior, anti-consumer, and anti-health.

It's no accident that we're considering the legislation during the second anniversary of the Affordable Care Act, because this is a thinly veiled, partisan attempt to confuse the public and obscure the law's success in covering young people, reducing costs for seniors, and providing improved health benefits.

Title I of the bill before us, the medical malpractice provisions, have been around for over a decade. They have not been enacted under Democratic or Republican Congresses and Presidents because they are an extreme intrusion on the authority of the States to set their own liability rules and would shield bad actors from accountability when they cause injury and death.

Let's be clear: this bill is much broader than traditional medical malpractice legislation. It protects manufacturers, distributors, suppliers, marketers, even promoters of health care products. And it gives them protection even if they intentionally cause harm. Insurance companies and HMOs are protected as well. The bill shields drug and device manufacturers with complete immunity from punitive damages, no matter how reckless their conduct, so long as their products were at one time approved by the FDA.

This bill preempts State action in an area that has traditionally been left to the States. To the extent that we do have a medical malpractice problem in this country, it should be addressed at the State level. But this bill not only strips away State law; it puts in place a Federal scheme that will not reduce medical errors, will not award appropriate and adequate compensation when an injury occurs, and will not lower health care costs.

The second part of the bill would repeal the Independent Payment Advisory Board, which helps keep Medicare costs under control if they rise more than anticipated. IPAB's role is to recommend evidence-based policies to improve Medicare without harming patients.

Repealing IPAB is the height of hypocrisy. The main Republican attack on Medicare and the Affordable Care Act is that we cannot afford them. House Republicans are proposing changes that would destroy Medicare because they say taking care of our seniors just costs too much. Yet today they will vote for a bill that eliminates one of Medicare's cost-saving innovations and saddles Medicare with over $3 billion in unnecessary costs. It's no wonder that the public holds Congress in so little regard.

The Republican master plan for Medicare is to end the guarantee coverage and shift more costs on to seniors and people with disabilities. They don't hold down the costs; they simply shift them on to seniors and disabled people. Under Medicare, they pay more for it out of their own pockets. This is part of the Republican assault on Medicare. It would repeal the backstop in Medicare that keeps Medicare affordable for seniors.

I want to be clear about what the IPAB is and what it isn't. The board is explicitly in statute prohibited from rationing. It also is prohibited from making recommendations that increase costs to seniors or cut benefits. IPAB also doesn't take away the role of Congress. IPAB makes recommendations, but Congress can and should act on those recommendations.

We hear a lot about these unelected bureaucrats. Let me tell you that, around this place, there are a lot of elected bureaucrats. Here is the fundamental difference between the Democratic approach to Medicare and the Republican approach: Democrats in Congress are committed to preserving Medicare and protecting seniors' benefits; Republicans have proposed ending Medicare's guarantee of coverage so they can pay for tax breaks for oil companies and millionaires. Let me underscore that. They want to take money out of Medicare so they can give more tax breaks to billionaires and oil companies.

Like some of my colleagues, I have concerns about some aspects of the IPAB. I don't agree with the premise that we need IPAB to make Congress do its job. But no one should think that the hyperbole of IPAB's Republican critics—rationing, death panels, and faceless bureaucrats pulling the plug on sick patients—represents reality. That came from their propaganda word masters.

House Republicans are voting to repeal the Independent Payment Advisory Board because they simply want to eliminate Medicare. They want to provide vouchers instead of benefits. They want to shift costs to the beneficiaries. They want to put Medicare into a death spiral and leave insurance companies in charge of seniors' care. Then it would be the insurance companies that could then ration care, cut benefits and, according to the Congressional Budget Office, likely increase out-of-pocket costs by $6,000.

Does anybody doubt insurance companies ration care? Try to get an insurance policy if you have a previous medical condition. They won't even cover you, or they will charge you so much you can't afford it. Is that what we want, to let the insurance companies make these decisions for our seniors and disabled people?

H.R. 5 is a partisan assault on Medicare and an assault on patients who are injured by careless doctors and drug companies and an assault on States' rights.

I urge my colleagues to vote ''no'' on H.R. 5.

Mr. Chairman, I reserve the balance of my time.

Mr. UPTON. Mr. Chairman, I yield 2 minutes to the chairman emeritus of the Energy and Commerce Committee, Mr. BARTON, the gentleman from Texas.

(Mr. BARTON of Texas asked and was given permission to revise and extend his remarks.)

Mr. BARTON of Texas. I thank the distinguished chairman.

We have just heard an argument from one of the authors, if not the chief author, of the new health care law. So it's understandable that former Chairman Waxman would rise in indignant defense of his product and opposed to this bill.

H.R. 5, the PATH bill, is in actuality a reasoned response to an irrational attempt to socialize health care in the United States of America. The Independent Payment Advisory Board, which this legislation repeals, is an independent 15-member panel appointed by the President, unless the President doesn't appoint it, in which case three of the President's chief advisers become the board. And if they don't decide to do it, then one person, the Secretary of Health and Human Services, has the authority when this kicks in in 2014 to make all kinds of decisions that directly impact health care in America.

I don't think, and a majority of my colleagues don't think, that that's the way it should be done. So this bill in one paragraph—I think on page 24—repeals that section. That is a good start.

It is not the end-all be-all, but it is a good start to regaining control of health care by individuals and the marketplace.

□ 1520

The other thing this bill does is it puts in a medical malpractice reform that has been long overdue. The President, in his State of the Union, said he was for medical malpractice reform, but I am told that he has said he is not for this medical malpractice reform, just like he is not against the Keystone pipeline, but he called Senators to oppose it when it came up in the other body.

We need medical malpractice reform. Independent observers have said that this bill, which Congressman GINGREY of Georgia is the original sponsor of, would save $48 billion over, I think, a 10-year period if enacted—$48 billion. That's real reform. It does not preempt States. It allows the States to continue their medical malpractice laws that they've already enacted.

So I ask that we vote for this piece of legislation.

And I thank the chairman and the subcommittee chairman and all of the Members who have made it possible.

Mr. WAXMAN. Mr. Chairman, I am pleased at this time to yield 3 minutes to the distinguished ranking member and soon-to-be chairman of the Health Subcommittee, the gentleman from New Jersey (Mr. PALLONE).

Mr. PALLONE. I thank the gentleman from California.

I have a great deal of respect for my former chairman and colleague from Texas, but as I listen to him, the problem is that it's always the same: It's my way or the highway. And it's just very unfortunate, because there have been many opportunities in the committee where we could have worked together to come up with legislation on things like malpractice reform and IPAB, but that's not what we get from the Republican side of the aisle. They just constantly want to do their own thing.

And as he said, the President may be for malpractice reform, but if he's not for this malpractice reform, then he's a bad guy. And that's the point: We need to get together. If we're ever going to accomplish anything, we need to work together; and I don't see that happening on the Republican side of the aisle today.

I am very disappointed in the process of considering H.R. 5. I am disappointed and frustrated that my Republican colleagues had an opportunity to bring to the floor a bill that I and some of my Democratic colleagues supported, but what they decided to do instead is to simply play political games, political games over and over again.

All sectors of the health care industry agree that the Independent Payment Advisory Board, IPAB, should be repealed. I am the first one to tell you how much I am opposed to IPAB. In fact, during the Energy and Commerce Committee's Subcommittee on Health markup, I voted in favor of its repeal. But, unfortunately, my Republican colleagues have no interest in truly repealing IPAB. They only care about defacing the Affordable Care Act and continuing their political game of repealing the law piece by piece. How do I know that? Because they've decided to pay for the IPAB repeal with H.R. 5, one of the most controversial and historically partisan bills of the past decade.

We've been through this same debate. Every time, every year, H.R. 5, on the floor again. Each year the Republicans have been in charge, we're forced to consider identical legislation that contains the exact same areas over which we remain divided. In fact, the Republicans weren't even able to enact this bill into law when they had the majorities in the House and Senate and the Presidency, and the reason is because they have zero desire to solve the problems of this country. All they are interested in accomplishing is a political message to take home to their districts.

I have said again and again that I would work with my colleagues on truly addressing malpractice reform, but those calls have gone unanswered. Over the years, there has been little effort on the part of Republicans to reach across the aisle and to work with Democrats on a satisfactory solution to medical liability reform.

I do understand that medical malpractice and liability is a very real problem for doctors in my home State and in the country, but H.R. 5 is not the answer. Any true reform must take a balanced approach and include protections for the legal rights of patients and be limited to medical malpractice.

Today my vote on this package is a ''no'' vote on H.R. 5 alone. As I have stated, it's too controversial and extreme in its current form. Although it's described as a medical malpractice measure, H.R. 5 extends far beyond the field of malpractice liability.

I am just extremely disappointed. I am being honest in saying this. I am very disappointed that the Republican leadership has robbed many Democrats of their ability to vote cleanly on IPAB repeal and have, instead, yet again, politicized this body.

When will you learn?

Mr. UPTON. Mr. Chairman, I yield 2 minutes to the gentlelady from North Carolina, the vice chairwoman of the Energy and Commerce Committee, Mrs. MYRICK.

Mrs. MYRICK. I thank the chairman.

Mr. Chairman, this is Washington, so we have to have an acronym for everything up here. The IPAB isn't a new techie device but is an example of one of the many misguided parts of the budget-busting health care reform law.

What is this debate really about? We all know that Medicare is headed toward financial catastrophe, and the health reform law only succeeded in putting the program in a more precarious position. There is no easy solution to this problem, but Republicans have put forward a plan that would actually set the program on a healthy fiscal path again, without hurting those who are already on the program.

Of course, because this is Washington, rather than having a hearty debate, this proposal continues to be demagogued and derided. Instead, the health reform bill gave us IPAB, an unaccountable board tasked with limiting procedures and treatments in order to control costs. It's a top-down, unconstitutional, ineffective, and inefficient way to solve Medicare's fiscal problems. And if you think that this board won't make recommendations to limit the use of expensive but life-sustaining treatments, you haven't been paying attention.

But here's something that gets lost in this debate: IPAB doesn't just apply to Medicare benefits for seniors who are on a government program.

First off, those of us who have been here for a while know that private insurers tend to follow Medicare. We see it all the time. Once Medicare changes coverage for a treatment, those decisions push private payers to also move in that direction, because so much of our health care system relies on Medicare's policies. The government already controls so much of our health care sphere that inefficiencies abound.

If that weren't enough, starting in 2015, the IPAB can make decisions about what private plans will cover. Yes, 15 people will be deciding what private companies will be covering. That's what is fundamentally wrong with the health care reform law, and we should repeal the whole thing. But in the meantime, let's repeal this ill-conceived board and address this country's medical malpractice problems while we're at it.

Mr. WAXMAN. Mr. Chairman, I am pleased to yield to an important member of our committee, the gentleman from Texas (Mr. GREEN) for 2 minutes.

Mr. GENE GREEN of Texas. I thank my colleague, the ranking member on our Energy and Commerce Committee.

I rise in opposition to this bill. I am not opposed to all of it; in fact, I am a strong supporter of the repeal of the IPAB provisions. However, we can't undermine Americans' rights in court through placing arbitrary limits on malpractice cases. That's what this bill before us does. We shouldn't solve a bad policy problem by implementing more bad policy. We should be passing good legislation, not trying to pass something that has no chance of becoming law, and that's what this bill does.

The Affordable Care Act, the underlying statute that this bill is amending, has had an enormous positive impact on the constituents I represent, and the law hasn't totally taken effect yet. But it's getting better. I was proud to support this landmark legislation as part of the Energy and Commerce Committee and on the Health Subcommittee.

Before the passage of the Affordable Care Act, my congressional district had the largest percentage of uninsured of any district in our country. We still have a lot of work to do, but things are getting better. For the last 2 years, 53,000 children in my district can't lose the security offered by health insurance due to preexisting conditions; 3,400 seniors have saved an average of $540 on prescription drugs; 9,000 young people now have health insurance that they didn't have before the Affordable Care Act.

The Affordable Care Act is not perfect, but no bill is perfect. The bill before us today is far from perfect. I support the repeal of IPAB. I opposed IPAB in 2009 when it came up in our committee markup of the Affordable Care Act. I do not believe a panel of outsiders appointed by the President should take responsibility for what Congress needs to do in making decisions on Medicare payment rates. That's part of our job as Members of Congress. However, this bill has stepped too far; and I want to the opportunity to vote on a freestanding IPAB repeal, but I cannot support H.R. 5 because it's a bridge too far.

□ 1530

Mr. UPTON. Mr. Chairman, I yield 2 minutes to the gentleman from Florida (Mr. STEARNS).

Mr. STEARNS. I thank the distinguished chairman.

This bill, contrary to what the gentleman from Texas said, is an opportunity for him to vote to not let bureaucrats make the decision. He has a chance to do this. I'm a little surprised why he's saying he's against the bill. Of course, I think many of us are going to repeat the same arguments.

The fundamental point is that this bill will save almost $50 billion over 10 years. How many people on this side don't want to save money? I think everybody on both sides of the aisle would like to save money. So this is stopping defensive medicine and untold amount of litigation by passing this bill. This could effectively create lower premiums for everybody and lower the cost of health care.

This bill would eliminate, as pointed out even by the gentleman from Texas, the Independent Payment Advisory Board, given the colloquial name of IPAB. Just this morning, as chairman of the Oversight and Investigation Committee, we held a hearing on the President's failed health care law. It's clear that countless pages of regulation, rules, and requirements for ObamaCare have been incredibly confusing. When we had this hearing, it was brought up clearly that this bill, over 2 years old, has given almost 1,700 waivers to entities who cannot comply with this health care bill.

So my constituents and individuals throughout this country view these massive new rules and regulations as increasing interference by the Federal Government into their lives. And, obviously, business communities are seeking waivers. Seventeen hundred entities are asking for waivers because they can't comply. It creates uncertainty in the marketplace.

So for all these reasons we must pass this bill. In fact, IPAB is SGR on steroids. Rather than fixing the SGR problem in the health care law, Democrats are happy to allow continued cuts to physician payments and then double down on further cuts through IPAB. This is a group of 15 unelected bureaucrats who would save Medicare by making draconian cuts to provider payments. Democrats wanted to control the future cost of Medicare by giving unelected, bureaucrats the power to cut payments to hospitals and to our doctors.

If Democrats were serious, they would support this bill. NANCY PELOSI, the former Speaker and minority leader said, ''We have to pass this bill so you can find out what's in it.'' Remember that quote?

I am determined to make sure we don't have to fully implement the bill so we can see what it costs.

Mr. WAXMAN. Mr. Chairman, I'm always amused when I hear people talk about government interference in our lives. If people think Medicare is an unjust government interference in their lives, they can forgo their Medicare, but I don't know too many people who would like to do that. What the Republicans are proposing is to take that Medicare away from them and turn it over to private insurance. Put that to a vote. I don't think the American people would support that either.

I am pleased to yield 2 minutes to a very important member on our committee, especially the Health Committee, the Representative from the Virgin Islands (Mrs. CHRISTENSEN).

Mrs. CHRISTENSEN. I thank you for yielding.

Mr. Chair, I rise today during a time when we should all be celebrating the many great successes of the Affordable Care Act on its second-year anniversary. Democrats have rightly been applauding the health and economic benefits of affordable, reliable access to high-quality health care services brought about by that landmark law. Not so with our Republican colleagues, who choose to ignore or misrepresent the many benefits millions of people have been enjoying because of the Affordable Care Act.

Then comes this disastrous marriage between two bills—one that will repeal the Independent Payment Advisory Board—which some Democrats like myself support—and the other malpractice bill, which I strongly oppose because it will trample States' rights, providing extraordinary protections for drug and medical device and health insurance companies, making it nearly impossible for those harmed to seek and achieve justice.

I support the IPAB repeal because in its current form it will not achieve significant savings or ensure quality access to health care under Medicare. Additionally, as a physician who practiced for more than two decades, I'm opposed to its broad authority to make recommendations that would detrimentally affect health care providers and eventually Medicare beneficiaries. However, attaching at the very last minute a medical malpractice bill that provides protection to every entity involved in medical malpractice and health care lawsuits except the victim is just plain wrong.

And, no pun intended, but adding insult to injury is the fact that their medical malpractice bill is completely outdated. The bill was designed more than two decades ago. Back then we did have challenges with malpractice insurance, but today those challenges have been addressed. Today, we do not have a malpractice insurance crisis in this country.

I strongly oppose H.R. 5, and encourage my friends on the other side of the aisle in the future, if it's more than just political rhetoric, to quit while they're ahead.

Mr. PITTS. Mr. Chair, at this time I yield 2 minutes to the distinguished vice chairman of the Health Subcommittee, the gentleman from Texas, Dr. BURGESS.

Mr. BURGESS. I thank the chairman for the recognition.

Mr. Chairman, I will focus my remarks on the Independent Payment Advisory Board because it encompasses all that is wrong with the Affordable Care Act. The health law itself contains policies that will disrupt the practice of medicine. Along with the many excesses and constrictions within the law, the Independent Payment Advisory Board represents the very worst of the worst of what will happen.

As a physician, as a Member of Congress, as a father, as a husband, as a patient in his sixties, I am offended by the Independent Payment Advisory Board. This board is not accountable to any constituency, and it exists only to cut provider payments to fit a mathematically created target. The board throws the government into the middle of what should be a sacred relationship between the doctor and the patient. The doctor and the patient should have the power to influence prices and guide care, not this board.

Beyond controlling Medicare, the Independent Payment Advisory Board's rationing edicts will serve as a benchmark for private insurance carriers' own payment changes. Although Mr. WAXMAN bemoaned the fact that private insurance would be part of Medicare, this thing will actually dictate the behavior of private insurances in this country.

The board will have far-reaching implications beyond Medicare for our Nation's doctors. Because of the limitations on what the control board can cut, the majority of spending reductions will come from cuts to part B, the doctors' fees. Doctors will become increasingly unable to provide the

services that the board has decided are not valuable.

Is the answer to squeeze out doctors? Sounds like rationing to me.

So which sounds like the better—Medicare bankruptcy and an unelected board deciding the care of Medicare beneficiaries or doctors and patients deciding and defending the right of the care that they receive?

The future of American health care should not be left up to this board, to this panel. It's an aloof arbiter of health care for seniors who depend on Medicare. I support the repeal of the Independent Payment Advisory Board.

I'll just leave you with a quote from the American Medical Association:

> It puts our health policy and payment decisions in the hands of an independent body with no accountability. Major changes in the Medicare program should be decided by elected officials.

The American Medical Association.

Mr. WAXMAN. Mr. Chairman, I am pleased to yield 3 minutes to my colleague from California, one of the key people in the authorship of the Affordable Care Act, GEORGE MILLER.

Mr. GEORGE MILLER of California. I thank the gentleman for yielding.

Mr. Chair, I came to Congress in 1975. Since that time, I've been involved in the debate over national health reform proposals. Throughout these debates, lawmakers struggled with how to control costs without sacrificing quality care. Unfortunately, for decades, Congress chose to kick the can down the road while costs continue to climb and to soar. This trend ended with Affordable Care Act.

For the first time, Congress put in place specific and identifiable measures that will make our health care system more transparent and efficient. This includes the creation of the Independent Payment Advisory Board. This board will be a backstop to ensure that Federal health programs operate efficiently and effectively for both seniors and taxpayers. We need to give these innovations a chance to work. Because without these innovations, there's little hope to get health care costs under control.

Five hundred thirty-five Members of Congress cannot be nor should they be the doctors who think they know best of the practice of every medical field. Five hundred thirty-five Members of Congress are not immune to special interests that have a financial stake in the decisions that are made—not necessarily in the best interest of the seniors, the taxpayers, or the delivery of medicine in this country, but perhaps in the best interest of their companies. That's why the Affordable Act created an independent board of health experts to make the recommendations to improve the system. It does not usurp the role of Congress. It simply acts as a fail-safe in case government spending exceeds benchmarks. Under the law, doctors will retain full authority to recommend the treatments they think are best for patients. The law also prohibits recommendations that would ration care, change premiums, or reduce Medicare benefits.

In short, this independent board is about strengthening Medicare with evidence-based decisionmaking. Without innovative reforms like the board, Medicare's future will be put in jeopardy. Kicking this can down the road any further will only bolster those who seek to kill Medicare. We must strengthen Medicare, not end the Medicare guarantee.

The Affordable Care Act strengthened Medicare. It extended the life of the trust fund and has already lowered costs for millions of seniors. However, without innovation, our current system will be unsustainable for our Nation's families, businesses, and taxpayers.

The Republican plan to end the Medicare guarantee is no alternative. Innovation is the alternative. I urge my colleagues to support the Independent Payment Advisory Board and reject this legislation.

□ 1540

Mr. PITTS. Mr. Chairman, I would much rather hear from some of our doctor friends who are speaking so eloquently. I have another doctor, a member of the Health Subcommittee, from Pennsylvania. I yield 2 minutes to the distinguished gentleman, Dr. TIM MURPHY.

Mr. MURPHY of Pennsylvania. I thank the gentleman.

Last decade, when I was a State senator of Pennsylvania, I took on HMOs and plans that made decisions by accountants and MBAs and not MDs. It was important to do that because we found that doctors could not make decisions even though they were supposedly empowered to do that. Instead, there were boards that would make decisions for them.

And now here we are with deja vu all over again. We're about to have 15 Presidential appointees—even under the advice of both Chambers of Congress—none of whom are involved with medicine, making decisions with regard to who makes decisions for you in terms of what gets paid and how much gets paid to doctors and hospitals. But as it goes through, what happens if there's a decision that says it's not going to be covered? Can you call the board, itself? No. Can your doctor call the board? No. Can your hospital call the board? No. Can your Member of Congress call the board? No. But, in fact, it would take an act of Congress passed by the House and Senate and signed by the President to override them.

So who is this panel, and what decisions can they make? By law, it's people who are involved with finance, economics, hospital administration, reimbursements, some physicians, health professionals, pharmacy benefit managers, employers, people involved with outcome research and medical health services and economics.

What's missing from that is any requirement that it might be people who have knowledge of such things as oncology, endocrinology, pediatrics, obstetrics, geriatric medicine, family medicine and surgery, and the list goes on and on. So, in other words, what's going to happen here is not only if you like your doctor you may not be able to keep him or her, but if your doctor doesn't like what's going to be covered, there is nothing he or she can do about that. This is not the practice of medicine; this is the practice of government overtaking medicine.

While Americans were begging for us to fix a broken system, what they got was half a trillion in new taxes, half a trillion in Medicare cuts, trillions in new costs, and massive mandates—1,978 new responsibilities of the Secretary of Health and 150 boards, panels, and commissions yet to be appointed. And we don't know what's going to happen. We need to return health care to where it really is going to be fixed.

Mr. WAXMAN. Mr. Chairman, I yield myself 1 minute.

We're talking about the Independent Payment Advisory Board—advisory board.

> The appointed membership of the Board shall include physicians and other health professionals, experts in the area of pharmaco-economics or prescription drug benefit programs, employers, third-party payers, individuals skilled in the conduct and interpretation of biomedical, health services.

Dot, dot, dot. These are people who will give us some recommendations, but they can't give us recommendations to take away services. They can't give us a recommendation to impose more costs on the Medicare beneficiaries. And when they give us their recommendations, Congress can act on it. And if we don't like it, we can change them.

I think we have the Republicans trying to scare people. They come in and say ''Medicare costs too much.'' Well, if it costs too much, that's why we need this backup, to be sure that we're holding down costs. They say, ''it costs too much and therefore let's ends it.'' That doesn't make any sense. I think Americans should not be fooled.

Mr. Chairman, I would like to now yield 3 minutes to my colleague from California, the ranking member of the Subcommittee on Health of the Ways and Means Committee, Mr. STARK.

(Mr. STARK asked and was given permission to revise and extend his remarks.)

Mr. STARK. I want to thank Mr. WAXMAN for yielding to me at this time.

I rise in opposition to H.R. 5, brought to the floor by my Republican colleagues. It does two things. It repeals IPAB as created in the Affordable Care Act, and it enacts a medical malpractice reform long sought by my Republican friends as a way to protect pharmaceutical companies, medical device companies, and health care providers from any liability or full liability when they cause harm or death.

The medical malpractice part of this bill is so bad that the California Medical Association rejects the bill and says to vote ''no'' unless they had a decent medical malpractice reform part in it. And when the doctors will reject medical malpractice reform issues, you know it's got to be bad.

This extreme proposal is really not needed. I happen to agree with the part of the bill that repeals IPAB. We refused to include it in the House version of health reform. And Congress has always stepped in in its congressional manner to strengthen Medicare's finances when needed, and I see no need for us to relinquish that duty. We only have to look at the health reform law. It has extended solvency; it has slowed spending growth; it has lowered beneficiary costs; it has improved benefits, modernized the delivery system, created new fraud-fighting tools. We've done a good job. In fact, the CBO projects that IPAB won't even be triggered until the next 10 years, proving we've already done our job here in Congress of strengthening Medicare's finances.

Today's Republican support to repeal IPAB isn't a sincere interest in providing Medicare for all. They still want to give us an unfunded or underfunded voucher, slash and burn funding. And despite my opposition to IPAB, it's far less dangerous to Medicare than the Republican voucher plan put forth in the House Republican budget this week. IPAB doesn't undermine Medicare's guaranteed benefits and its ability to reduce Medicare spending. It has guardrails to prevent it. It doesn't permit costs to come from reducing Medicare and increasing costs on beneficiaries. It prohibits rationing, and it has annual limits on the cuts. The Republican voucher plan has none of these protections.

The Republicans are continuing their march begun by Newt Gingrich to have Medicare ''wither on the vine.'' I urge my colleagues to vote ''no'' on yet another political stunt, which really, thankfully, is not destined to become law at this time.

Sacramento, CA, Mar. 15, 2012.

RE. H.R. 5 Protecting Access to Healthcare Act.

CMA Position. Oppose Unless Amended.

Hon. JOHN BOEHNER,
Speaker, House of Representatives,
Washington, DC
Hon. NANCY PELOSI,
Minority Leader, House of Representatives,
Washington, DC.

DEAR SPEAKER BOEHNER AND LEADER PELOSI: The California Medical Association has adopted a position of Oppose Unless Amended on H.R. 5 the ''Protecting Access to Healthcare Act.'' While we strongly support the repeal of the Medicare Independent Payment Advisory Board (IPAB) and appreciate the state preemption of medical liability laws that will preserve California's successful MICRA law, we have serious concerns with two additional medical liability provisions that will expose California physicians to even greater liability despite the bill's stated legislative intent to reduce health care costs and insurance premiums.

SUPPORT REPEAL OF THE MEDICARE INDEPENDENT PAYMENT ADVISORY BOARD (IPAB)

CMA strongly opposes the Medicare Independent Payment Advisory Board (IPAB) which thwarts Congress' stewardship of the Medicare program and gives fifteen unaccountable individuals the power to make significant cuts to Medicare. We believe it is Congress' responsibility to ensure the Medicare program meets the needs of their communities. The IPAB is mandated to make draconian cuts if Medicare spending exceeds unrealistic budget targets in 2014. While we appreciate the necessity to control the growth in health care spending, the IPAB mandate does not leave room to actually reform the program, particularly because hospitals and other providers are exempt from the cuts until 2020. It disproportionately harms physicians who are already challenged to provide care to Medicare patients with limited resources. As you know, physicians are facing large Medicare SGR payment cuts over the next decade as well.

These measures are already forcing more California physicians to limit the number of Medicare patients they can accept. If additional cuts take effect, physicians will be forced to leave the program—harming timely access to quality care for California's seniors and military families.

The IPAB was not part of the House Health Care Reform bill because most of the leaders in the California delegation opposed it. Please continue to stand against an IPAB that takes important decisions out of your hands.

MEDICAL LIABILITY: OPPOSE UNLESS AMENDED

For the last several decades, California's medical liability law—MICRA—has successfully protected patients and physicians. It has kept medical liability insurance affordable and thus, protected access to care for California patients while reducing health care costs. CMA appreciates the provisions in H.R. 5 that allow state preemption and the preservation of California's important MICRA law. While we agree with the intent of H.R. 5—to provide MICRA-like protections for physicians in other states—we have serious concerns with two provisions that will increase physician liability costs not only in California but across the country. We believe these provisions are inconsistent with the stated intent of the legislation to reduce insurance premiums and overall health care costs.

1. Fair Share Rule

California has a joint and several liability law that governs economic damages and allows claimants to recover the full amount of economic damages from any defendant. The Fair Share Rule in H.R. 5 will preempt California's law and put full recovery by injured patients at risk. As written, the Fair Share Rule will dramatically increase the potential for physicians to face enforcement proceedings against their personal assets. This will force physicians to purchase increased medical professional liability insurance coverage, which will significantly increase liability premiums in California for physicians.

Therefore, CMA requests the following amendment that would allow states with joint and several liability laws to maintain those important laws.

Page 23, line 4 Add: (b) Protection of States' Rights and Other Laws.

(1) Any issue that is not governed by any provision of law established by or under this title (including State standards of negligence) shall be governed by otherwise applicable State or Federal law.

(2) This title shall not preempt or supersede any State or Federal law that imposes greater procedural or substantive protections for health care providers and health care organizations from liability, loss, or damages than those provide by this title or create a cause of action *or any State law that governs the allocation or recovery of damages among joint tort feasors.*

2. No Punitive Damages for Medical Products and Devices that Comply with FDA Standards

The CMA has serious concerns with granting complete immunity from punitive damages to medical product and device manufacturers, distributors and suppliers. We believe this will force plaintiffs to look only to physicians and other providers to seek relief and will significantly increase physician exposure and liability costs. CMA believes that the United States Supreme Court decision on this issue in Levine v Wyeth was correct and should remain the law because the alleged benefits of providing immunity to pharmaceuticals companies through preemption are far outweighed by the harm to patient care and physicians.

Therefore. CMA urges that subdivision (c) of Section 106 of Title I of the Protecting Access to Healthcare Act be stricken in its entirety.

At the very least, if Title I, Section 106(c) remains in the bill, the CMA requests the following amendments to protect physicians from punitive damages liability that would otherwise be that of the manufacturers and suppliers of medical products and devices.

Page 10, line 14: (c) No punitive damages for products that comply with FDA standards

(1) In General (A) No punitive damages may be awarded against the manufacturer, distributor, *or prescriber* of a medical product, or a supplier of any component or raw material of such medical products, based on a claim that such product caused the claimant's harm where—

Page 16. Lines 24–25: ''. . . or the manufacturer, distributor supplier, marketer, promoter, [or] seller, *or prescriber* of a medical product, . . .''

Page 17, Lines 15–16: ''. . . or the manufacturer, distributor supplier, marketer, promoter, [or] seller, *or prescriber* of a medical product, . . .''

Page 17, Line 25: ''44. . . or the manufacturer, distributor supplier, marketer, promoter, [or] seller, *or prescriber* of a medical product, . . .''

The CMA urges you to accept these important amendments. We appreciate the efforts to repeal the IPAB, to protect California's MICRA law with a state preemption, and to bring liability relief and lower health care costs to the rest of the nation.

Thank you for this important work.

Sincerely,

JAMES T. HAY, MD,
President.

Mr. PITTS. Mr. Chairman, I'd just like to take 30 seconds to respond to the distinguished ranking member before I yield to Mr. BASS.

He mentioned that this so-called expert panel could have physicians and health care professionals. I refer him to section 3403(g) of PPACA on page 423, specifically on the majority for the panel. There's a specific prohibition that you can't have a majority of health care providers or physicians on IPAB. And as far as these being recommendations, you can't appeal; you can't sue this board. Only with three-fifths vote in both Chambers with commensurate cuts can you overturn their recommendation.

I yield 1 minute to the gentleman from New Hampshire (Mr. BASS).

Mr. BASS of New Hampshire. I thank my friend from Pennsylvania for yielding to me.

Mr. Chairman, I rise in support of the bill consisting of two previous bills—tort law reform and a repeal of the Independent Payment Advisory Board.

I wasn't here when the Obama health care, the Affordable Care Act law, was passed. In listening to the debate over the last half hour, you would have thought that nobody supported this bill. Of all the speakers we've had, I think three have admitted they supported it then, and now you'd think that it never existed. Well, any agency that's scored by CBO to save $3.1 billion is not going to do it by providing more services for seniors or innovation or preservation. It's going to do it by cutting payments to providers or by cutting services to beneficiaries. It's as simple as that.

This is the beginning of, perhaps, the core of what represents a Federal Government takeover of health care services in this country. Sure, there may be a process whereby recommendations could go to the Congress; but instead of the relationship being between a patient and a doctor, it is going to be governed more by a Federal bureaucracy that will make these decisions.

I urge support of the pending bill, H.R. 5.

□ 1550

Mr. WAXMAN. Mr. Chairman, I yield myself 1 minute.

We hear these things now, but we heard them in 1965 when Medicare was being proposed—socialized medicine, an unfair government intrusion into our lives.

Medicare is a popular, successful program. I support it. But the Republicans didn't support it then, and they don't support it now.

The Affordable Care Act is an excellent bill. I proudly voted for it because as a result of that legislation we're already seeing young people being able to get insurance up to 26 years of age on their parents' policies. We're already seeing seniors getting help to pay for their prescription drugs. We are seeing insurance companies prohibited from the abuses where they put lifetime limits, and they're going to be stopped from denying people health insurance because of preexisting medical conditions. This is good, and we're going to get even more benefits for over 30 million Americans when the bill is fully in place.

It's a good bill. The Republicans would like to repeal it. But let's not forget, they didn't want Medicare in the first place.

Mr. Chairman, now that I've used my minute, I would like to yield 3 minutes to a member of our committee from the State of Illinois (Ms. SCHAKOWSKY), who has been very involved in helping seniors on all of these programs, whether it's Social Security or Medicare or Medicaid. She is very knowledgeable and highly respected—a little shorter than the podium, but I'm pleased to yield to her.

(Ms. SCHAKOWSKY asked and was given permission to revise and extend her remarks.)

Ms. SCHAKOWSKY. I thank the gentleman very much for yielding to me.

I hope the American people understand what's going on here today. H.R. 5 represents another in a long line of partisan political attacks on the Affordable Care Act.

Since its passage 2 years ago, this historic law has been under attack. Today's bill would repeal the Independent Payment Advisory Board. The Affordable Care Act is replete with provisions to lower Medicare costs, from unprecedented tools to fight fraud to efficiency reforms. The IPAB is a backstop to those provisions.

What the Affordable Care Act does not do—and what the IPAB is prohibited from doing—is increase costs to seniors and people with disabilities or cut benefits. That may be why my Republican colleagues don't like it. If you look at their proposal to take away the Medicare guarantee and turn it into a voucher program, you can see why. Instead of lowering costs for everyone as the Affordable Care Act does, the Republican plan just shifts costs onto the backs of those who can least afford it—seniors, disabled people, and their families. These are the same people who are harmed by the tort-reform provisions of H.R. 5—Federal intrusion coupled with disregard for injured consumers.

Instead of working to improve health care quality, as the Affordable Care Act does, H.R. 5 simply restricts the rights of patients harmed by dangerous drug companies, nursing homes, medical device manufacturers, doctors, and hospitals.

I am especially opposed to arbitrary caps on noneconomic damages. Economic damages provide compensation for lost wages. Noneconomic damages provide compensation for injuries that are just as real and damaging, injuries liking excruciating pain, disfigurement, loss of a spouse or a grandparent, inability to bear children. These arbitrary caps are particularly discriminatory for seniors and children who don't have lost wages and are not worth much.

H.R. 5—higher costs to seniors and disabled people and fewer legal rights for injured consumers. It's a bad deal on both counts.

I hope the American people understand what is going on here today. H.R. 5 represents another in a long line of partisan political attacks on the Affordable Care Act.

Yesterday, my colleagues on the other side of the aisle released their FY 2013 budget proposal. Once again they propose to repeal the Affordable Care Act and once again they propose to end the Medicare guarantee.

I find it ironic that my colleagues on the other side of the aisle criticize the Medicare program because they claim cost growth is out of control and the program is going bankrupt.

The Medicare provisions of the Affordable Care Act are replete with provisions from cutting fraud to improving the efficiency of health care delivery that will lower costs—without shifting costs to seniors and people with disabilities or cutting the Medicare guarantee. The Independent Payment Advisory Board is designed as a backstop to those provisions—which CB0 tells us will be effective enough that we will not even need IPAB for the next decade.

And, here we are today set to consider legislation to repeal the Independent Payment Advisory Board not because my colleagues on the other side of the aisle have a better idea but because they want to get rid of the entire Affordable Care Act and eliminate Medicare.

If IPAB has to act, the Affordable Care Act explicitly states that it can only make recommendations regarding Medicare and cannot make recommendations that would ration care, raise premiums, increase cost-sharing, restrict benefits or modify eligibility. IPAB is also supposed to consider the effect of its recommendations on Medicare solvency, quality and access to care, the effect on changes in payments to providers, and the impact on those dually eligible for Medicare and Medicaid.

There are certainly ways to improve IPAB and the Affordable Care Act—but the bill before us doesn't make improvements—it just repeals. I wish my colleagues on the other side of the aisle would be honest with seniors, people with disabilities and the American public about their replacement plan.

What exactly is the Republican alternative? My colleagues on the other side of the aisle have talked a lot about Medicare costs and sustainability, but what is their plan? If the alternative is anything like the proposals included in the Republican budget—which shifts costs to seniors and empowers insurance companies—then I choose IPAB.

My colleagues on the other side of the aisle have strategically paired IPAB repeal with medical malpractice reform.

We do have a medical malpractice crisis in this country—but it is not that injured consumers are suing too much—in fact, the number of suits has declined. It is not that injured consumers are receiving exorbitant compensation—in fact, the size of settlements and awards have been stable—tracking the rate of medical inflation.

The crisis we are facing in America is that too many patients are the victims of medical errors and too many good doctors are being overcharged by private insurers. We cannot make this a fight between doctors and trial lawyers and lose sight of the fact that too many Americans will be affected by malpractice. Their lives and the lives of their families will never be the same. It is their interests that we must protect.

One in three patients admitted to a hospital experiences an ''adverse event''—they get the wrong prescription, receive the wrong surgical procedure, acquire an infection. But this goes far beyond preventable medical injuries in hospitals. This legislation is so broadly drafted that it will apply to medical devices, pharmaceutical products, nursing homes and for-profit health insurers.

We haven't any assurance that this bill will reduce the incidence of medical malpractice—nor has anyone given us any assurance that it will lower medical liability premiums. But one thing is certain—it will trample on states' rights and take away long-standing civil justice

rights. Taking away patient rights does not improve the quality of our health care system—it just leaves injured consumers without recourse.

I especially oppose arbitrary caps on non-economic damages and other restrictions on the rights of medical malpractice victims to seek accountability and compensation for their injuries. We are going to hear from proponents of H.R. 5 that these caps are not harmful because economic costs—medical bills and lost wages—are left uncapped.

But what about injuries that are just as painful but less quantifiable—the inability to bear children, the loss of a spouse or child or grandparent, excruciating pain, permanent and severe disfigurement.

Non-economic damages compensate injured victims for very real injuries—and those who suffer those injuries deserve their full and fair day in court.

H.R. 5 is an attack on victims who, for the rest of their lives, will suffer as a result of negligence and malpractice. We should not add to their pain by denying them their legal rights.

I urge my colleagues to reject H.R. 50.

Mr. PITTS. Mr. Chairman, at this time I yield 1 minute to another distinguished member of the Health Subcommittee, the gentleman from Kentucky (Mr. GUTHRIE).

Mr. GUTHRIE. I thank the gentleman for yielding.

I rise today in support of H.R. 5, legislation to repeal the IPAB and make critical reforms to our medical liability system.

The IPAB was created in the health care law as a way to contain growing costs, but the reality is those savings will likely be found by removing health care decisions from patients and doctors and placing them in the hands of unelected and unaccountable bureaucrats.

H.R. 5 also addresses the critical issue of medical liability reform. Our current tort system is driving doctors out of the practice of medicine. Those who remain are forced to practice defensive medicine, further increasing health care costs.

The Congressional Budget Office has estimated that medical-liability reform will save hardworking taxpayers over $40 billion. H.R. 5 makes two commonsense reforms to protect doctors and patients. I urge my colleagues to support the bill.

Mr. WAXMAN. Mr. Chairman, may I inquire how much time each side has.

The Acting CHAIR (Mr. HASTINGS of Washington). The gentleman from California has 36 minutes remaining, and the gentleman from Pennsylvania has 44 minutes remaining.

Mr. WAXMAN. Mr. Chairman, at this time I'd yield 5 of our 36 minutes to the gentleman from Iowa (Mr. BRALEY).

Mr. BRALEY of Iowa. I thank the gentleman for yielding.

Mr. Chairman, here we go again. My conservative friends are once more trying to take away rights of American citizens that are as old as the Declaration of Independence and the Bill of Rights. They're doing it by talking about taking away the rights of patients without ever mentioning the words ''patient safety.''

This issue has been with us for a long time. In fact, about 10 years ago, the highly regarded Institutes of Medicine did three studies on the issue of patient safety and the alarming cost it adds to our overall health care delivery system.

The first of their studies was called ''To Err is Human: Building a Safer Health System.'' On this cover it says: ''First, Do No Harm.'' The study concluded that every year up to 98,000 people die in this country due to preventable medical errors. It also talked in this study about the cost of those medical errors. It estimated that the cost of failing to stop these preventable medical errors is between $17 billion and $29 billion a year. Now, if you multiply that over the 10 years of the Affordable Care Act, that means if we eliminated those errors, we would save $170 to $290 billion a year.

So do we focus on patient safety and preventing medical errors? No, we focus on taking away the rights of the most severely injured. Because it's what caps on damages do, they penalize those with the most egregious injuries and those who have no earning capacity. So who are those people? They're seniors, they're children, and they are stay-at-home mothers. They're the ones most severely penalized when you take away rights guaranteed in the Bill of Rights and the Declaration of Independence. So I oppose this bill in the name of the Tea Party, not just the current Tea Party, but the original Tea Party, which was founded in opposition to taxation without representation.

If you go to Thomas Jefferson's Declaration of Independence, you will see that grievance against King George listed. Right below it in the Declaration of Independence is this grievance, that he has taken away the right to trial by jury. That right was so important, ladies and gentlemen, that it was embedded in the Seventh Amendment to the Bill of Rights. It says very clearly that in suits at common law, which is what a medical negligence claim is, the jury gets to decide all questions of fact and no one else. Well, one of the most important questions of fact in a jury trial is the issue of damages. My friends are trying to take away that right from the jury—the very same people who elected us to Congress—because they apparently think that Congress knows more than the people who sent us here, those who go into jury boxes all over this country in your State and listen to the actual facts of the case before deciding what's fair, including the all-important issue of what are fair and reasonable damages.

So they're talking a lot today about defensive medicine. I want to tell you about the myth of defensive medicine. Every time a health care provider submits a fee-for-services, they represent that that medical procedure or that medical test was medically necessary. If they don't make that representation, they don't get paid. Well, guess what, folks? If something is performed and billed as ''medically necessary,'' that, by definition, is not defensive medicine, because defensive medicine is when you're doing something that's not medically necessary to protect yourself from litigation. So you can't have it both ways. You can't take the money and claim you are practicing defensive medicine.

□ 1600

We also heard about the myth of setting these caps 30 years ago and never adjusting them for inflation. They always want to talk about the California bill that was passed in the mid-seventies and impose the very same cap in this bill, $250,000.

What they don't tell you is, if you adjust that cap based on the rate of medical inflation over that same period of time, the cap would now be worth almost $2 million and that, if you reduce that $250,000 cap to present value, those people in today's dollars are only getting the equivalent of $64,000, no matter how serious their injury is.

That's why I oppose this legislation, and that's why people who believe in the Constitution and in the States' rights, under the 10th Amendment, to decide what their citizens will receive as justice should be outraged that this bill is on the floor today.

Mr. PITTS. Mr. Chairman, at this time I yield 2 minutes to the gentleman from New Jersey (Mr. LANCE), another valued member of the Health Subcommittee.

Mr. LANCE. Mr. Chairman, I rise today in support of H.R. 5 that combines the repeal of the Independent Payment Advisory Board with significant medical malpractice reforms that will help reduce health care costs and preserve patients' access to medical care.

Today marks the 2-year anniversary of the House passage of the President's health care law. During that debate 2 years ago, I joined Members from both sides of the aisle in calling on the President to address one of the drivers of the high cost of health care by reforming the current medical liability system. Unfortunately, the President's health care bill passed the House on March 21, 2010, absent any real or meaningful medical liability reform.

The new law did include the Independent Payment Advisory Board, or IPAB, and this cost-control board, made up of 15 unelected and, might I add, unconfirmed officials, has the power to make major cost-cutting decisions about Medicare, with little oversight or accountability.

The IPAB has been criticized by both Republicans and Democrats, and its repeal is supported by nearly 400 groups representing patients, doctors, and employers.

Today, on the 2-year anniversary of the House passage of the health care law, we have an opportunity to move to the future and enact real health care

reform that will help bring down health care costs that are escalating at unsustainable rates while, at the same time, protecting needed care for our senior citizens.

As a member of the House Energy and Commerce Committee, I am pleased to have the opportunity to work on this important legislation, and I urge all of my colleagues to support H.R. 5.

Mr. WAXMAN. Mr. Chairman, I continue to reserve the balance of my time.

Mr. PITTS. Mr. Chairman, at this time I yield 2 minutes to the gentleman from Georgia, Dr. GINGREY, another distinguished member of the Health Subcommittee.

Mr. GINGREY of Georgia. Mr. Chairman, I thank the gentleman for yielding. And, of course, I stand in strong support of H.R. 5, the PATH Act, having authored half of the legislation, that is, the HEALTH Act, the medical liability reform act.

But I'm also strongly in favor of repeal of IPAB, the Independent Payment Advisory Board created under ObamaCare. We know and our colleagues on the other side of the aisle, many of them, know that this is the most egregious part of this 2,700-page piece of legislation, which is now the law of the land. But what it is, Mr. Chairman, IPAB, is their way of saving Medicare.

I'll ask them time after time: What is your plan to save Medicare? They have no answers. All they want to do is continue to criticize our side of the aisle when we have meaningful, thoughtful plans to save and protect and strengthen, not just for these current recipients under the Medicare program, those who are seniors, those who are disabled, but also our children and our grandchildren.

What do we get from this side of the aisle, from the Democratic side? We get IPAB.

The language says no rationing, yet the provisions call for cutting reimbursements to providers; and eventually, without question, just as it has in Canada and the UK, Mr. Chairman, that leads to the denial of care. If that's not rationing, I don't know what it is.

Let me, in the remaining part of my time, speak a little bit in regard to H.R. 5, the HEALTH Act, the medical liability reform act.

The gentleman from Iowa, the trial attorney, was just up here trying to imply that we would take away a person's right to a redress of their grievances if they had been injured by a medical provider or a health care facility because of practice below the standard of care.

The Acting CHAIR. The time of the gentleman has expired.

Mr. PITTS. I yield the gentleman another 1 minute.

Mr. GINGREY of Georgia. And I thank the gentleman.

The gentleman from Iowa knows, in fact, that that is absolutely not true.

What we do in this HEALTH Act is limit the awards for so-called pain and suffering at $250,000. And, Mr. Chairman, indeed, a number of States, after California enacted this law 35 years ago—Texas, Florida, my own State of Georgia—have enacted caps higher than that, and, no doubt, other States will do so in the future, because this bill specifically says—and it's called the flex caps—that if a State wants to enact a limit on noneconomics of $1 million and have it applicable to multiple defendants, they can do that. They have the right to do that. And in regard to the injury to a patient, there are no caps whatsoever. There are still suits that are awarded to injured patients that are in the millions of dollars.

So the gentleman from Iowa was totally disingenuous in what he was trying to explain—a very smooth talking, very convincing lawyer. That's what we expect.

But we want to end frivolous lawsuits so that those who are truly injured get their day in court, and that's what this bill does.

Mr. WAXMAN. Mr. Chairman, I yield myself 1 minute.

I thank the gentleman, who is a physician, for his comments.

He said he wants to save Medicare. He said the Republicans want to save Medicare. They want to save Medicare, but their budget proposal would end Medicare.

Let's just understand, those who are on Medicare know they can go to the doctor or the hospital or other health care provider and Medicare will pay. Under the Republican proposal, they'd be given a voucher and told to go buy a private insurance policy, as much as they could afford by adding additional money. To save it, they want to end it.

And we hear the statement, so-called pain and suffering. For people who are living their lives with constant pain and suffering from a medical malpractice problem, it's not so-called to them. It's a real, terrible situation that they have to live with.

I think that, because one of our speakers happens to be a trial lawyer, I want to point out that the past speaker is a medical physician, as if that should make a difference. Let's base our arguments on the points that are made.

I, at this point, want to yield 3 minutes to the gentleman from Vermont (Mr. WELCH), an important Member whom we hope will come back to our committee in the very near future.

Mr. WELCH. I thank the gentleman.

In Vermont, we faced the challenge that we face in this Nation: We want to have access to health care, and we want it to be affordable.

When we had legislation, the Democrats were pushing access. The Republican Governor was concerned about cost. We sat down and realized we're both right. If Democrats want to achieve the goal of access to health care for everybody, we have to control cost. Our Republican Governor was right. We worked to do that. This Congress has failed to do that.

Health care costs are rising beyond our ability to pay. Whether it's the taxpayer, whether it's the business that's paying the premiums, whether it's an individual who is self-pay, you cannot have health care costs rising at 6.5 percent a year, as they have for the past 10 years, higher than the rate of inflation, profits, or the economic growth. It can't be sustained. IPAB is a tool to help us control health care costs. We have to do that for our taxpayers, for our employers and for our citizens.

□ 1610

It's advisory. These 15 people who have experience in economics and in medicine will look at data, will look at information. What's there to fear in their doing that? They'll make recommendations to Congress. Congress will retain the right to have the final say as to whether these recommendations will work or not or if we want to substitute something else. That makes sense.

The alternative is what has been put forward to essentially shift the burden of rising health care costs onto seniors and citizens by turning Medicare into a voucher. It would cap what the taxpayer would pay by exempting this Congress from making reforms in how we deliver care that could result in costs coming down and simply saying to seniors on Medicare that if costs go up 6.5 percent a year, another 6.5 percent—you know what, folks?—you are on your own. Figure out how to pay for it. Congress is AWOL on this.

So to the extent that we claim we want access but we won't control costs and take steps that are required to make health care spending sustainable, we're shirking our responsibility. IPAB is not the answer, but it's a good tool.

To reject it and instead replace it with a voucher system where the full burden of runaway health care costs are simply imposed on seniors is the wrong way to go in a continuation of Congress ducking its responsibility for the reforms in the health care system that our citizens need and deserve.

Mr. PITTS. Mr. Chairman, I am pleased at this time to yield 3 minutes to one of our leaders, the distinguished gentleman from Texas (Mr. HENSARLING).

Mr. HENSARLING. Mr. Chairman, regrettably the President's policies have failed and continue to harm our economy.

We were told if we would pass the stimulus plan, unemployment would never exceed 8 percent, and instead it's exceeded 8 percent for 37 straight months. We were told that the President would cut the deficit in half, and instead we have the worst debt in our Nation's history. We were told he would take steps to reduce the price of oil, and instead gas prices have doubled at the pump. One more of his policies

that has failed is clearly his health care plan.

We were told that it would create jobs, but instead every day I hear from job creators in the Fifth District of Texas who write me things like:

ObamaCare will put a tremendous burden on my company. I can't put a 5-year plan in place. I therefore have to withhold cash for expansion.

I also hear things like:

I could start two companies and hire multiple people, but based on this administration and the lack of facts with ObamaCare, I will continue to sit and wait.

We know now that the Congressional Budget Office says that the health care plan will cost us almost a million jobs from this economy.

We were also told that if we pass this that health care would be more affordable and lower premiums, but instead the Congressional Budget Office now tells us that the new benefit mandates will force premiums to rise in the individual market by $2,100 per family.

Any way you look at it, the President's health care law is harming job growth; it's harming our economy. But perhaps even more ominously, it's the infamous Independent Payment Advisory Board, section 3403 of the act, that will harm our seniors.

The IPAB is going to be comprised of 15 unelected, unaccountable bureaucrats handpicked by the President. Their sole job is going to be to ration health care to our seniors and impose Federal price controls. This will undoubtedly slash senior access to doctors and to other providers. They literally will be making decisions about the health of our loved ones, our parents, and our grandparents.

The Centers for Medicare and Medicaid Services actuary has confirmed that large reductions in Medicare payment rates to physicians would likely have serious implications for beneficiary access to care utilization, intensity, and quality of services.

Mr. Chairman, when it comes to my parents, both of whom are on Medicare, no government acronym, no government bureaucrat, no government board can ever substitute for the good judgment of their chosen family doctor. That's why today I'm proud to stand with my colleagues here to vote to repeal the IPAB.

Once again, we need to repeal the President's health care plan and do it today.

Mr. WAXMAN. Mr. Chairman, I am pleased at this time to yield 4 minutes to the distinguished Democratic whip, Mr. HOYER, from the State of Maryland.

Mr. HOYER. I want to speak about this bill, but I also want to respond to the chairman of the Republican Conference, who apparently fails to realize that we've created 4 million jobs, 3.96 million to be exact, over the last 24 months. We've had 10 quarters of growth in America. As opposed to losing 786,000 jobs the last month of President Bush's term, we added 257,000 last month in the private sector.

So to say that the President's program is not working is simply inaccurate.

Now, ladies and gentlemen, this is a wolf in sheep's clothing. They don't like the health care bill. That's what the chairman of the conference just said. He wants to vote to repeal that. We understand that. They want to pick it apart piece by piece.

Let me talk about it. Two years ago, we passed a comprehensive health care reform package that is already lowering costs, expanding access, and contributing to deficit reduction. The Affordable Care Act was a significant moment when Congress once again took bold action to constrain the growth in health care spending and make insurance more accessible and affordable for all Americans. As the wealthiest country on the face of the Earth, we ought to make sure that people can get insurance and have affordable, accessible health care.

Insurance companies can no longer deny coverage to children with preexisting conditions. I bet they think that's a benefit, a protection that will be extended to all Americans by 2014. I've had a lot of people talk to me about that provision. They like it.

Insurance companies can no longer drop Americans from their policies when they get sick or impose arbitrary and unfair caps on coverage. You buy insurance to make sure when you get sick you have coverage. If you get very sick and need more coverage, it says you can't cancel because you're really sick. I think Americans like that.

Since the Affordable Care Act was signed into law, over 32 million seniors on Medicare have access to free preventative services. The Medicare part D doughnut hole is on the path to close completely by 2020. Seniors who fall into this coverage gap are right now getting a 50 percent discount on their brand drugs. They like that.

Now 360,000 small businesses have already taken advantage of tax credits that are helping them provide more affordable coverage to over 2 million workers. Lifetime limits on over 105 million Americans with private insurance have been eliminated. Over 2,800 employers have already received financial assistance that helps them provide affordable insurance to 13 million retirees who are not yet eligible for Medicare.

The CBO continues to project that the Affordable Care Act will reduce the deficits by tens of billions of dollars by the end of this decade.

Despite all of these benefits, today Republicans will take yet another vote to repeal part of the Affordable Care Act. But what they want to do is repeal the act. That's what the chairman said of the conference. I take him at his word. I appreciate his honesty.

Today their focus is on the Independent Payment Advisory Board, or IPAB, which couldn't be a less timely issue. IPAB is a backstop mechanism to ensure that the Affordable Care Act's savings and cost-containment provisions will be achieved. But CBO has already said they don't expect it to be triggered at all over the next decade. That's because the Affordable Care Act's cost-containment provisions are already having a significant impact on slowing the growth of health care and Medicare spending.

This proves that the Medicare spending can be constrained without turning Medicare into a voucher program as the chairman has said. That forces seniors to spend more and ends the Medicare guarantee. Americans don't want that.

The Republican plan does exactly that and tries to mask the end of Medicare as we know it by talking about choices and competition.

The Acting CHAIR. The time of the gentleman has expired.

Mr. WAXMAN. I yield the gentleman an additional minute.

Mr. HOYER. But both competition and choice already exist in the Medicare program.

□ 1620

Of beneficiaries, 99.7 percent have access to at least one Medicare Advantage plan, and in the majority of counties, they have an average of 26 private plans to choose from. In spite of all these choices, about 75 percent of all seniors still choose to remain in traditional Medicare.

The Republican budget, released just yesterday, paints a clear picture of their priorities, showing once again they stand for ending the Medicare guarantee, shifting ever-increasing costs on to our seniors and repealing all of the Affordable Care Act's patient protections.

I stand behind the cost-containment provisions, the delivery-system reforms, the improvement to Medicare, and the new benefits and protections that were enacted under health reform. And I stand with my fellow Democrats and America's seniors in support of preserving the Medicare guarantee and ensuring that Medicare remains available and affordable for generations to come.

I appreciate the ranking member's leadership on this issue and all of those who were critically responsible in ensuring that Americans have access to affordable quality health care.

Mr. PITTS. Mr. Chairman, 2 years ago, they said PPACA would cost less than $1 trillion. The CBO's new estimate says it's going to cost over $1.7 trillion. Stay tuned.

I now yield 2 minutes to the author of the IPAB repeal, the gentleman from Tennessee, Dr. ROE.

Mr. ROE of Tennessee. I thank the chairman for yielding.

I guess, if the Affordable Care Act is so popular with the American people, that's why 60 percent want it overturned. I'll start by saying that. That's the latest that I've seen.

Let me just go over briefly what the IPAB is and why I'm so vehemently opposed to it.

As an over-30-year practicing physician, I've looked at this, and I've seen two examples already of why I know and what I know is going to happen here.

We have the model in the SGR, the sustainable growth rate, which is what we pay Medicare physicians today. As has been stated multiple times, we have a board with 15 appointed people to it. Over half of them cannot be health care providers or cannot be health care-related folks that are going to make decisions based on a formula for Medicare spending. We're going to set limits. If you exceed those limits, then cuts will come to providers. We've done that with SGR. And guess what the Congress has had the ability to do during that time? To override those cuts, because everybody in here, both Republicans and Democrats, understand if we cut our providers, we're going to decrease access for those patients.

What has happened with SGR? Just 2 weeks ago, we passed an SGR temporary fix to the end of this year to avoid a 27 percent cut in physician payments. Guess what would happen with IPAB? Mr. Chairman, there would be a 27 percent cut to Medicare providers and in 5 years—also, the hospitals are included. I can tell you our rural hospitals where I live will not survive those cuts. Those cuts will occur with minimal overlook from this U.S. Congress and no judicial review.

Let me read this right here: IPAB is the single biggest yielding of power to an independent entity since the creation of the Federal Reserve. This is not me. This is Peter Orszag, the former budget director for President Obama.

My concern as a practicing physician is that if we cut physician payments so far, our patients will not have access to us. Right now, Mr. Chairman, in the primary care group I'm in, that access is already being limited, and we see it around the country.

One final thing. I started practicing as an obstetrician in 1977. I've delivered almost 5,000 babies. I paid $4,000 a year for malpractice coverage. When I left, the young physician who replaced me was paying $74,000 a year. The patient has got no more value.

In 1975, when I got back home from the Army, every single malpractice carrier had left the State of Tennessee. Almost all 10,000 physicians in Tennessee get their insurance from a mutual company. Since 1975, over half the premium dollars that every doctor has paid into the State of Tennessee has gone to attorneys, not to the injured party. Less than 40 cents of every dollar has gone to the people who have actually been injured.

We have a terrible system of paying people who have been injured, compensating them. This will allow us to do that and will allow us to get some certainty so that those costs don't keep rising beyond anybody's ability to pay. What has happened in a lot of places, Mr. Chairman, is access to OB doctors and high-risk doctors has been limited because of the liability.

I strongly support H.R. 5, and urge my colleagues to do the same.

Mr. WAXMAN. Mr. Chairman, nobody is going to deny that there is a problem with medical malpractice. The issue is whether the State of Tennessee can adopt a law to solve its own problem the way the State of California has done, the way the other States have acted. Let the States operate in this area which has been traditionally reserved for them. Washington does not have all the answers. Imposing one system on the whole country is not the way to go.

I would like to at this point yield 3 minutes to the gentleman from the State of Washington (Mr. MCDERMOTT).

(Mr. MCDERMOTT asked and was given permission to revise and extend his remarks.)

Mr. MCDERMOTT. Mr. Chairman, you might ask why we're having this debate. Well, the Republicans have never wanted to solve the Americans' problem with health care access and cost; and the Congress passed, with the President's help, a bill that gave access to many millions of people and put in place some mechanisms to control costs.

The Republicans have tried to repeal it again and again, Mr. Chairman; and they know next Wednesday it's going to be in the Supreme Court. So today is press release time, and they have a formula for press releases in this House. The Members are going home to their districts, so they select a straw man and they put him up here. The straw man in this case is the IPAB. Then they scare seniors. They say: this IPAB is going to take away your health care. Then all the seniors are supposed to crawl under the chair or under the bed because the Republicans are out scaring people again. They do it by telling half truths.

This commission will make recommendations that the Congress can adopt, change, or if they don't want to do it, they can let them go into play. They have three choices, and the Congress can do either to change them or adopt them. We're not to giving away our power. That is a half truth to say that we are.

Secondly, as you heard from the whip, it's 10 years before this happens. Folks, if you're sitting at home watching this—Mr. Chairman, they are probably all scared and have quit eating their dinner because they're worried about what's going to happen. We're talking about something that's going to happen in 10 years. This is simply a scare tactic, and it is directly related to the attempt to derail the President's reelection. If they can take down this health care bill, they will have him. They will have shown he hasn't done anything. But the fact is he got it through here, and it's going to be implemented in 2013.

You can spend all the time you want passing bills in here that are absolutely kabuki theater, because this bill is going to go over to the Senate. You all know it has to pass both the Senate and the House. The Senate put this in. Does anybody think that the United States Senate is going to take away seniors' rights to health care? I mean, does anyone think that? You're accusing the United States Senate of putting this in the bill, setting it up to take away health care benefits from seniors. That is nonsense. If you think the Senate is going to walk away from this provision, well, more kabuki theater. We will be back on another day.

The Acting CHAIR. The time of the gentleman has expired.

Mr. WAXMAN. I yield the gentleman 1 additional minute.

Will the gentleman yield?

Mr. MCDERMOTT. I yield to the gentleman from California.

□ 1630

Mr. WAXMAN. We want to hold down the costs in health care for Medicare, itself. The cost of health care is going up for all health care coverage; but Medicare, if it goes up too much, it's a real problem. So in the Affordable Care Act, we try to put in place ways to hold down costs by reorganizing the delivery of care. We have some other strategies. We hope it will work. But for a backstop, if it doesn't work, there is this Independent Payment Advisory Board, and they will give us some idea as to how to hold down health care costs.

Now, it seems to me, the biggest objection is, once they give their recommendations, we can accept them, we can change them, or we can let them go into effect. I think the biggest problem is that if nothing happens, those health care costs go up; and that's what preserves the right of Congress, is to let nothing happen. And this is not how to hold down costs. This is to let the costs go up.

I thank the gentleman for yielding.

Mr. PITTS. Mr. Chairman, at this time, I yield 3 minutes to another doctor, Dr. HARRIS, from the State of Maryland.

Mr. HARRIS. Mr. Chairman, I think the gentleman from California just said what this is all about: The IPAB is about cutting expenditures for our seniors on Medicare when they need their health care.

The IPAB is no straw man. It's a health care policy bureaucrat's dream and a Medicare patient's nightmare. It's 15 bureaucrats—and the gentleman from California called it right—insurance company representatives, pharmacy company representatives, benefit managers, employers, all those people who really have the care of an individual patient in mind.

In fact, that rationing board limits the number of health care professionals who can serve to a minority, a minority of people, and then goes further and says, And, oh, by the way, they have to actually stop practicing health care for the 6 years they sit on the board. How

close are they going to be to knowing what's going on in the care of a patient?

The gentleman from Iowa talked about the myth of defensive medicine. I want to ask anyone who cares to go in a labor and delivery suite and look what's happened to obstetric care, to our women in America over the past 40 years because we don't have effective tort reform.

I'm an obstetric anesthesiologist. I spent 30 years in a labor and delivery suite. In 1970, the cesarean section rate in this country was 5 percent. One in 20 women going to a hospital to have a baby would have a cesarean section. Last year it was 33 percent. I will tell you, not much has changed about childbirth in that time, but now a woman going into the hospital to have a baby has a one in three chance of having a cesarean section. Not only that, but 40 years ago—those of you who want to, ask people you know who delivered 40 years ago. Most obstetrics was delivered by a one- or two-person group where a woman got to know the obstetrician who was going to deliver her baby.

Go ask the folks in your district now what happens. You go into a group of about 10 or 12 people because they can't afford the malpractice insurance. They have to go into a big group so someone else can pay it. It's impersonal service. Go and try to find an obstetrician who is in their fifties or sixties and practicing obstetrics. They gave it up long ago because they can't afford the premiums. The most experienced obstetricians are no longer delivering care to American women.

The C-section rate is one in three, and a woman can't even expect to see her obstetrician every time she goes to those prenatal visits because there are eight or 10 in the group, and they all have to have a chance to see that patient. That's what the lack of tort reform has done to the delivery of care to women in this country.

We need to pass this bill and pass it now.

Mr. WAXMAN. Mr. Chairman, may I inquire how much time each side has remaining in the general debate.

The Acting CHAIR. The gentleman from California has 17½ minutes remaining, and the gentleman from Pennsylvania has 29¾ minutes remaining.

Mr. WAXMAN. I will reserve the balance of my time.

Mr. PITTS. Mr. Chairman, at this time, I yield 2 minutes to another doctor, the gentleman from Indiana, Dr. BUCSHON.

Mr. BUCSHON. Mr. Chairman, I rise today in support of repealing the Independent Payment Advisory Board, or the so-called IPAB; and I urge President Obama and our colleagues in the U.S. Senate to join us, the House Republicans, in saving access to quality care for America's seniors.

I've been a practicing physician for over 15 years, and I don't think I have seen anything potentially more detrimental to seniors' health care than the Independent Payment Advisory Board created under the Affordable Care Act. As has already been said, this group of 15 unelected Washington, DC, bureaucrats, appointed by the President, will be making decisions on the funding of Medicare with little oversight from your elected officials. This is not a partisan issue. Whether it's this President, the next President, or a President 20 years from now, no President should have the power to create a board with this much control over health care.

Doctors provide critical care to our Nation's seniors, but they also run a business. They have to receive proper reimbursement to keep their doors open or they will lose their ability to provide care for America's seniors.

The Affordable Care Act has already cut over $500 billion from the Medicare program, and then the President doubled down by proposing over $300 billion more in his budget. Medicare cannot sustain further cuts if we are to keep access for America's seniors.

Without any chance of judicial or congressional oversight, IPAB will become one of the most powerful agencies within our government.

I ask the American people: What part of the government operates this way? When people in Washington, DC, make decisions you don't agree with, you can vote them out of office, but when IPAB makes a decision, the American people most likely will have no recourse.

If the President and the U.S. Senate really are concerned about saving Medicare, which they claim to be, I urge them to get serious and work with us, because according to CBO, Medicare may be insolvent as early as 2016. We need to reform Medicare in order to strengthen and preserve it for future generations, and true reform is not continuing to cut funding of the program.

Again, I urge the President and the Senate to join us in eliminating IPAB.

Mr. WAXMAN. I continue to reserve the balance of my time.

Mr. PITTS. Mr. Chairman, at this time I yield 2 minutes to another doctor, the gentleman from Michigan, Dr. BENISHEK.

Mr. BENISHEK. I thank the chairman for yielding.

Mr. Chairman, as my good friend, the chairman, knows, before I came to this House, I served as a general surgeon for three decades. So 2 years ago this week, while President Obama was pitching his 2,000-page health care overhaul, I was back home in Michigan, taking care of patients and wondering how this law was going to change the relationship between a physician and his patients.

Now the President's broken promises have shown us: Instead of providing real solutions to strengthen the doctor-patient relationship or improving the way we deliver health care to patients, the President gave us the Independent Payment Advisory Board. IPAB is a 15-member commission of unelected bureaucrats charged with cutting Medicare spending, specifically reimbursement for physicians. It's a very Washington-type solution to take something as personal as a doctor seeing a patient in his office and creating a panel of Washington bureaucrats to determine how that's going to be paid for.

As a physician, I can tell you that when you set up an unelected board and give them unprecedented power and little government oversight, the results will be clear. This will lead to arbitrary cuts to the Medicare program, less access to care, and rationing. Today we are voting to stop that from happening.

Mr. Chairman, we've already heard the other side of the aisle accusing the majority of pushing Grandma off a cliff. But instead of scare tactics and hyperbole, I ask Members on both sides of the aisle to support this effort to repeal the IPAB. Support this effort to eliminate what seniors are really concerned about: a group of unelected bureaucrats making health care decisions for them.

As a physician, I am proud to support the repeal of this ill-conceived rationing board on behalf of all my patients and constituents in northern Michigan.

□ 1640

Mr. WAXMAN. Mr. Chairman, I continue to reserve the balance of my time.

Mr. PITTS. Mr. Chairman, at this time I yield 2 minutes to another health care professional—a nurse—the gentlelady from North Carolina, RENEE ELLMERS.

Mrs. ELLMERS. I thank the chairman for this opportunity to speak with my colleagues as a nurse and a wife of a general surgeon.

Mr. Chairman, IPAB was created under ObamaCare to slash Medicare spending by restricting health care services for seniors in need. Repealing IPAB will restore the doctor-patient relationship.

Mr. Chairman, when someone goes to the doctor, they reveal the most personal experiences of their lives and engage in a relationship with a dedicated health care professional who puts his or her career on the line for the purpose of making that individual whole again. Left alone, President Obama's government-knows-best mentality will force our seniors to cede this relationship to a board of unelected and unaccountable bureaucrats who will have the power over the health and the lives of millions of other Americans. Each patient is unique, and their care rests on the doctor's ability to provide the best treatments available, regardless of the cost of their liability.

One of the greatest challenges facing our Nation's health care system, including Medicare, is the rapidly rising costs. This legislation recognizes that. This legislation repairs and repeals the IPAB with commonsense medical liability reform that will save billions of dollars.

I have sat and listened to the debate today, and I have listened intently over the 2 years since ObamaCare went into effect, and I still have one question to my Democrat colleagues across the aisle: What is your solution for Medicare? We know it is not sustainable as it is now. What is your solution?

Mr. Chairman, Federal bureaucrats should not dictate to doctors how to provide care, force them to provide medication regardless of their known complications, and make them liable with no limits or protections.

The Acting CHAIR. The time of the gentlewoman has expired.

Mr. PITTS. I yield the gentlelady an additional 30 seconds.

Mrs. ELLMERS. We have got to move forward on malpractice reform. Our colleagues ask the question, How can malpractice be put in place at the Federal level? And yet they have put Federal health care as an issue and put control as an issue.

We must provide patients and medical professionals with the security and the safety net.

Mr. WAXMAN. I yield myself such time as I may consume.

Mr. Chairman, our idea for Medicare for the future is to make it better, not to eliminate it. In the Affordable Care Act, we provide help for seniors to pay for their prescription drugs, especially when they're in the doughnut hole. We provide money so they will be sure to have preventive services without having to pay for them so that we know we can prevent diseases that we otherwise have to pay to treat. We have extended the life of the Medicare trust fund. We're always looking for ways to hold down costs in a reasonable, rational way.

One of the reasons we have very high costs in Medicare is, when a doctor and a patient get together, the doctor decides on how many services are going to be paid for, especially when that doctor gets paid more money for more services. Therefore, we've got to look for alternatives to that. Now I have a feeling the doctors like the idea of deciding how many services are going to be paid for, but we just can't afford that.

So we have ways to hold down health care costs by trying to bring people together in affordable care organizations, ways for doctors to manage the care from physician to physician in a more efficient way, and we have a backup if these other things don't work—to have an advisory committee to give us their ideas; but their ideas cannot lead to rationing health care or making people have to pay more money for their insurance or to restrict benefits or modify eligibility. That's what we propose to do.

The Republicans propose to take away the assured guarantee of services under Medicare and require people to go find a private insurance plan, if they can afford it, over and above the voucher, which would never keep pace with the increase of health care costs.

At this time, I yield 2 minutes to my California colleague (Mr. THOMPSON).

Mr. THOMPSON of California. I thank the gentleman for yielding.

I rise today in opposition to this legislation. Whether or not you're a fan of the IPAB, I strongly urge you to oppose the bill. This bill is not about IPAB. This bill is nothing more than a political maneuver to attack the Affordable Care Act on the 2-year anniversary of its enactment.

I challenge anyone to talk to one of the over 7,000 young adults in my district who now have health care insurance coverage and ask them if the Affordable Care Act should be repealed. Or maybe the 6,000 seniors in my district who have saved over $3 million on the cost of prescription drugs. Or the 30,000 children and 120,000 adults who now have health care insurance that actually covers preventive services without burdensome copayments. Or the thousands of children with preexisting health conditions who will no longer be denied coverage by health insurers or told they've hit their lifetime cap for services because of a disease with which they were born. Ask them if they'd like to repeal the Affordable Health Care Act.

No one has ever suggested that this bill was the perfect solution to health care, but we should be working together to fix it, not trying to repeal it for cheap political points. And to add the medical malpractice provision that they added in this bill, that is so wrong-headed that the doctors in California have come out in opposition to this bill. Any doctor will tell you there's work that needs to be done in regard to medical malpractice, but the way this was done has even brought the doctors to the table in opposition.

So, on behalf of the millions of Americans who are already benefiting from the Affordable Care Act, I ask you to join with me and with the California doctors in opposition to this legislation that does no one any good at all.

Mr. PITTS. I yield myself such time as I may consume.

Mr. Chairman, I find it interesting that the gentleman who just spoke signed a letter to former Speaker PELOSI on December 17, 2009, that says the IPAB provisions severely limit the congressional oversight of the Medicare program and eliminate the transparency of congressional hearings and debate. Moreover, the creation of a Medicare board would effectively eliminate State community input in the Medicare program, removing the ability to develop and implement policies expressly applicable to different patient populations. So IPAB or an equivalent commission, they said, could not only threaten the ability of Medicare beneficiaries but of all Americans to access the care they need.

I yield 2 minutes to the gentleman from New Mexico (Mr. PEARCE).

Mr. PEARCE. Mr. Chairman, I appreciate the opportunity to speak on this legislation, H.R. 5.

One of the most trusted sources of information in my Mom's life—she's in her eighties—is her physician. We just got a history lesson, a civics lesson, from our friends across the aisle just a moment ago expressing how the Democrat Congress passed, the Democrat Senate passed, and a Democrat President signed into law a bill that puts into place ways to control the costs. It took $500 billion from Medicare in order to pay for the bill that they passed. Then in addition to the civics lesson, we were given a political reality that the Senate is not going to take the bill up—therefore, we should not be discussing it.

I think, for the peace of mind of people like my mom who are going to have the IPAB, this independent board, inserted between them and their doctors—Mom won't even get to talk to her doctor if this board decides she can't. The scheduler will simply say you have to come back next month or next year, and we're told we shouldn't bring that up because it might scare seniors. Seniors have a right to be scared. They have a right to wonder.

□ 1650

If some board does not even answer to Congress, it can change laws without coming to us, and it can write its own rules; and we're to be told that we should not be discussing this issue because it might frighten seniors. It just might, and they very well should be told.

The Obama health care legislation did not bring one new doctor into service, but it brought millions of new patients in. The real truth is that we have increasing demand for doctor services because of these new patients and no new supply. You're going to have to limit it somewhere. They wanted to hide this limitation under the IPAB. We're simply saying, let's restore the relationship between 86-year-old moms and the doctors. Let's get rid of the IPAB. This bill would do it.

Mr. WAXMAN. I yield myself such time as I may consume.

Mr. Chairman, if you listen to the comments that were just made on the House floor, it would be better to leave over 30 million people without health insurance because they want to see doctors when they get sick.

The legislation, the Affordable Care Act, provides more training for doctors and higher reimbursement for primary care doctors, and it provides for the opportunity to get a medical education with a payback in underserved areas. We're going to get more doctors, but we shouldn't say that those who have health insurance should turn their backs as the Republicans, I feel, are doing to all of those who have no insurance whatsoever.

I want to yield, at this point, 5 minutes to the distinguished gentleman from the State of Virginia (Mr. SCOTT) so he can further speak on this legislation.

Mr. SCOTT of Virginia. Mr. Chairman, I rise today in opposition to H.R.

5. There are several troublesome provisions with the bill.

For example, it sets an arbitrary and discriminatory $250,000 cap on noneconomic damages; it reduces the amount of time an injured patient has to file a lawsuit; and it also repeals IPAB, the board created by the Affordable Care Act to control Medicare costs while preserving access to care.

Although there are many troublesome provisions in the bill, I'd like to speak at length about one provision, the so-called fair share provision.

The fair share provision would repeal the general rule of joint and several liability. Joint and several liability is a common law principle that enables an injured patient to seek compensation from any or all of the parties responsible for the patient's injuries. Joint and several liability provides that each of the guilty defendants are jointly responsible and individually responsible for the total damages, and, if they want, they can agree in advance on how to apportion fault among themselves; thus they can purchase and share the cost of insurance and charge their fees for services based on that agreement.

The general rule of joint and several liability does not burden the injured patient with the requirement of assigning proportional fault. This PATH Act creates a bizarre and impossible standard for the patient by eliminating joint and several liability. It requires that the plaintiff, who is the patient, demonstrate each negligent party's proportional responsibility. This is often impossible for the plaintiff because frequently all the patient knows is he woke up as the victim of malpractice. Why should he then be required to find out what each and everybody did? And how does he do that when everybody is denying any liability?

Unfortunately, this bill essentially requires the plaintiff to conduct a separate case against each defendant, each case requiring a finding of duty of care, a breach of that duty, a proximate cause, a finding of damages, and then a determination of what part of the damages are attributable to what malpractice.

Each of those cases requires an expensive expert witness, depositions, and the full expense of complicated litigation. It also complicates any settlement that might take place because a patient can't take a chance of settling with one defendant without knowing what, ultimately, the other defendants might have to pay.

What's most disturbing about this bill is it eliminates joint and several liability for all kinds of damages, including economic damages. In doing so, H.R. 5 is more extreme than most States' laws. Economic loss compensates injured parties for their out-of-pocket expenses, such as the hospital bills, the doctor bills, and lost wages. Even though the proponents of H.R. 5 claim to use California's Medical Injury Compensation Reform Act as a model, not even California eliminates joint and several liability for economic damages.

Mr. Chairman, over centuries, each State has balanced judicial procedures between defendants and plaintiffs. Some provide longer and some shorter statutes of limitations. Some have large, some have small, and some have no caps at all on damages. Some deny recovery in cases of contributory negligence. Others allow recovery based on comparative negligence. Most have joint and several liability—a few do not—but the interests of plaintiffs and defendants have been balanced over the years in each State. We should not override centuries of the State-level balancing of these interests by preempting some parts of tort law with this Federal bill.

Mr. Chairman, we usually hear that tort reform is necessary to address three problems: defensive medicine, high malpractice premiums, and frivolous lawsuits.

This bill will not prevent, will not do anything to deal with defensive medicine, because the lawsuits are not eliminated. There will still be defensive medicine, and because it increases expenses for defendants, it may actually increase total malpractice premiums.

Finally, the bill does not target frivolous lawsuits. The Institute of Medicine estimates that approximately up to 100,000 patients die every year due to medical mistakes, and yet there are only about 15,000 medical malpractice payments each year, so there's a question of whether or not frivolous lawsuits are even a problem. But to the extent that it is a problem, this bill will not target frivolous lawsuits; it will increase the cost of litigation and may reduce all lawsuits, but it will not target frivolous lawsuits.

So, Mr. Chairman, I would hope that we will not pass a Federal law to abolish joint and several liability at the State level, and I would urge my colleagues to oppose this legislation.

Mr. PITTS. Mr. Chairman, at this time, I yield 2 minutes to the gentleman from Illinois (Mr. HULTGREN).

Mr. HULTGREN. Mr. Chairman, I rise today in support of this bill.

The unelected and unaccountable bureaucrats of the Independent Payment Advisory Board pose a threat to the ability of seniors in my district and around this country to get the health care they need.

Across my district, I hear from doctors who are deeply concerned about their ability to accept more Medicare recipients because reimbursement rates are already too low; but if the IPAB bureaucrats are allowed to ration care, rates will be driven even lower. Fewer doctors will be able to afford to treat Medicare patients. It's cruel to tell our seniors that they have Medicare but refuse to tell them that there will be no doctors who will be able to treat them.

IPAB will be the end of Medicare as we know it and the end of seniors' ability to get treatment from their preferred doctors. That's why we must act now to repeal IPAB—to protect seniors and to protect Medicare.

I hope my colleagues on both sides of the aisle will join me in supporting this bill.

Mr. PITTS. May I ask the gentleman how many speakers he has remaining?

Mr. WAXMAN. We have one.

Mr. PITTS. I'll yield to myself at this time, then, such time as I may consume.

Mr. Chairman, H.R. 5, the Protecting Access to Healthcare Act, the PATH Act, not only fixes our broken medical liability system; it also repeals the Independent Payment Advisory Board, one of the most ominous provisions in the President's sweeping overhaul of health care.

Medical liability reform will preserve access to quality health care in States like Pennsylvania by allowing doctors in high-risk specialties, such as obstetrics and neurosurgery, to practice without the fear of frivolous lawsuits and, according to the Congressional Budget Office, to reduce the Federal deficit by $48.6 billion over the next 10 years.

According to the President's health care law, the purpose of IPAB is to reduce Medicare's per capita growth rate. The board is made up, as we've heard, of 15 unelected, unaccountable bureaucrats who will be paid $165,300 a year to serve 6-year terms on the board. If Medicare growth goes over an arbitrary target, the board is required to submit a proposal to Congress that would reduce Medicare's growth rate.

□ 1700

These recommendations will automatically go into effect unless Congress passes legislation that would achieve the same amount of savings. In order to do so, Congress must meet an almost impossible deadline and clear an almost insurmountable legislative hurdle.

The board has the power to make binding decisions about Medicare policy with no requirement for public comment prior to issuing their recommendations. Individuals and providers will have no recourse against the board because its decisions cannot be appealed or reviewed. In other words, the board will make major health care legislation essentially outside the usual legislative process.

The board is also limited to how it can achieve the required savings. Therefore, IPAB's recommendations will be restricted to cutting provider reimbursements. In many cases, Medicare already reimburses below the cost of providing services, and we're already seeing doctors refusing to take new Medicare patients—or Medicare patients at all—because they cannot afford to absorb the losses.

Any additional provider cuts will lead to fewer Medicare providers. That means that beneficiary access will suffer. Seniors will be forced to wait in

longer and longer lines to be seen by an ever-shrinking pool of providers or will have to travel longer and longer distances to find a provider willing to see them. Clearly, Medicare growth is on an out-of-control trajectory that endangers the solvency and continued existence of the program. IPAB, however, is not the solution.

I urge my colleagues to support H.R. 5.

With that, I reserve the balance of my time.

Mr. WAXMAN. Mr. Chairman, I am pleased at this time to yield 2 minutes to the gentleman from New Jersey (Mr. HOLT).

Mr. HOLT. I thank my friend from California.

Mr. Chairman, I rise in opposition to H.R. 5, which would repeal the Independent Payment Advisory Board, which I think is one of the good features of the health reform law.

I have real concerns about H.R. 5. We're talking about undoing work instead of doing the work that this Congress should do—repealing IPAB in the pretext of protecting Medicare just one day after the Republican budget was released that would end Medicare and shift the costs of health care to our seniors while giving tax breaks to millionaires. There's just no logic to this.

The bill would also make significant changes to the Federal health care liability system, making it difficult for legitimately injured patients to hold health care providers accountable, including even limiting the ability of victims of sexual abuse from getting justice from the institutions and providers who had harmed them.

The health reform law, which the Republicans want to repeal, included malpractice reforms, like grant programs for States. While I support improvements to the medical malpractice process, it's important to note that malpractice is not the primary—not even really a significant reason—for the escalating health care costs. States that have passed stringent limits on medical malpractice claims like the ones in H.R. 5 have in fact some of the most expensive health care in the country.

This bill is irresponsible and unnecessary. Where is the transportation bill? Where are the jobs bills? Why are we on the floor talking about undoing good work instead of doing the work that this Congress should be doing? This bill is irresponsible and unnecessary. I urge my colleagues to vote ''no'' on this political theater.

The Acting CHAIR (Mr. WOMACK). The time of the gentleman has expired.

Mr. WAXMAN. I'd like to yield 1 additional minute to the gentleman and ask him to yield to me.

Mr. HOLT. I am pleased to yield to my friend from California.

Mr. WAXMAN. The problem that we keep facing is rapidly rising health care costs. It's not just for Medicare; it's for private insurance. It's for anybody who has health coverage that costs of health care are going up rapidly. The approach of Medicare has always been to look for ways to hold down the cost.

There was a time when ophthalmologists would charge a fee for removing the cataract and then ask for another fee for inserting the lens. Well, that made sense when that surgery was brand new, but they didn't want to give up the two fees that they were receiving because it would be a reduction in their reimbursement. But Medicare said no, that really doesn't make sense. Medicare does a lot of things to hold down cost, and then private insurance picks them up because so often they make sense.

The Acting CHAIR. The time of the gentleman has expired.

Mr. WAXMAN. I yield the gentleman another 30 seconds.

Mr. HOLT. And I yield that to the gentleman.

Mr. WAXMAN. The way to hold down cost is to try to reform the way health care is delivered. Medicare tries to do that. If we don't do it that way, the Republicans would say that private insurance will be able to control it because that's all people are going to be able to get. No more Medicare. They will have to buy private insurance and let the insurance company tell the doctor and the patient what they will be able to do with their trying to hold down cost, without regard to the Medicare patient.

I thank the gentleman for yielding to me.

Mr. Chairman, I yield back the balance of my time.

Mr. PITTS. Mr. Chairman, before I yield to the gentleman from Georgia, Dr. GINGREY, for our close, I just want to remind him of a statement by the chairman. Representative STARK of the Ways and Means Subcommittee on Health, during the debate and passage of PPACA, he called the establishment of the board ''a dangerous provision that sets Medicare up for unsustainable cuts.'' We should be reminded of that.

At this time, I yield the balance of my time to one of the authors of the legislation, a distinguished member of the Health Subcommittee and a doctor, the gentleman from Georgia, Dr. GINGREY.

Mr. GINGREY of Georgia. Madam Chairman, as a physician Member and coauthor of the bill, I am truly honored that Chairman PITTS is allowing me to close the debate on H.R. 5, the PATH Act—appropriately named. For meaningful medical liability reform and the elimination of IPAB together will put Medicare in specific, and health care in general, back on the right path: a path to fiscal solvency for one-sixth of our economy; a path to compassionate, cost effective, efficient, and timely health care for all who call this great country home; a path to fairness in our court systems so that those injured by malpractice get their day before a jury of their peers and they are justly compensated, not crowded out by the growing problem of frivolous claims and out-of-control legal fees; a path to a bipartisan and a bicameral solution to one of the most pressing issues that this Nation will ever again face, that is, to save Medicare for our current seniors and strengthen it for all future generations.

Let's get started right now. Our country cannot wait any longer. Vote ''yes'' on H.R. 5, the right PATH Act.

□ 1710

Mr. CAMP. Madam Chairman, I yield myself such time as I may consume.

Today I come to the floor to speak in support of H.R. 5, the Protecting Access to Healthcare Act, which, among other things, will repeal yet another poorly designed provision from the Democrats' health care law.

Specifically, this legislation would repeal the Independent Payment Advisory Board. IPAB, as it's commonly known, is a dangerous new government agency made up of unelected bureaucrats who can meet in total secrecy to decide what seniors will pay and what health care services will be available to seniors. This unaccountable board has but one objective: to save money by restricting access to health care for Medicare beneficiaries.

Nearly 2 years since its passage, the Democrats' health care law remains deeply unpopular, with an Associated Press poll recently revealing that nearly half of the American people oppose the law. IPAB, which is a critical component of the law, illustrates why those concerns are still so strong.

A separate poll confirms that opposition far outweighs support with 73 percent expressing concern that Medicare cuts recommended by IPAB could go into effect without congressional approval. Even IPAB's recommendations overturn a law previously passed by Congress. Seventy-one percent expressed concern that changes made to Medicare based on IPAB's recommendations cannot be challenged in court, and 67 percent worry that IPAB could choose to limit which specific health services are covered by Medicare.

The American people have every reason to be worried. We should be protecting and empowering our seniors, not jeopardizing their access to health care. Yet IPAB removes seniors, physicians, and families from the decision-making process about how best to meet their health care needs. Instead of giving seniors more choices, these unelected bureaucrats will take away choices from patients, from doctors, and from families. This government-knows-best approach is why Americans across the country support repeal, and it's also why there's strong bipartisan support here in Congress to repeal IPAB.

When the Ways and Means Committee considered this legislation, we received numerous letters from groups across the Nation representing employers, patients, doctors, and health care professionals who voiced strong support for IPAB repeal. The groups span

across the political spectrum and include the Easter Seals, the Alliance of Specialty Medicine, the Veterans Health Council, FreedomWorks, and Americans for Tax Reform. In total, over 390 groups have signed letters asking that Congress repeal IPAB, and I will insert these letters into the RECORD.

America's seniors deserve better. Without reform, the Medicare trustees have said that Medicare will soon go broke and not be able to provide the benefits seniors rely on. With more and more Americans becoming eligible for Medicare each day, no time is more urgent than now to secure the future of beneficiaries' access to care. IPAB does just the opposite. It threatens seniors' access to health care, and that is why it must be repealed.

Madam Chairman, the Democrats got it right when they named the IPAB. It truly is the Independent Payment Advisory Board. It's independent from seniors, independent from people with disabilities, independent from the voters, independent from legal challenges and appeals, and independent from any accountability.

It's time to give that independence back to doctors, to patients, and to Congress by voting to repeal this Washington power grab. I urge my colleagues to join me in supporting repeal of the Independent Payment Advisory Board and to vote ''yes'' on this legislation.

MARCH 7, 2012.

DEAR MEMBER OF CONGRESS: The organizations listed below represent a breadth of entities including all sectors of the healthcare industry, employers of different sizes and geographic locations, as well as purchasers of care, consumers and patients. We all share the conviction that the Independent Payment Advisory Board (IPAB) will not only severely limit Medicare beneficiaries' access to care but also increase healthcare costs that are shifted onto the private sector. While we all recognize the need for more sustainable healthcare costs, we do not believe the IPAB is the way to, or will, accomplish this goal.

As you know, the Patient Protection and Affordable Care Act (PPACA [P.L. 111–148]) created the IPAB, a board appointed by the President and empowered to make recommendations to cut spending in Medicare if its spending growth reaches certain measures. The IPAB will have unprecedented power with little oversight, even though it has the power to literally change laws previously enacted by Congress. Further, the law specifically prohibits administrative or judicial review of the Secretary's implementation of a recommendation contained in an IPAB proposal.

We are deeply concerned about the impact the IPAB will have on patient access to quality healthcare. The bulk of any recommended spending reductions will almost certainly come in the form of payment cuts to Medicare providers. This will affect patient access to care and innovative therapies. In the past five years for which data is available, the number of physicians unable to accept new Medicare patients because of low reimbursement rates has more than doubled. According to an American Medical Association survey, current reimbursement rates have already led 17 percent of all doctors, including 31 percent of primary care physicians, to restrict the number of Medicare patients in their practices. In all likelihood, the IPAB will only exacerbate this problem.

While we are all supportive of improving the quality of care in this country, we are concerned that the IPAB will not be able to focus on improving healthcare and delivery system reforms, as some of its proponents have suggested. Requiring the IPAB to achieve scoreable savings in a one-year time period is not conducive to generating savings through long-term delivery system reforms. According to a recent Kaiser Family Foundation issue brief, ''[w]hile the requirement to achieve Medicare savings for the implementation year provides a clear direction and target for the Board, it may discourage the type of longer-term policy change that could be most important for Medicare and the underlying growth in health care costs, including delivery system reforms that MedPAC and others have recommended which are included in the ACA—and which generally require several years to achieve savings. If these delivery system reforms are not 'scoreable' for the first year of implementation, the IPAB may be more likely to consider more predictable, short-term scoreable savings, such as reductions in payment updates for certain providers.'' The Congressional Budget Office (CBO) has in fact stated that the Board is likely to focus its recommendations on changes to payment rates or methodologies for services in the fee-for-service sector by non-exempt providers. Again, this will have a severe, negative impact on Medicare beneficiaries.

Last, we believe that the IPAB sets a dangerous precedent for overriding the normal legislative process. Congress is a representative body that has a duty to legislate on issues of public policy. Abdicating this responsibility to an unelected and unaccountable board removes our elected officials from the decision-making process for a program that millions of our nation's seniors and disabled individuals rely upon, endangering the important dialogue that takes place between elected officials and their constituents.

We do not believe the IPAB is the right way to achieve savings in Medicare and strongly urge Congress to eliminate this provision.

Sincerely,

Abigail Alliance, Action CF AdvaMed, Advocates for Responsible Care, AIDS Delaware, AIDS Drug Assistance Programs Advocacy Association, AIDS Housing Association of Tacoma, AIDS Institute, Alabama Orthopaedic Society, Alabama Podiatric Medical Association, Alaska State Chamber of Commerce, Alaska State Grange, Alder Health Services, Inc., Alliance for Aging Research, Alliance of Specialty Medicine, ALung Technologies, Inc., Alzheimer's & Dementia Resource Center, Alzheimer's Arkansas, American Academy of Facial Plastic & Reconstructive Surgery, American Academy of Neurology.

American Academy of Otolaryngology—Head and Neck Surgery, American Academy of Physical Medicine and Rehabilitation, American Association for the Study of Liver Diseases, American Association of Clinical Endocrinologists, American Association of Clinical Urologists, American Association for Homecare, American Association for Marriage and Family Therapy, American Association of Neurological Surgeons, American Association of Orthopaedic Executives, American Association of Orthopaedic Surgeons, American Autoimmune Related Diseases Association, American College of Emergency Physicians, American College of Emergency Physicians—Indiana Chapter, American College of Mohs Surgery, American College of Osteopathic Surgeons, American College of Radiology, American College of Surgeons—Missouri Chapter, American Congress of Obstetricians and Gynecologists, American Gastroenterological Association, American Liver Foundation—Allegheny Division.

American Osteopathic Academy of Orthopedics, American Physical Therapy Association, American Podiatric Medical Association, American Society of Anesthesiologists, American Society of Breast Surgeons, American Society of Cataract and Refractive Surgery, American Society of General Surgeons, American Society of Plastic Surgeons, American Society of Radiation Oncology, American Urological Association, Americans for Prosperity, Amigos por la Salud, Arizona BioIndustry Association, Arizona Medical Association, Arizona Podiatric Medical Association, Arizona Urological Society, Arkansas Medical Society, Arkansas Orthopaedic Society, Arkansas Podiatric Medical Association, Associated Industries of Florida.

Association for Behavioral Healthcare, Association of Nurses in AIDS Care, Asthma & Allergy Foundation of America—California Chapter, Asthma & Allergy Foundation of America—New England Chapter, Bay Bio, BEACON (Biomedical Engineering Alliance & Consortium), Connecticut, BIOCOM, BioNJ, BioOhio, Biotechnology Industry Organization (BIO), Bismarck-Mandan Chamber of Commerce, California Healthcare Institute, California Hispanic Chambers of Commerce, California Medical Association, California Orthopaedic Association, California Podiatric Medical Association, California Rheumatology Alliance, California Urological Association, Capital Region Action Against Breast Cancer!, Center of the American Experiment.

Children's Rare Disease Network, Coalition for Affordable Health Coverage, Coalition of State Rheumatology, Council of University Chairs of Obstetrics & Gynecology Organizations, Colorado Academy of Family Physicians, Colorado BioScience Association, Colorado Cross-Disability Association, Colorado Gerontological Society, Colorado Podiatric Medical Association, Colorado Retail Council, Colorado Springs Health Partners, Community Health Charities of Florida, Community Health Charities of Nebraska, Congress of Neurological Surgeons, Community Oncology Alliance, Connecticut Orthopaedic Society, Connecticut Podiatric Medical Association, Connecticut State Urology Society, Delaware Academy of Medicine, Delaware Ecumenical Council on Children and Families.

Delaware HIV Consortium, Delaware Podiatric Medical Association, Delaware State Orthopaedic Society, Docs 4 Patient Care, Easter Seals, Easter Seals Crossroads, Easter Seals Iowa, Easter Seals of Arkansas, Easter Seals of Maine, Easter Seals of Massachusetts, Easter Seals of New Jersey, Easter Seals of Southeastern PA, Easter Seals of South Florida, Easter Seals UCP North Carolina, Elder Care Advocacy of Florida, Florida Chamber of Commerce, Florida Medical Association, Florida Podiatric Medical Association, Florida Society of Neurology, Florida Society of Rheumatology.

Florida Society of Thoracic & Cardiovascular Surgeons, Florida State Hispanic Chamber of Commerce, Florida Transplant Survivor's Coalition, Florida Urological Society, Georgia Association for Home Health Agencies, Georgia Bio, Georgia Orthopaedic Society, Georgia Podiatric Medical Association, Global Genes, Global Healthy Living Foundation, Grand Rapids Area Chamber of Commerce, HEALS of the South, Healthcare Institute of New Jersey, Healthcare Leadership Council, HealthHIV, Hemophilia Foundation of Maryland, Heart Rhythm Society,

Hoosier Owners and Providers for the Elderly, Idaho Medical Association, Idaho Podiatric Medical Association.

Illinois Association of Orthopaedic Surgeons, Illinois Biotechnology Industry, Organization—iBIO®, Illinois Chamber of Commerce, Indiana Association of Cities and Towns, Indiana Health Care Association, Indiana Health Industry Forum, Indiana Medical Device Manufacturers Council, Inc., Indiana Neurological Society, Indiana Podiatric Medical Association, Indiana State Medical Association, InterAmerican College of Physicians & Surgeons, International Franchise Association, International Institute for Human Empowerment, International Society for the Advancement of Spine Surgery, Iowa Orthopaedic Society, Iowa Podiatric Medical Association, Kansas Medical Society, Kansas Podiatric Medical Association, Kansas Urological Association.

Kentucky BioAlliance, Kentucky Medical Association, Kentucky Podiatric Medical Association, Kidney Cancer Association of Illinois, Large Urology Group Practice Association, Latino Diabetes Association, Licensed Professional Counselors Association of Georgia, Louisiana State Medical Society, Lupus Alliance of America—Hudson Valley Affiliate, Lupus Alliance of America—Queens and Long Island Affiliate, Lupus Alliance of America—Southern Tier Affiliate, Lupus Alliance of America—Upstate New York Affiliate, Lupus Foundation of Arkansas, Lupus Foundation of America, DC/MD/VA Chapter, Lupus Foundation of Florida, Lupus Foundation of Mid and Northern New York, Lupus Foundation of the Genesee Valley, Lupus Foundation of Pennsylvania, Mabel Wadsworth Women's Health Center, Maine Health Care Association.

Maine Osteopathic Association, Maine Podiatric Medical Association, Maine State Council of Vietnam Veterans of America, Maryland Orthopaedic Association, Maryland State Medical Society, Massachusetts Association for Behavioral Health Systems, Massachusetts Association for Mental Health, Massachusetts Biomedical Initiatives, Massachusetts Medical Device Industry Council, Massachusetts Orthopaedic Association, Massachusetts Podiatric Medical Society, Medical Association of Georgia, Medical Association of the State of Alabama, Medical Society of Delaware, Medical Society of the District of Columbia, Medical Society of the State of New York, Medical Society of New Jersey, Men's Health Network, Mental Health America of Indiana, Mental Health America of Greater Houston.

MichBio, Michigan Chamber of Commerce, Michigan College of Emergency Physicians, Michigan Podiatric Medical Association, Michigan Orthopaedic Society, Michigan Society of Anesthesiologists, Minnesota Podiatric Medical Association, Minnesota State Grange, Mississippi Arthritis and Rheumatism Society, Mississippi Orthopaedic Society, Mississippi Podiatric Medical Association, Missouri State Medical Association, Missouri Urological Association, Montana Orthopaedic Society, National Alliance on Mental Illness, National Alliance on Mental Illness Colorado, National Alliance on Mental Illness Florida, National Alliance on Mental Illness Georgia, National Alliance on Mental Illness Indiana, National Alliance on Mental Illness Maine.

National Alliance on Mental Illness Michigan, National Alliance on Mental Illness NC, National Alliance on Mental Illness Texas, National Association for Home Care & Hospice, National Association for Home Care & Hospice—Indiana Chapter, National Association for Home Care & Hospice—Ohio Chapter, National Association for Uniformed Services, National Association of Manufacturers, National Association of Nutrition and Aging Services Programs, National Association of People with AIDS, National Association of Social Workers NC, National Association of Spine Specialists, National Council of Negro Women, National Council of Negro Women—Los Angeles View Park Section, National Council for Community Behavioral Healthcare, National Health Foundation, National Hemophilia Foundation—Delaware Valley Chapter, National Kidney Foundation—Ohio Chapter, National Medical Association, National Minority Quality Forum.

National Retail Federation, NCBIO, Nebraska Academy of Physician Assistants, Nebraska Medical Association, Nebraska Orthopaedic Society, Nebraska Urological Association, Neurofibromatosis Mid-Atlantic, Nevada Orthopaedic Society, Nevada Podiatric Medical Association, Nevada State Medical Association, New Hampshire State Grange, New Horizons Home Health Services, New Jersey Academy of Ophthalmology, New Jersey Mayors Committee of Life Science, New Jersey Podiatric Medical Society, New Mexico Podiatric Medical Association, New York Podiatric Medical Association, New York State Rheumatologists Society, New York State Urological Society, North Carolina Association on Aging.

North Carolina Psychological Association, North Carolina Rheumatology Association, North Carolina Urological Association, North Dakota Chamber of Commerce, North Dakota Medical Association, North Dakota Policy Council, Northwest Urological Society, Ohio Association of Ambulatory Surgery Centers, Ohio Association of County Behavioral Health Authorities, Ohio Association of Medical Equipment Services, Ohio Hospital Association, Ohio Orthopaedic Society, Ohio State Grange, Ohio State Medical Association, Ohio Urological Society, Ohio Veterans United, Oklahoma Podiatric Medical Association, Oklahoma State Medical Association, Oklahoma State Orthopaedic Society, Oklahoma State Urologic Association.

Old North State Medical Society, Oregon Medical Association, Oregon Podiatric Medical Association, Partners in Care Foundation, Partnership for Drug Free North Carolina, Pennsylvania BIO, Pennsylvania Chamber of Business & Industry, Pennsylvania Medical Society, Pennsylvania Orthopaedic Society, Personal Coaching & Psychotherapy for Women, PhRMA, Premier healthcare alliance, RARE Project, RetireSafe, Rhode Island Medical Society, Rio Grande Foundation, New Mexico, Rocky Mountain Stroke Center, Rural Health IT, Sanfilippo Foundation for Children, Society for Cardiovascular Angiography and Interventions.

Society for Vascular Surgery, Society of Gynecologic Oncology, Society of Urologic Oncology, South Carolina BIO, South Carolina HIV/AIDS Care Crisis Task Force, South Carolina Medical Association, South Carolina Orthopaedic Association, South Carolina Podiatric Medical Association, South Carolina Urological Association, South Dakota Podiatric Medical Association, South Dakota State Orthopaedic Society, South Jersey Geriatric Care PC, South Jersey Senior Networking Group, Southeastern Medical Device Association (SEMDA), Southwest Michigan Pharmacist Association, Stockton Center on Successful Aging, Syndicus Scientific Services, Team Sanfilippo Foundation, Tennessee Medical Association, Tennessee Orthopaedic Society.

Tennessee Podiatric Medical Association, Texas Healthcare & Bioscience Institute, Texas Podiatric Medical Association, Texas Urological Society, The Center for Health Care Services, The G.R.E.E.N. Foundation, The National Grange, U.S. Chamber of Commerce, U.S. Pain Foundation, Urology Society of New Jersey, Utah Medical Association, Utah Podiatric Medical Association, Utah State Orthopaedic Society, Vascular Society of New Jersey, Vermont Medical Society, Vermont Podiatric Medical Association, Veterans Health Council, VHA Inc., Vietnam Veterans of America, Virginia Biotechnology Association.

Virginia Podiatric Medical Association, Visiting Nurse Association of Ohio, Washington Biotechnology & Biomedical Association, Washington Free Clinic Association, Washington Osteopathic Medical Association, Washington State Podiatric Medical Association, Washington Rheumatology Association, Washington State Medical Association, Washington State Urology Society, WERAK Foundation, West Virginia Academy of Otolaryngology, West Virginia Chapter of the American College of Cardiology, West Virginia Manufacturer's Association, West Virginia Orthopaedic Society, West Virginia State Medical Association, William ''Hicks'' Anderson Community Center, Wisconsin Hospital Association, Wisconsin Urological Society, Wyoming State Grange, Women Against Prostate Cancer.

HEALTH CARE FREEDOM COALITION,
March 19, 2012.

DEAR MEMBER OF CONGRESS: On behalf of the 26 undersigned members of the Health Care Freedom Coalition and our ally organizations, representing industry, policy, taxpayer, and medical professional groups, and their millions of patients and members, we are writing to express our concerns regarding the Independent Payment Advisory Board provision of the Patient Protection and Affordable Care Act and the disastrous impact of its implementation on both patient care as well as Congressional authority.

Section 3403 of the Patient Protection and Affordable Care Act (PPACA) established the Independent Payment Advisory Board (IPAB) to reduce Medicare spending. But ultimately this panel of 15 independent, unelected bureaucrats with unilateral authority and whose decisions are freed from judicial and administrative review will most certainly cut payments to physicians under Medicare, will limit patient access to, and quality of, medical care.

INDEPENDENT, UNELECTED, POLITICALLY-APPOINTED BUREAUCRATS

Of the 15 members, twelve will be appointed by the President, and the law actually prevents practicing medical professionals—like doctors—from membership. The rules almost guarantee that the members will be academics. The highly-paid bureaucrats will likely be paid more than many of the doctors they are second-guessing. These six-year terms come with an anticipated paycheck of $165,300—more than the average family practice physician earns in many cities in Ohio, Pennsylvania and Florida.

UNDEMOCRATIC, UNILATERAL AUTHORITY AND LACK OF REDRESS OR REVIEW

The decisions cannot be challenged in the courts and are freed from the normal administrative rules process—require no public notice, public comment or public review. IPAB ''recommendations'' carry the full force of the law, unless 2/3 of the House and Senate vote to override. In essence, Congress has given this Board the authority to legislate.

DECISIONS WILL IMPACT PHYSICIANS & PATIENTS

The board is specifically forbidden from ''any recommendations to ration health care'', but PPACA fails to define the word ''ration.'' Instead, it allows IPAB to pay doctors reimbursement rates below costs, which in essence would constrict a physician's ability to treat patients. Longitudinal studies already show that about one-fourth of doctors already refuse new Medicare patients,

and as many as 50% restrict the services they are willing to perform for their current patients. And this is expected to worsen, as even more doctors will be unable to afford to take Medicare patients.

ABSOLVES CONGRESS FROM OVERSIGHT & DECISION-MAKING

IPAB is intended to take tough decisions about Medicare spending out of the purview of Congress, in effect, delegating away its legislative responsibilities under the Constitution to either a 15–member Board, or by default, the Secretary of Health and Human Services. IPAB was simply created to absolve Congress of having to make decisions that directly impact the quality and access of care for Seniors, and also insulate them from having to make tough decisions.

The ill-advised quest for ''cost effectiveness'' is doomed to failure. As we have seen in Great Britain, any de facto price controls are likely to do nothing to control the growth of spending. Further, this one-size-fits-all approach to dictating medical care in a country of more than 300 million is ill-advised.

If Congress believes that these decisions handed over to IPAB are too much of a hot political potato for it to decide, then perhaps it is a clear indication that this is the wrong course of action.

Sincerely,

Kathryn Serkes, CEO & Chairman Doctor Patient Medical Association; Grover Norquist, President Americans for Tax Reform; Dean Clancy Legislative Counsel & VP, Health Care Policy Freedom Works; Jim Martin, Chairman 60 Plus Association; Heather Higgins, President & CEO Independent Women's Voice; Colin A. Hanna, President Let Freedom Ring; Ken Hoagland, Chairman Restore America's Voice Foundation; Christopher M. Jaarda, President American Healthcare Education Coalition; HSA Coalition; Tim Phillips, President Americans For Prosperity; Amy Ridenour, Chairman The National Center for Public Policy Research; Mario H. Lopez, President Hispanic Leadership Fund; David Williams, President Taxpayers Protection Alliance; Andrew Langer, President Institute for Liberty; Jane Orient, MD, Executive Director Association of American Physicians & Surgeons; Eric Novak, MD US Health Freedom Coalition; Andrew F. Quinlan, President Center for Freedom and Prosperity; Grace-Marie Turner, President Galen Institute; Hal C. Scherz, MD, FACS, FAAP President & CEO Docs 4 Patient Care; Amy Kremer, Chairman Tea Party Express; Penny Nance, CEO and President Concerned Women for America; Dr. Joseph L. Bridges, President & CEO The Seniors Coalition; Pete Sepp, Executive Vice President National Taxpayers Union; Judson Phillips Tea Party Nation; Stephani Scruggs, President Unite In Action, Inc; Ana Puig, Co-Founder Kitchen Table Patriots.

I reserve the balance of my time.

Mr. LEVIN. Madam Chairman, I yield myself such time as I may consume.

I hope everybody's been listening to this. What has become clear is this: the Republicans have a 3-act play. First, repeal IPAB; next, repeal the rest of health care reform; and, finally, repeal Medicare.

It is so hypocritical to come forth and say that the efforts of Republicans is to protect Medicare when the purpose of it is to destroy it. That's what would happen if they had prevailed before. That's what would happen if they prevail today with their voucher plan.

So the third act really came forth before the first act. They rolled out, yesterday, their budget plan that essentially would repeal Medicare, would destroy it. There would be a voucher and, over time, the end of Medicare.

It's an essential commitment to the seniors of this country, and we Democrats are determined to thwart every effort to destroy it.

Now, as to the first act, repeal IPAB. You know, it's interesting that Medicare is a major instrumentality for ensuring that over time the costs of Medicare are brought under control, protecting the health care opportunities of seniors. Indeed, there have been efforts already under the Affordable Care Act to bring under control the costs of Medicare, to make sure it survives.

So being an essential part of controlling health care costs over the long term, the Republican proposal, essentially, would go in the opposite direction. And that's why the CBO, last year projected—and I want everybody to listen to this—that health care costs would jump by 39 percent under the Republican plan to end the Medicare guarantee. That's why 300 economists have said that health reform puts into place, essentially, every cost-containment provision policy that analysts have considered. It's because of those policies that CBO has given this estimate that IPAB isn't going to be triggered until some time after 2022.

So what happens is, the Republicans come forth with the repeal of IPAB as a first step towards repealing Medicare when they have never presented an alternative in terms of the Affordable Care Act. So, today, we hear all the scare tactics about a board whose operation effectively won't be triggered for a decade. That's a scare tactic that is not worthy of this floor, so I urge very much that we oppose.

It's interesting that the Republican budget has a cap that is more severe, if you want to put it that way, more strenuous than the provision that relates to IPAB. And so they come forth, and they say that IPAB, which won't be triggered until 2022, is something that they should oppose, while they want to put in place a budget this year that would have a more severe cap than is in IPAB. Let me also say the notion that there is some agency here that could act without any role for Congress is simply untrue. It's not true. You shouldn't say it.

We have an opportunity, once IPAB goes into operation, to review any recommendation that comes forth, and to replace it, as long as the various targets are met. So I urge very much that we reject this proposal in part because the repeal, in and of itself, I think, is a mistake but mainly because of what the aim is here, and that has been so clear from the debate, because people who come here on the Republican side, some of them talk about IPAB; some don't even discuss IPAB. They talk about the Affordable Care Act.

□ 1720

The polling data we have is essentially relating to the Affordable Care Act as well as to IPAB. I think the more people understand what has been going on, the more they see the benefits of health care reform, the more they will be supportive of it. We're going to take that case to the American people.

Let me just give you a few numbers that everyone should know about ACA.

It's been only 2 years since it was signed into law, but Americans are already receiving the benefits of lower costs and better coverage.

Let me give you a few facts:

86 million Americans have received one or more free preventative services such as checkups and cancer screenings;

105 million Americans no longer have a lifetime limit on their coverage;

Up to 17 million children with preexisting conditions can no longer be denied coverage by insurers. Up to 17 million kids. You repeal this Act, you put them into total jeopardy;

2½ million additional young adults up to 26 now have health insurance through their parents' plan. If you had succeeded in past efforts of repealing health care reform, those 2½ million people would have been out in the cold;

Also, 5.1 million seniors in the doughnut hole have saved $3.2 billion on their prescription drugs, an average of $635 per senior. If you had succeeded with repeal, over 5 million seniors would have been essentially with increased costs;

Over 2 million seniors have had a free annual wellness visit under Medicare;

Already under the small business health care tax credit, over 350,000 small employers have used it to help provide health insurance for 2 million workers.

Republicans come here using scare tactics about IPAB, 10 years away from being triggered according to CBO. You essentially say repeal health care reform though you've never had a comprehensive plan to replace it. That's been the bankruptcy of your position.

I finish, reminding everybody that we're the only industrial nation on the globe which has tens of millions of people who go to bed every day without a stitch of health insurance coverage.

The administration's brief before the Supreme Court has illustrated what the result is in terms of the added costs of the uninsured who go to emergency rooms. Billions and billions of dollars that are essentially shifted to people who have insurance and shifted to taxpayers who have to cover the costs of emergency coverage.

So we come here with a passion. We worked hard to support and to pass this act. We worked hard to put it together. A major piece of legislation like that always needs continued work, but not

its repeal. That would be a grave, grave, grave mistake.

So I think it's time to pull down the curtain on this three-act play of the House Republicans trying first to repeal IPAB, then to repeal the rest of health care reform, and then to repeal Medicare. Fortunately, if we're mistaken and the majority passes it here, it will deserve a death in the Senate of the United States.

I reserve the balance of my time.

Mr. CAMP. Madam Chairman, I yield myself 15 seconds just to say that our Republican alternative, our Republican health care bill, prevented unlawful recisions, had no lifetime caps on coverage, did not deny coverage to those with preexisting conditions, and was the only bill that was scored by CBO as lowering premiums. Also, we did it without spending $2 trillion and 2,400 pages and did not create a board of 15 unelected bureaucrats.

With that, I yield 2 minutes to the distinguished chairman of the Health Subcommittee, the gentleman from California (Mr. HERGER).

Mr. HERGER. Madam Chairman, I rise in strong support of H.R. 5.

Today's debate goes to the heart of the question of what kind of health care system we want to have. House Republicans believe the solution to making health care more affordable and strengthening the Medicare program is more freedom, empowering innovation and competition to reduce costs and improve quality, giving seniors the opportunity to choose the health care that's best for them.

The Independent Payment Advisory Board, IPAB, represents a very different approach to controlling health care costs, a one-size-fits-all plan in which unelected and unaccountable bureaucrats decide what kind of health care you should get. Physicians, patient advocates, and respected scholars, Democrats and Republicans alike, have warned that the IPAB threatens access to care for seniors and people with disabilities. The board has the authority to meet and make decisions in secret without considering the perspective of patients and their doctors and without judicial review. Madam Chairman, this is the wrong approach. IPAB must be repealed.

H.R. 5 also includes important reforms to reduce the cost of frivolous medical lawsuits. The President's health care overhaul has not fulfilled his promise to reduce health insurance premiums by $2,500, but commonsense medical liability reforms will truly bring down health costs both for American families and the Medicare program.

I urge the passage of this legislation.

Mr. LEVIN. I now yield 3 minutes to the distinguished member of our committee, Mr. BLUMENAUER, from the proud State of Oregon.

Mr. BLUMENAUER. Madam Chairman, I come to the floor coming from the Budget Committee, where my Republican colleagues are busy at work breaking the commitment that we all made to one another establishing a path forward on deficit reduction. It wasn't just a commitment that was made amongst legislative leaders; we wrote it into law. Now they're breaking that commitment.

They are involved with the budgets that are going to actually reduce health care in this country, and yet they would come to the floor and ask us to get exorcised about something that may happen 10 years from now.

I find the language curious. You could just as easily say, instead of the Supreme Court, you could talk about nine unelected judicial hacks meeting in secret that have no judicial review. They're a power unto themselves.

Get a grip, people.

IPAB comes into play only if we are unable to deal with controlling costs. Remember, our Republican friends—I voted against it—set up the SGR so that we have to have a doc fix every year, putting cost control on automatic pilot, because they didn't have the gumption year after year to deal with the policy changes to make a difference.

We have MedPAC for Medicare that gives us recommendations, but Congress blinks.

□ 1730

What's going to happen maybe 10 years from now, if costs are not under control, then there will be 15 people who are experts, who are recommended by congressional leaders, nominated by the President, confirmed by the Senate, who will make recommendations if Congress doesn't do its job. Then Congress will be able to take those recommendations and put in place alternatives. Nothing is going to happen here without Congress having the ability to match and do better.

But because Congress historically hasn't had a backbone and has failed miserably in areas of cost control and reform, we put into the health care reform act a fail-safe, not unlike what we've had to do to take base closing out of the hands of the logrolling in Congress and have a streamlined procedure. This is a fail-safe. This makes sense. It's not going to happen unless Congress fails in its task.

I strongly suggest that what we ought to do—rather than trying to unravel health care reform on this floor and in the Budget Committee—is accelerate it.

The Acting CHAIR (Ms. HERRERA BEUTLER). The time of the gentleman has expired.

Mr. LEVIN. I yield the gentleman an additional 2 minutes.

Mr. BLUMENAUER. Remember, the elements in the health care reform, when you unwind them, virtually without exception, have their roots in a bipartisan consensus of what needs to happen to make our health care system more efficient.

Many of these pilot projects, these demonstrations have actually already been at work in States across the country, including some that have Republican Governors. We're doing some of it in the State of Oregon. It has the dreaded mandate, which was a Republican think tank option that was an alternative to HillaryCare 20 years ago, and, in fact, was put in place by Governor Romney, who is going to be, by all accounts, the Republican standard bearer for President.

This is an example of Congress at its worst, making up a problem, attacking something that would help us do our job better. They are trying to demonize it in a way that you could do with virtually any other board or commission, ignoring the safeguards, ignoring the fact that the statute says specifically that it shall not ration. Instead, they are willing to allow insurance companies to ration and ignore the need for reform.

I strongly urge rejection of this misguided proposal. Let's get back to work. Let's do our job. It will never come into play if Congress does its job, and Congress will always have the last say.

Mr. CAMP. Madam Chairman, I yield 2 minutes to a distinguished member of the Ways and Means Committee, the gentlewoman from Kansas (Ms. JENKINS).

Ms. JENKINS. I thank the chairman for yielding.

The President's health care law is chock full of pitfalls, tax increases, government overreaches, and newly created bureaucracies. But perhaps the most outrageous and dangerous manifestation is the Independent Payment Advisory Board.

This board of 15 arbitrarily appointed bureaucrats is charged with slashing Medicare reimbursement rates, which will drastically impact the medicine and procedures available to our seniors.

The IPAB has no mandate to improve patient care. Its mandate is to meet a budget, and it may ultimately lead to the rationing of care for our senior citizens. The IPAB gives these bureaucrats unprecedented power with no accountability, no judicial review, and no requirement for transparency. The simple fact is that the American people don't want and certainly don't need bureaucrats coming between us and our doctors.

Today we ask for the repeal of the IPAB, but we will also make up for any amount of lost savings this absurd board would have been able to find by strengthening our health care system with honest and straightforward medical liability reform.

Frivolous lawsuits have caused malpractice insurance rates to skyrocket. As a result, the price of health care for patients has followed the same trajectory, and we've seen dramatic health care access issues for our rural communities.

If we repeal the IPAB and enact these commonsense medical liability reforms, this legislation will reduce the

deficit by over $45 billion, according to the CBO. These are commonsense, bipartisan, fiscally responsible reforms that strengthen the doctor-patient relationship and put the American people back in charge of their health care decisions.

I urge all of my colleagues to support this.

Mr. LEVIN. I yield 4 minutes to a member of our Ways and Means Committee, the gentleman from Wisconsin (Mr. KIND).

Mr. KIND. I thank the gentleman from Michigan for yielding me this time.

Madam Chair, I rise in opposition to H.R. 5.

Two years ago, the Affordable Care Act was passed, and I was a proud supporter of that legislation. Not because I thought it was the perfect bill, but because I thought it gave us the tools and the potential to reform a health care system that was in desperate need of reform, of putting things in place that could deliver better quality of care that is given for a better price, and also increasing access to health insurance throughout the country, and to finally address the 52 million uninsured Americans that we have living in our own communities.

Yet the ultimate verdict on whether health care reform works or fails for everyone in this country is whether we can figure out creative ways of bringing down those costs in health care.

One thing I do know under the health care reform bill that has been enacted is that in my congressional district in western Wisconsin, this year alone 4,200 young adults are able to stay on their parents' health care plan; whereas, before they couldn't. What a relief that has been to those families, making sure that those kids, many of whom are in school, can stay on the family plan.

Of the 5,800 seniors this year who have fallen into the doughnut hole, they are seeing a cost savings of roughly $610 apiece because of the 50 percent price discount they now get under this legislation. That's not peanuts in western Wisconsin. There are 86,000 seniors now that are able to go and get preventive care services without copays, without deductibles, without out-of-pocket expenses. We want them to go in and get those tests so something worse doesn't happen to them, which will inevitably drive up the cost for everyone in the Medicare system.

There are 15,000 small businesses in western Wisconsin that now qualify for tax credits for providing health care to their employees to make it more economically feasible for them to do what they want to do, and that is provide health care coverage for their workers. That 35 percent tax credit goes up to 50 percent in 2014, when we're able to move forward on the creation of the health insurance exchanges. And 39,000 children in western Wisconsin who have a preexisting condition can no longer be denied healthcare coverage in their lives.

This is the right thing to do, and yet we have to figure out some cost-containment measures to make sure that it's sustainable and affordable in the future.

The Independent Payment Advisory Board is a backstop in that effort. It's not the first thing we go to in order to find cost savings, but if costs do exceed target growth rates, the Independent Payment Advisory Board is able to come forward—with Congress—with recommended cost savings that will be implemented only if Congress refuses to act ourselves. And that has been the problem around here for too long. We get recommendations from MedPAC and other entities on where we can find cost savings, but because of the inability of Congress to stand up to some powerful special interests, quite frankly, it's very difficult for this institution to act by itself in order to implement those cost savings.

I find it a little bit humorous that my colleagues on the other side are so fearful of this payment advisory board making some decisions when it comes to the rising health care costs when they feel perfectly comfortable turning these decisions over to private insurance companies who are motivated by profit and trying to maximize their margin of gain by providing health care coverage. I think that's nonsensical.

Ultimately, if health care reform is going to work, we have to change the way health care is delivered in this country so that it is more economical in how we pay for it, so that it is value- and not volume-based anymore.

I come from an area of the country with health care providers that have models of care that are highly integrated, they are very coordinated, they are patient-focused, and they are producing some of the best results in the Nation. Yet a Medicare recipient in La Crosse, Wisconsin, receives on average about $5,000 a year compared to $17,000 in Miami. Yet the results in La Crosse are much better than the results in Miami, and there are studies out there showing there is over-utilization in the delivery of health care, which is driving up costs for everyone.

The Acting CHAIR (Ms. HERRERA BEUTLER). The time of the gentleman has expired.

Mr. LEVIN. I yield to the gentleman 2 additional minutes.

□ 1740

Mr. KIND. I thank the gentleman.

The studies show that one out of every three health care dollars is going to tests, they are going to procedures, they are going to things that don't work. They're not improving health care. And oftentimes, because of the over-utilization that patients are receiving, many of these patients are being left worse off rather than better off. So we've got to reform the delivery system, which the Affordable Care Act puts in place. But ultimately, we have to change the way we pay for health care. We need to end and destroy the fee-for-service system, which is all volume-based payments, and move to a value-based reimbursement system. The IPAB commission can help us get to that promised land.

And this has been a bipartisan issue for a long time. Dr. Frist has been talking about payment reform that's value-based for as long as I can remember. My own former Governor, former HHS Secretary Tommy Thompson, has said repeatedly that if we do anything, make sure that we change the payment system so it is value- and not volume-based anymore. Mark McClellan, President Bush's CMS Director, the same thing. So there's been bipartisan recognition that we have to do it. IPAB gives us an opportunity to do that, but it's not the final say. They merely come forward with their recommended cost savings and challenges the Congress to come up with an alternative cost savings.

So, folks, this is gut-check time. This is whether we are serious about trying to bend the cost curve. Their plan would get rid of Medicare. It turns it into a private voucher and a voucher that's inadequate to address the costs that seniors face. They don't reform the way health care is delivered. They're not reforming how we pay for health care. They're merely changing who pays for health care under Medicare, and those costs are going to be shifted on the backs of our seniors. That's no way of reforming a health care system that's in need of reform, that only address the Medicare portion within our budget.

What we need to be working on and what the Affordable Care Act gives us the tools to do is to reform the entire health care system, both public programs and private programs. And that's something that we fundamentally have to do to get our economy back on track, creating good-paying jobs. Because if you just repeal it now, we go back to the status quo, which means more uninsured, higher costs, and our businesses are less able to compete globally. I encourage my colleagues to reject H.R. 5.

Mr. CAMP. I yield myself 15 seconds.

I would just say that with regard to IPAB, the 15 unelected people appointed by the President, Congress can't simply reject the IPAB findings. Congress has to reject and find those savings somewhere else within the program, unlike the Base Closure Commission, which some Members have cited. And these are all people appointed by the President.

So with that, I would yield 2 minutes to a distinguished member of the Ways and Means Committee, the gentleman from Minnesota (Mr. PAULSEN).

Mr. PAULSEN. I thank the gentleman for yielding.

Madam Chair, the very foundation of our health care system is that relationship between a patient and their doctor. But the President's new health care law inserts government bureaucracy in the middle of that longstanding

relationship. One clear example of this is the establishment of the Independent Payment Advisory Board, this 15-member board of unelected, unaccountable bureaucrats who will soon have the authority to dictate our Nation's Medicare policy by effectively deciding what health care seniors can receive. And since its inception, IPAB has been the focus of vocal and sustained opposition from doctors, physicians, and patients because it does threaten to reduce beneficiaries' access to treatments and services that are included in the Medicare program.

Madam Chair, the repeal of IPAB has strong bipartisan support. Given the widespread concern about the impact that IPAB will have to deny quality health care services, it's no wonder that about 350 organizations that represent veterans, seniors, employers small and large, as well as doctors and physicians and consumers in all 50 States, support its repeal. Although a majority of us here in Congress have registered our concerns about IPAB and support its repeal, it is the American public, including many folks from my community, who remain the most vocal about ending this program before it is implemented.

The American people have every reason to be worried about this IPAB board. The unchecked powers of IPAB have been explained by my colleagues already at length. Simply put, IPAB is a dangerous new government agency that will be made up of unelected bureaucrats with no oversight, no accountability, and no recourse for seniors to appeal any of IPAB's decisions. The decision-making, the deliberations, the meetings that IPAB hold do not have to be held in public.

Madam Chair, rather than endangering Medicare beneficiaries, we should be empowering them. Rather than making decisions behind closed doors, we should be having these discussions in public in our hearing rooms between doctors, patients, and consumers. Let's do the right thing and protect American seniors by repealing this overreaching provision.

Mr. LEVIN. I now yield 4 minutes to the gentleman from Texas, a member of our committee, Mr. DOGGETT.

Mr. DOGGETT. I thank the gentleman.

Many an American family has been wrecked by soaring health care costs. We know it's been a leading cause of personal bankruptcy. We know that spiraling health care costs have been a leading cause of credit card debt, and now Republicans have continued their sustained effort to wreck the Affordable Care Act.

As we have been witnessing at the same time that this debate is going on within the Budget Committee, on which I also serve, the Republican plan to end the guaranteed benefits of Medicare, they think that our seniors pay too little, so they offer a voucher plan that would result in our seniors having to pay much more for their health care. They would tell the senior or the individual with disabilities, Go out and fish for insurance with this voucher. But they won't find any fish biting, though they will continue to be bitten with rising health care costs. That's why President Lyndon Johnson created Medicare in the first place, because private insurance companies weren't interested in covering the old and the infirm.

Today's approach is the same approach that Republicans took last year when they had their signature accomplishment. Right in the first month of their takeover of this Congress, they came out here with this page-and-a-half bill that I call the ''12 platitudes.'' They repealed what they said they didn't like, and they came forward with 12 lines of what they said they would replace the Affordable Care Act with. But all we've gotten since then are bills that began after they did the total repeal—repealing individual sections, like school health care clinics, like this proposal dealing with the question of health care costs.

We know they don't like it. We know they don't like President Obama and anything that he is for. They tell us everything that is wrong with the Affordable Care Act, but they sure can't come up with a better idea that they have the courage to bring to a vote in the Ways and Means Committee or bring to a vote on the floor of this House. It's all about what they're against, but they haven't brought any of the 12 platitudes that they approved last year into a legislative form to deal with this issue of spiraling cost for our government and families or to deal with any other aspect in the Affordable Care Act.

Now, I have to say, quite frankly, that I wish the Affordable Care Act were as good as they think it is bad. It's not. It is a compromise of a compromise—it has many inadequacies—but compared to the Republican alternative of doing nothing and compared to the broken health care system that has wrecked so many American families who are faced with a health care crisis, this approach is far superior.

This board's opponents tell us that Congress should be able to make all these decisions. Well, I've served on the Ways and Means Committee and on the Health Subcommittee previously for a number of years. I wish it could be so, and I think we could play a more constructive role. But, frankly, the history is that Congress hasn't done a very good job of controlling costs. When we have taken steps to control costs, as we did with the $500 billion in cost control that we put into the Affordable Care Act that increases the solvency, extends the solvency of the Medicare trust fund by 12 years, all we've gotten is attack and criticism from them for the steps that we took that did limit cost.

So I don't view this aspect of the Affordable Care Act as necessarily the best way to do it or the only way to do it. But when all they offer us is nothing except vouchering Medicare for our seniors and similar, I think we should stick with the reform that we have until a better alternative is presented, and that alternative is not being presented tonight.

Republicans don't have a plan to make the hard decisions to lower health care costs. They just want our seniors, individuals with disabilities, and families across America to pay more so that they can preserve all these tax breaks for the wealthiest and most economically successful people in our society and, for all of those corporations that export jobs abroad, to continue to provide them incentives to do just that.

□ 1750

I believe that this bill should be rejected just like their other repeal efforts until they come up and present on the floor a better idea, and I don't think they have one. They just have all the retreads of the Bush-Cheney years. Until then, I say stick with the Affordable Care Act.

Mr. CAMP. I yield 2 minutes to a distinguished member of the Ways and Means Committee, the gentleman from Illinois (Mr. ROSKAM).

Mr. ROSKAM. Mr. Chairman, thank you for yielding.

Madam Chairman, did you notice something? The gentleman from Oregon—and I took a note and I'm kind of paraphrasing, but he basically was arguing from the other side of the aisle that IPAB, this cost control board, will basically never come into play as long as Congress does its job. During the health care hearing that we had in the Ways and Means Committee, the gentleman from Wisconsin on the other side of the aisle characterized IPAB as a leap of faith, and now we just heard from the gentleman from Texas who acknowledged it's not the best solution, but let's stick with it.

Here's the problem with sticking with this failed solution, Madam Chairman. They're asking seniors to bear the brunt of this.

We had an expert witness, Madam Chairman, who came into the Ways and Means Committee, and I posed this question to him. I said: There's no rationing per se. It's defined out of the bill, although it's not defined in the bill. But the bill says there can't be rationing, but can there be per se rationing? In other words, if coverage is denied based on cost, is that rationing?

And he said: Absolutely, Congressman.

So think about what the other side of the aisle is asking. Take a leap of faith, a leap of blind faith, that somehow Congress is going to come up with the remedy and that seniors are not going to be held at risk.

The gentleman from Texas said that we're only here criticizing things. Let me tell him, Madam Chairman, what we are for.

We're for the repeal of IPAB. We're for the repeal of something that is

going to put such downward pressures on seniors, it will make people's heads spin. What we've got to do is make sure that we put remedies in place that empower seniors, that create patient-centered health care and don't deny care and put more out-of-pocket costs on the backs of seniors.

We can't repeal this thing fast enough. We need to vote ''aye'' and get this done.

Mr. LEVIN. It's curious. You're talking about, according to CBO, a board whose operation would be triggered in 2022. You come here and scare people. It doesn't work. You talk about rationing. You're talking about an operation 10 years from now.

Right now, health care is being rationed. You have 50-plus million people who have no insurance, 50-plus million people who have no insurance at all, and you haven't come up with a bill that would address that.

I am proud to yield 4 minutes to the gentleman from New Jersey (Mr. ANDREWS), who has been so key in the health care debates.

(Mr. ANDREWS asked and was given permission to revise and extend his remarks.)

Mr. ANDREWS. I thank my friend for yielding and for his compliment.

When our mothers and fathers go to the doctor or the hospital, we want to be sure they get the best health care that can possibly be delivered and that their doctor and their family think they ought to get; and that health care should never be subject to the strategic plan of any insurance company or the whims of the marketplace.

Because it is not profitable, as a general rule, to take care of the aged and the infirm, President Johnson and this Congress, in 1965, created the Medicare guarantee, and they guaranteed that our seniors and people with disability would get the care they need irrespective of the whims of the marketplace. The majority brings this bill to the floor today because they raise fears about what might happen to the Medicare guarantee 10 years from now.

There is a very important question about Medicare before this Congress, but it's coming about 8 days from now, not 10 years from now, when the majority will bring yet another budget that systematically unravels and ends the Medicare guarantee.

Call it what they will, when you have a system where the healthiest and the most prosperous and, in some cases, the youngest retirees can opt into a private insurance system, those that will be left in regular Medicare will be the aged and the infirm and the poor. Medicare will then go the way of Medicaid, which their budget cuts by nearly 40 percent, according to some estimates.

Frankly, as a diversion from the real threat to Medicare, which is yet another Republican budget coming to this floor 8 days from now that will end the Medicare guarantee, we now have a series of wild accusations about the Independent Payment Advisory Board, which the Congressional Budget Office says, based on current cost performance, would have no role for at least 10 years.

So we hear all these things about these unelected bureaucrats making decisions. I would say, Madam Chair and fellow House Members, consider the source.

Two years ago, we heard that everyone in America would be in a government-run health plan if the Affordable Care Act passed. It hasn't happened.

Two years ago, we heard that every small business in America would be forced to buy unaffordable health insurance for their employees. It hasn't happened.

Two years ago, we heard that every American family would have to bear a crushing tax increase because of the Affordable Care Act. It hasn't happened.

Two years ago, we heard there would be drastic cuts in benefits to Medicare beneficiaries because of the Affordable Care Act. Not only has it not happened, benefits have increased. Seniors pay a lower share of their prescription drug costs and Medicare pays more. Seniors have access to annual preventive checkups without copays and deductibles. It hasn't happened.

Finally, lest we forget, those who say the IPAB is such a virulent threat to Medicare and said there were death panels in the Affordable Care Act, where are they? Can anyone on the other side point to one person who has gone before a government committee and been denied health care since the Affordable Care Act and as a result of that act?

The Acting CHAIR. The time of the gentleman has expired.

Mr. LEVIN. I yield the gentleman 2 additional minutes.

Mr. ANDREWS. It is a fiction—it is a distortion—and here we are at it again.

Now, in the first 2 weeks of their majority, the majority came here and made a promise to the American people. They said: Yes, we're going to try to repeal the Affordable Care Act, but then we're going to replace the Affordable Care Act. It was repeal and replace.

We've had the repeal as a recurring scenario on the floor. This is just another chapter in it. Where's the replace?

For the provision that says that people 26 and under can stay on their parents' plans, if you repeal the Affordable Care Act, where is your bill to replace it?

For the provision that says that no person can be denied health insurance or charged more for it if they're diabetic or if they have breast cancer or asthma, where is their replacement?

For the provision that says that seniors who fall into the doughnut hole get significantly greater help in paying for their prescription drugs, where is their replacement?

For the provision that says that small business people who voluntarily provide health insurance to their employees get a significant tax cut, where is their replacement?

There's a saying that our friend from Texas says about being all hat and no horse. The majority is all repeal and no replace.

So this is yet another example of a debate that's tired, worn out, and seen its day. The Affordable Care Act is helping improve the lives of Americans. An empty political debate like this one isn't, and certainly ending the Medicare guarantee, as the Republicans will try to do in 8 days, is the wrong way to go, and so is this bill.

□ 1800

Mr. CAMP. I yield myself 30 seconds.

I would just say to my friend from New Jersey who says ''consider the source''—and the source is the American people—73 percent have expressed concern that the Medicare cuts recommended by IPAB would not only go into effect without congressional approval, but would also hurt their ability to get the Medicare services they need.

Let me just say I hear from my friends on the other side how important IPAB is to the integrity of Medicare. It is not effective until 2022. And let me just say with regard to the Medicare cuts that are in your health care bill, most of them don't take place until 2014. And I would just say that our health care bill included provisions that covered preexisting conditions, included many of the provisions the gentleman mentioned, and we did it without a tax increase, and we did it as the only health care bill that was scored by the Congressional Budget Office as decreasing premiums for American citizens.

With that, I yield 2 minutes to a distinguished member of the Ways and Means Committee, the gentlewoman from Tennessee (Mrs. BLACK).

Mrs. BLACK. Let's, first of all, start with the simple fact that no one in this room can deny, and that is there are 10,000 baby boomers that are added to the rolls each day. Medicare's exponential growth will cause the program to go bankrupt in 10 years. The Congressional Budget Office and the Medicare and Medicaid trustees have been ringing these alarm bells about Medicare's dwindling finances, and we must act now.

Over 46 million Americans rely on Medicare for their health care, and something must be done soon to save this program for future generations. Unfortunately, the President's budget proposal failed to address Medicare's grim future. Instead, what we have on the law books now is a 15-member board that is charged with cutting costs and denying care to our seniors. The Independent Payment Advisory Board established in the health care law would cut physician payment rates, forcing many doctors to stop seeing Medicare patients. This board makes senior care harder to access and

puts bureaucrats between the patients and their doctors.

Now, it's been said here today there's not another plan. Let me correct that. There is another way. As a matter of fact, there is a bipartisan way. The plan for Medicare that is a bipartisan proposal does three things. It does not make any changes for those at or near retirement, it offers guaranteed coverage options to seniors regardless of their preexisting conditions or health history, and it is financed by a premium-support payment that's adjusted to provide additional financial assistance to those who are low-income and less-healthy seniors, and more wealthy seniors will pay.

So the choice is clear: we can continue to stick our heads in the sand and go on with a program that takes away choice for our seniors, limits their care and supports the status quo, or we can improve a plan to save Medicare and provide more choice. For me, the choice is clear.

Mr. LEVIN. Let me just say it is strange to say you save something by destroying it. That is 1984 in 2012.

I now yield 2 minutes to the gentleman from New Jersey.

(Mr. ANDREWS asked and was given permission to revise and extend his remarks.)

Mr. ANDREWS. I thank my friend from Michigan for yielding, and I want to comment on something, Madam Chair, that my dear friend from Michigan, the chair of the Ways and Means Committee, said. As has become part of the Republican catechism, he talked about the so-called Medicare cuts that were in the Affordable Care Act. It is correct that in the Affordable Care Act we reduced Medicare spending by $495 billion by cutting corporate welfare to insurance companies, by cutting overpayments to medical equipment suppliers, and cracking down on fraud and abuse of the Medicare program. The majority must agree with these ideas because in the budget they are marking up today in the Budget Committee, every penny of that $495 billion in savings is included in the majority's budget. The majority must agree with these savings, and I commend them for it, because the budget resolution that passed here last year that essentially every member of the majority voted for included every penny of that $495 billion in savings.

So I would ask my friends on the other side that if they're so in objection to those cuts, why did you vote for them last year? And why are they in your budget this year? I would be happy to yield.

Mr. CAMP. Since the gentleman has asked, we are using those dollars to protect the Medicare program. You used those dollars to create a new entitlement which we can't afford.

Mr. ANDREWS. Reclaiming my time.

Mr. CAMP. Certainly you would reclaim your time.

Mr. ANDREWS. Because the gentleman's point was there was something wrong with the cuts. Obviously, he would contradict that point. Every dollar of the cuts in the Affordable Care Act have been embraced, supported and voted for by the Republican majority for which you deserve credit.

Mr. CAMP. I yield 2 minutes to a distinguished Member from Mississippi (Mr. NUNNELEE).

Mr. NUNNELEE. Madam Chair, I thank the chairman for his leadership in this area. I thank you for yielding.

I find it fascinating as I listen to the debate that even while discussion is going on on the budget, we're hearing accusations that say Republicans want to end Medicare. In reality, 2 years ago when the national health care bill passed, that ended Medicare as we know it. That cut half a trillion dollars out of Medicare spending. That put in place this unelected group of bureaucrats that will make health care decisions for seniors.

And I hear this afternoon suggestions that say, well, it may not even go in effect for 10 years; let's wait and see. Well, we have a saying in Mississippi: Do you know when is the best time to kill a snake? That's the first time you see it. This IPAB is a snake, and the best time to kill it is today. The club and the vehicle by which we'll kill it is this bill, and that's why I'm going to vote for it, and I urge all of my colleagues to do the same.

Mr. LEVIN. It is now my privilege to yield 3 minutes to the distinguished gentleman from Missouri (Mr. CLAY).

Mr. CLAY. I thank the gentleman from Michigan for yielding.

Madam Chair, my friends on the other side of the aisle want to repeal the Affordable Care Act. Since straight-out repeal didn't work, they are trying to dismantle it bit by bit. I'd like to focus on the effects of the ACA, or the Affordable Care Act, on women's health.

The ACA is the greatest improvement for women's health in decades. The health care needs of women are greater. Historically, women have played a central role in coordinating health care for family members. Here are just some of the ways that the ACA, a bill that I am proud to have helped pass, will improve women's health:

Women will not have to pay more than men for the same insurance policies. Imagine that. Women will not be denied coverage because they are sick or have preexisting conditions. Oh, that's an improvement. Women will be guaranteed preventive services with no deductibles or co-pays. More low-income women will have timely access to family-planning services. Wow, miracle of miracles. Nursing mothers will have the right to a reasonable break time and a place to express breast milk at work. Pregnant and parenting women on Medicaid will get access to needed services. That would be an improvement. Senior women will save thousands of dollars as reform closes the Medicare prescription drug coverage gap. And women will be able to comparison shop when choosing health plans for their families. Family caregivers, who are typically women, will benefit from new supports that help them care for their loved ones while also taking care of themselves.

Madam Chair, as a son, as a father, and as an American, I strongly support the ACA and its improvements to health care for everyone, especially women. Dismantling the act, whether through immediate repeal, lawsuits, or piece by piece, means losing those improvements, and that is unacceptable.

□ 1810

Mr. CAMP. Madam Chairman, I yield 2½ minutes to a distinguished member of the Ways and Means Committee, the gentleman from Washington State (Mr. REICHERT).

Mr. REICHERT. Madam Chair, 2 years ago, the President's massive health care plan came before us, and then-Speaker PELOSI said we had to pass this bill to find out what was in it. Well, you know what? We're finding out what's in this bill.

In the last 2 years, we've had 47 committee hearings in six different committees. We've taken 25 floor votes to repeal, defund, or dismantle harmful elements of this massive $1 trillion, 2,000-page government takeover of our Nation's health care system. We're finding out what's in this bill.

We've already repealed the 1099 requirement with bipartisan support. We've already repealed the CLASS Act with bipartisan support. Now we're awaiting the Supreme Court's decision on whether the individual mandate is constitutional.

I think the public is now beginning to learn a little bit about this bill themselves. I think they know there is a 3.8 percent tax on small businesses, our job creators. There's another 2.3 percent tax on medical devices—wheelchairs for our seniors, hearing aids for our disabled folks. These are things that are in this bill. There's a 40 percent tax on your health care plans.

Now they keep telling us, too, that if you like your health care plan, you can keep it. Well, President Obama, himself, said, you know, there may have been some language snuck into this bill that runs contrary to that premise. Who do we believe here? What do we believe?

Here we are again. One more thing to add to the list of what we're finding out, IPAB, the Independent Payment Advisory Board. This unelected board makes decisions and gives recommendations to Congress for cutting Medicare payments. So this panel of unelected bureaucrats unilaterally decides what kind of care is now available and allowable to our seniors, to our veterans, and to our Americans with disabilities—not doctors, not nurses, not anybody who has medical or scientific training. These are bureaucrats.

Just what we need, more bureaucrats.

If we don't vote to repeal this provision, a gang of 15 unelected bureaucrats will have the ability to cause cuts to Medicare payments without anyone else's input.

The Acting CHAIR. The time of the gentleman has expired.

Mr. CAMP. I yield the gentleman an additional 30 seconds.

Mr. REICHERT. So this rationing board will threaten seniors' access to care in secret. There is absolutely no requirement for openness or transparency or for those bureaucrats to hold public meetings or consider input on its proposals. The IPAB, this board of bureaucrats, is unaccountable; it's secretive and threatens patients' care.

Mr. LEVIN. I yield myself such time as I may consume.

We're talking about a board whose operations trigger, according to CBO, 10 years from now.

I just want to say to those who say it's unaccountable: Every one of their recommendations will come before the Congress of the United States, every single one. What's unaccountable are the statements that are made on this floor that are not true.

I reserve the balance of my time.

Mr. CAMP. Madam Chairman, I yield 2 minutes to a distinguished member of the Ways and Means Committee, the gentleman from Texas (Mr. BRADY).

Mr. BRADY of Texas. Madam Chairman, many Members of Congress didn't have the time or the choice to read this new health care law before it became law. After it was passed, I asked our economists of the Joint Economic Committee—they spent 4 months going through every page and provision of this new law—to show the American public just what this new health care takeover looked like. They went through all 2,300 pages of the bill, and this is what the new health care law in America looks like—well, actually, not completely. We could only fit one-third of all that new bureaucracy on one page.

Here are the physicians, over in that corner are the patients, and in between are 159 new Federal agencies and bureaucrats in between you and your doctor.

We can do better for the American public than this horrible health care law, and we're doing that today.

Today, we're going to take on—this chart, the way it works, everything in dark blue is a new expansion of government; everything in orange, potential rationing boards; everything in green is $1 trillion of new tax increases or slashing cuts to Medicare. All the light blue provisions deal with expansion of government into the free market.

But today, we're going to act. We're not going to wait. We're going to act to repeal one of the key rationing boards. This Independent Payment Advisory Board, you've heard today, 15 unelected bureaucrats, will make life-or-death decisions about treatment in the future.

My mom is one of those Medicare seniors who I have no doubt, if this is not repealed, will someday see her treatments limited by these unelected bureaucrats. Our Democratic friends say, We're not rationing, because the government will not actually say ''no'' to a senior who needs care. They just won't reimburse the doctor or the local hospital or the local hospice care to take care of them.

I don't know what you call that, but I call that rationing.

The Acting CHAIR. The time of the gentleman has expired.

Mr. CAMP. I yield the gentleman an additional 30 seconds.

Mr. BRADY of Texas. I thank the chairman. I will be very brief.

This board has unlimited power to slash even more than that, and Congress is virtually powerless to stop it.

This is America. We don't allow these bureaucrats to make these life-or-death decisions. Republicans in this House are going to repeal this dangerous bureaucracy, and we are, when we get a chance, replacing it with affordable health care for America.

Mr. LEVIN. No. What the Republicans would do would be to send the decisions already there in large measure to insurance companies.

I reserve the balance of my time.

Mr. CAMP. Madam Chairman, I yield 2 minutes to the distinguished gentleman from Pennsylvania (Mr. DENT).

Mr. DENT. Madam Chairman, the bill we're considering today, H.R. 5, the Protecting Access to Healthcare Act, or PATH, is about patient access to care, plain and simple.

In the months leading up to the passage of the health care law and since the law was enacted, Congress has spent countless hours talking about the need to increase access to health care. The health care law signed nearly 2 years ago was the wrong direction for our country and for our citizens, and it will negatively impact access to care.

The two issues that we're going to address here today in this legislation—repealing the Independent Payment Advisory Board, or IPAB, and enacting meaningful medical liability reforms—are key to ensuring that all Americans have access to quality care.

Now, as to the first piece of this legislation, the IPAB, the Independent Payment Advisory Board, let's be very clear: nothing about these advisory rulings are advisory. Good luck to anybody; good luck if you try to ignore the advice of the IPAB. It's going to be more like a medical IRS than an advisory panel.

Let's be clear: the very purpose of this IPAB is to save money by restricting access to health care for Medicare beneficiaries. It will achieve these savings by ratcheting down payments to providers who are already underpaid by Medicare. This will lead to fewer doctors who are willing to see Medicare beneficiaries, and, undeniably, this will lead to delays and denials of care.

This board, as has been said many times, is made up of 15 unelected bureaucrats—and unaccountable ones at that—that will wield enormous power, and there are no checks and balances in place to ensure that authority is being used appropriately. This abdicates Congress' responsibility, and it threatens care for our Nation's seniors.

Make no mistake that IPAB must be repealed. We don't need a medical IRS.

The second part of this legislation is going to reform our medical liability system. Across our country, our medical profession has practiced defensive medicine out of fear of frivolous lawsuits. This not only drives up health care costs, but it creates serious doctor recruitment and retention problems, especially in the so-called ''high-risk'' disciplines such as orthopedics, neurosurgery, emergency medicine, and obstetrics.

The Acting CHAIR. The time of the gentleman has expired.

Mr. CAMP. I yield the gentleman an additional 15 seconds.

Mr. DENT. This medical liability crisis has had serious implications in my State of Pennsylvania. It's time we act on this issue.

I live in a State where we train a lot of doctors, but we can't retain them and we can't recruit them. It's a very serious problem for us.

It's time we pass this legislation. We'll say more about medical liability tomorrow in the amendment process.

Support the legislation.

Mr. LEVIN. I reserve the balance of my time.

Mr. CAMP. Madam Chairman, I yield 2 minutes to a distinguished member of the Ways and Means Committee, the gentleman from Louisiana, Dr. BOUSTANY.

□ 1820

Mr. BOUSTANY. I thank the chairman of the full committee for yielding time to me.

I had a great career as a cardiac surgeon in treating thousands of Medicare patients in my career. And my career ended prematurely because of a disability.

But I learned something a long time ago from my father, who's a family doctor, who went before me, who taught me about the art of medicine. And the most important thing he taught me, despite all the technology we have, is that trust in the doctor-patient relationship is the most important thing, the most important foundation of good health care, high quality health care.

Look at this chart. What's wrong with this?

Clearly, you could see all the bureaucratic entities. But where's the doctor, and where's the patient?

The doctor is down here in the corner, and I think way off in the other corner are the patients. So all this stuff in the middle is what undermines the trust in the doctor-patient relationship.

Now, we had Health and Human Services Secretary Kathleen Sebelius in front of our committee recently, and

we were asking about this Independent Payment Advisory Board. We asked the question about rationing, and what came out was, number one, there's no definition of rationing in the statute, so the Department will have to write rules. And she admitted in committee—very tacitly but effectively admitted—that they're not going to be able to write rules that can actually protect seniors from IPAB.

Even the left-leaning Kaiser Family Foundation admits, IPAB must issue cuts to meet spending targets ''even if evidence of access or quality concerns surfaced.'' AARP warns IPAB's Medicare cuts ''could have a negative impact on access to care.''

Both of those are really understatements. According to Medicare's own actuaries, Medicare physician payments could fall to less than half of projected Medicaid rates under current law.

The Acting CHAIR. The time of the gentleman has expired.

Mr. CAMP. I yield the gentleman an additional 15 seconds.

Mr. BOUSTANY. We won't control costs by cutting Medicare provider reimbursements below the cost of providing care. And if left on the books, IPAB will endanger the lives of seniors and delay access to providers. It's very clear.

This undermines the doctor-patient relationship. It undermines trust in our health care system. It undermines quality, and we will not control costs with IPAB. That's why we must repeal it.

Mr. LEVIN. I yield myself 1 minute.

The present system doesn't have enough primary care. I know from my own experience that there's a lack of family physicians and primary care physicians. The Affordable Care Act strengthens that program, will strengthen the relationship between the physician and the patient. And for anybody to come here and scare patients and seniors into thinking that there is some kind of a wall that will be replaced is really not true.

Mr. BOUSTANY. Will the gentleman yield?

Mr. LEVIN. I yield to the gentleman.

Mr. BOUSTANY. We have a severe shortage of physicians in this country today, and it's getting worse, worse by the month and by the year. And as a physician who stays close to the physician community around this country, I am hearing all kinds of stories about physicians nearing retirement moving up that retirement date. We're seeing fewer people going to medical school. All of this is creating a major disruption in our health care system.

The Acting CHAIR. The time of the gentleman has expired.

Mr. LEVIN. I yield myself an additional 1 minute.

Look, I respect that. But the primary fact, the basic fact is that the Affordable Care Act addresses this issue more effectively than has been addressed before. There is more money for primary care physicians, for family physicians. That's what we need. That's what we need.

And to come here and raise the specter that this bill is going to diminish it, when its major purpose, among others, is to increase the availability, to have a linkage between the patient and the specialty care—

Mr. BOUSTANY. Will the gentleman yield for one more point?

Mr. LEVIN. I yield to the gentleman.

Mr. BOUSTANY. We have a severe shortage in cardiothoracic surgeons, in neurosurgeons, other key specialists that are very essential for the care of Medicare patients, and it's getting worse. We need both primary care and specialty physicians to deal with this patient population. It's getting worse.

The Acting CHAIR. The time of the gentleman has again expired.

Mr. LEVIN. I yield myself an additional 30 seconds.

Look, we need to address it, but destroying Medicare is not the way to address it. That's what you do. You destroy it. You destroy it when you say you're saving it.

I reserve the balance of my time.

Mr. CAMP. I yield 2 minutes to the distinguished gentleman from Indiana (Mr. PENCE).

(Mr. PENCE asked and was given permission to revise and extend his remarks.)

Mr. PENCE. I thank the chairman for yielding.

I rise today in support of the Protecting Access to Healthcare Act. This bill will take an important step forward in dismantling the government takeover of health care that was passed by this body some 2 years ago.

The PATH Act essentially would repeal the Independent Payment Advisory Board included in ObamaCare, and I strongly support it.

Now, quite frankly, the IPAB that is the acronym that's been used often on the floor in this debate is probably something that most Americans are unfamiliar with. But they deserve to know that buried in section 3403 of ObamaCare, there's a powerful board of unelected bureaucrats, this so-called Independent Payment Advisory Board, whose sole job will be to save money by restricting access to health care for Medicare beneficiaries. That's the purpose of IPAB.

IPAB is required to achieve specific savings in years where Medicare spending is deemed to be too high. It will lead, inexorably, to rationing. It will take medical decisions out of the hands of doctors and patients, and it will reduce patient choice, unambiguously.

Furthermore, ObamaCare doesn't even require that IPAB do all of this in the public domain. There's no requirement that IPAB hold public meetings or hearings, consider public input on its proposal, or make its deliberations open to the public.

Unaccountable Washington bureaucrats meeting behind closed doors to make unilateral decisions that should be made by patients and doctors is unacceptable, and this IPAB must be repealed.

It was 2 years ago that we passed this government takeover of health care into law. It's important to note that the first act of this Congress in January 2011 was a full repeal of ObamaCare.

The Acting CHAIR. The time of the gentleman has expired.

Mr. CAMP. I yield the gentleman an additional 30 seconds.

Mr. PENCE. I thank the gentleman.

You'll never convince me that the Federal Government, under the Constitution, has the authority to order the American people to buy health insurance whether they want it or need it, or not. My hope is that in the days ahead, the Supreme Court will come to that conclusion.

I believe we must not rest, we must not relent until we repeal ObamaCare, lock, stock and barrel. But, for now, let's take the path that is before us. Let's pass the Protecting Access to Healthcare Act, and let's repeal this onerous Independent Payment Advisory Board once and for all.

Mr. LEVIN. I yield myself the balance of my time.

Look, the Supreme Court will be hearing the case about the individual mandate next week, and I don't think we want to argue this now. We don't have any judges here.

But let me say, on the individual mandate, it really is ironical that the more conservative, apparently, you are, the more you dislike the individual mandate, when the individual mandate was the central point within the health care reform proposal of conservatives in this country several decades ago. It was their central point in the eighties and in the nineties. And now they've reversed course and claim, I guess, what they proposed in the seventies and eighties was constitutional then is unconstitutional today. Talk about a flip-flop. That is, I think, maybe an unconstitutional flip-flop, but the Court will decide that.

□ 1830

Let me just say a word about cost containment and the importance of our addressing that and the importance of our reforming the present system, how we reimburse the fee-for-service system. I don't think it's been noticed that, in addition to IPAB, ACA has a number of provisions that will go into effect long before IPAB could become operational. Those systems are beginning to work.

For conservatives who talk about the importance of cost containment, they want to repeal an act that has within it not only the seeds of cost containment, but the instrumentalities of it. In fact, they're beginning to work well enough. That's why CBO says that it's going to be 10 years before IPAB is triggered.

So, those who come here who claim to be concerned about cost containment essentially are undermining their own position.

Well, this is act one of the Republican three-act play.

The second is to eliminate health care reform altogether, and the third is to take away Medicare.

I want to close reporting the views of AARP in terms of the Ryan budget proposal. It says:

It lacks balance, jeopardizes the health and economic security of older Americans. A number of proposals in this budget put at risk millions of individuals by prioritizing budget caps and cuts over the impact on people.

Those who talk about the cap that would essentially be within the structure of IPAB's operation, that proposed cut is less than in the Ryan budget, which would be more severe, and essentially the implementation would be by insurance companies who are nameless, who are unaccountable.

So let me continue with another quote from the AARP:

By creating the premium support system for Medicare beneficiaries, the proposal is likely to simply increase costs for beneficiaries while removing Medicare's promise of secure health coverage—a guarantee the future seniors have contributed to through a lifetime of hard work.

The premium support method described in the proposal, unlike private plan options that currently exist in Medicare, would likely 'price out' traditional Medicare as a viable option, thus rendering the choice of traditional Medicare as a false promise.

So this is what I think we should do in terms of this three-act play of the House Republicans. That is to start by rejecting act one, this repeal of IPAB.

This may be a vote, but it's not going to be an act.

I finish with this. In a sense, you are acting because this isn't going to become law. You have not come up in all of these months with a comprehensive alternative to the Affordable Care Act. There's not been a comprehensive bill put forth. We haven't voted on a comprehensive bill in these days on the Ways and Means Committee. Instead, there has a piece-by-piece effort to dismantle what was health care reform to address a serious situation, including over 50 million people who go to sleep every night without health care coverage in the United States of America.

We should be ashamed of that. We should be ashamed. A couple years ago, we acted to lift that shame off of the shoulders of all of us in the United States of America.

I urge we vote ''no'' on this bill.

I yield back the balance of my time.

Mr. CAMP. Madam Chairman, I yield myself the balance of my time.

Nearly 70 percent of seniors are worried that IPAB will limit their Medicare choices and the coverage that's available to them under Medicare. I think this is the most troubling part of the health care law that the Democrats rammed through the Congress, and that is because this secret rationing board is given enormous power with no accountability.

The 15 unelected board members of IPAB are free to cut reimbursement rates for certain procedures or for services that they deem unnecessary. They can cut those rates so low that physicians will no longer be able to offer those services. That's pretty clearly the ability to ration.

We have had countless physician groups warn us about the IPAB. They're warning us that these cuts will force them to stop seeing Medicare patients, and the real problem is, because TRICARE reimbursement rates are tied directly to Medicare, that will have health care for our military personnel negatively impacted by the IPAB as well.

The Democrats gave IPAB blanket authority to operate in secret. There is no requirement that their deliberations, their reasonings for their conclusions must be made public. Also, the health care bill states directly that IPAB, and I'm quoting here, ''may accept, use, and dispose of gifts or donations of services or property.'' That's not a very subtle invitation for lobbyists and others with interests in issues before the Congress to impact these unelected and unaccountable IPAB members with cash, with gifts, with other items.

So not only do they have enormous power that if the Congress can't override automatically becomes law. But they have the ability to do it in secret, and the legislation states directly that they can accept gifts and donations.

So this is a troubling piece of ObamaCare that we need to repeal, and I urge my members to vote for repeal of this.

I yield back the balance of my time.

Mr. SMITH of Texas. Madam Chairwoman, I yield myself such time as I may consume.

Madam Chairwoman, America's medical liability system is broken and in desperate need of reform.

□ 1840

Frivolous lawsuits drive physicians out of the practice of medicine. Limitless liability discourages others from high-risk medical specialties and substantially increases the cost of health care.

The solutions to this crisis are both well known and time tested, but the President's recent health care legislation did nothing to address the problems in our medical liability system.

We cannot wait any longer to fix the problem. We should pass this bipartisan medical liability reform legislation to cut health care costs, spur medical investment, create jobs, and increase access to health care for all Americans.

H.R. 5, the HEALTH Act, is modeled after California's decades-old and highly successful health care litigation reform. According to the National Association of Insurance Commissioners, the rate of increase in medical professional liability premiums in California since 1976 has been nearly three times lower than the rate of increase experienced in other States.

By incorporating California's time-tested reforms at the Federal level, the HEALTH Act saves taxpayers billions of dollars, encourages health care providers to maintain their practices, and reduces health care costs for patients. It especially helps traditionally underserved rural and inner-city communities and women who seek obstetrics care.

The reforms in H.R. 5 include a $250,000 cap on noneconomic damages and limits on the contingency fees lawyers can charge, and it allows courts to require periodic payments for future damages in order to ensure that injured patients receive all of the damages they are awarded without bankrupting the defendant.

The HEALTH Act also includes provisions that create a fair share rule by which damages are allocated fairly in direct proportion to fault, and it provides reasonable guidelines on the award of punitive damages.

The HEALTH Act allows for the payment of 100 percent of plaintiffs' economic losses. These unlimited economic damages include all their medical costs, their lost wages, their future lost wages, rehabilitation costs, and any other economic out-of-pocket loss suffered as a result of a health care injury.

The HEALTH Act also does not preempt any State law that otherwise caps damages.

This bill is a commonsense and constitutional approach to reducing the cost of health care.

Whereas, the HEALTH Act allows doctors to freely practice nationwide, the ObamaCare individual mandate dictates that all people buy a particular product, whether they want it or not.

Unlike ObamaCare, the HEALTH Act saves the American taxpayers money. The Congressional Budget Office recently determined that the President's health care law will cost almost double its original $900 billion price tag. Another CBO report estimates that premiums for medical malpractice insurance ultimately would be an average of 25 percent to 30 percent below what they would be under current law. These are just a few reasons why organizations like Americans for Tax Reform support this legislation.

The HEALTH Act also reduces the cost of health care as it decreases the waste in our system caused by defensive medicine. This practice occurs when doctors are forced by the threat of lawsuits to conduct tests and prescribe drugs that are not medically required.

According to a Harvard University study, 40 percent of medical malpractice lawsuits filed in the United States lack evidence of medical error or any actual patient injury. That's 40 percent. Many of these suits amount to legalized extortion of doctors and hospitals. But because there are so many lawsuits, doctors are forced to conduct medical tests simply to avoid a lawsuit

in which lawyers claim not everything possible was done for the patient. This wasteful defensive medicine adds to our health care costs without improving the quality of patient care.

In his 2011 State of the Union address, President Obama said:

I'm willing to look at other ideas to bring down costs, including one that Republicans suggested last year: medical malpractice reform to rein in frivolous lawsuits.

Let's help the President keep his word and put this legislation on his desk.

Madam Chairwoman, I reserve the balance of my time.

Mr. CONYERS. Madam Chair, I yield myself such time as I may consume.

Ladies and gentlemen of the House, when we passed the landmark Affordable Care Act, some derisively termed it ''ObamaCare.'' I believe that some day this bill will be famous because it is named after the President.

We were proud to have taken up an important step in realizing a goal that we've been striving for for quite a long time. But today, we're confronted with a leader in the House, himself a medical doctor, who is urging that we take a step backward and roll back our progress.

The measure before us will repeal the Independent Payment Advisory Board, which would save us millions of dollars and pay for itself by pushing through malpractice legislation that undermines State sovereignty and enriches corporations that surely don't need it.

Congress established the advisory board to slow Medicare's growth costs. The Independent Payment Advisory Board does not undermine our role in Medicare policy nor does it cut access to care. Its repeal, however, removes critical oversight and efficiency and paves the way for the majority's plans to replace guaranteed health care for seniors with corporate voucher systems.

How many of us have constituencies that you could go back home and tell your constituents that you're going to replace this health care bill that is praised from one end of the country to the other, that has taken decades to enact, that we're now going to use vouchers for health care?

When we passed President Obama's landmark Affordable Care Act, we were proud to have taken an important step in realizing that ideal.

But today, the Majority takes a step backwards. They seek to roll back our progress. H.R. 5, the so-called ''Help Efficient, Accessible, Low-cost, Timely Healthcare Act,'' will repeal the Independent Payment Advisory Board, IPAB, which saves us millions, and pay for it by pushing through malpractice legislation that undermines State sovereignty and enriches insurance companies.

Congress established the IPAB to slow Medicare's growth costs. The IPAB does not undermine our role in Medicare policy or cut access to care. Its repeal, however, removes critical oversight and efficiency, and paves the way for the Majority's plans to replace guaranteed healthcare for seniors with corporate voucher systems.

Rolling back these cost-cutting measures will cost the Federal Government money, and so to pay for this costly repeal, the Majority has offered up the same tired old medical malpractice proposals they have been pushing for the last two decades. In fact, this is the fourteenth time that the full House will have considered this measure since 1995. It wasn't a good idea 20 years ago, and it isn't a good idea today.

Rather than helping doctors and victims, the bill before us represents a windfall for the health care business. It pads the pockets of insurance companies, HMOs, and the manufacturers and distributors of defective medical products and pharmaceuticals. And it does so at the expense of innocent victims—particularly women, children, the elderly, and the poor.

The malpractice liability provisions before us today would supersede the law in all 50 states to cap non-economic damages, cap and limit punitive damages, limit access to the courts for poorer victims of medical malpractice, shorten the statute of limitations for claims, eliminate protections for children, and eliminate joint and several liability.

We need to cut the charades and get to the heart of the problem.

The malpractice insurance industry is plagued by collusion, price fixing, and other anticompetitive activities. Yet this bill does nothing to respond to this problem.

It is also clear that a legislative solution largely focused on limiting victims rights available under our state tort system will do little other than increase the incidence of medical malpractice—already the sixth leading cause of preventable death in our nation.

Under the proposed caps on damages, Congress would be saying to the American people that we don't care if you lose your ability to bear children, we don't care if you are forced to bear excruciating pain for the remainder of your life, we don't care if you are permanently disfigured or crippled.

The proposed new statute of limitations takes absolutely no account of the fact that many injuries caused by malpractice or faulty drugs take years or even decades to manifest themselves and trace the root cause.

The bill would allow insurance companies teetering on the verge of bankruptcy to delay and then completely avoid future financial obligations. And they would have no obligation to pay interest on amounts they owe their victims.

And guess who else gets a sweetheart deal under this legislation? Drug companies—most of which are foreign. This bill makes drug and device manufacturers immune from punitive damages, so long as the FDA has approved their products or their products are generally considered ''safe,'' no matter how egregious their behavior.

The bottom line is that this legislation doesn't prevent terrible things from happening in hospitals. The bill's takeover of state courts won't help judges throw out frivolous lawsuits, and a ceiling of a quarter of a million dollars won't stop bad actors from looking for a payout.

Instead, this legislation lifts legal and financial risk from hospitals, drug manufacturers, and insurance companies, and drops that burden onto real people, the victims of medical malpractice.

This bill helps the powerful at the expense of the injured, the elderly, and the very young. It raises serious federalism concerns and overturns the law in all 50 states. And it huts real people with real injuries, blocks them from the courts and limits their rights to legal redress, all in the name of a dangerous, unnecessary, and unfair theory about malpractice liability.

I urge my colleagues to reject this anti-patient, anti-victim legislation.

Madam Chair, I reserve the balance of my time.

Mr. SMITH of Texas. Madam Chairwoman, I yield such time as he may consume to the gentleman from California (Mr. LUNGREN), who is the chairman of the House Administration Committee and a senior member of the Judiciary Committee.

Mr. DANIEL E. LUNGREN of California. I thank the gentleman for yielding.

The idea that 15 unelected individuals on the Independent Payment Advisory Board have been empowered by the so-called Patient Protection and Affordable Care Act to ration health care for seniors—and that's for all seniors—is as Orwellian as these titles crafted by the previous Congress to divert attention from what's really being done here.

Delegating such authority to a government board to make such decisions with such a dramatic impact on the health care alternatives available to Medicare recipients raises the most serious ethical concerns about respect for the dignity of our seniors. This is the unfortunate consequence of a world view which favors the notion of bureaucratic expertise and efficiency as a solution to the challenges facing our health care system today. The purpose of providing quality health care to our Nation's seniors is simply incompatible with the idea that the delivery of health care services can be achieved through some sort of algorithm contrived by a panel of experts.

Rather than empowering seniors to play a more active role in their own health care decisions, the IPAB moves in the opposite direction by empowering an unaccountable government panel to make these decisions. In this regard, the inclusion of legislative language to repeal IPAB could not be better placed than with a medical liability reform bill, for IPAB is itself, per se, malpractice.

□ 1850

Now, H.R. 5 contains many important reforms concerning our health care litigation system. These health care reforms are modeled after my own State of California's Medical Injury Compensation Reform Act, better known as MICRA. This important initiative was signed into law over three decades ago by then- and now, again, California Governor Jerry Brown.

I practiced under this law for several years. I practiced under the law that preceded MICRA. I did a good deal of medical malpractice defense in the courtroom. I appeared before juries, before judges. I settled cases. I had the

opportunity to defend doctors and hospitals. About 90 percent of the cases I did were on the defense side, about 10 percent on the plaintiff's side. I believe I had the first successful medical malpractice suit against an HMO in the State of California. I had an opportunity to view the system close up.

And the fact of the matter is, without the MICRA reforms, the California medical system, the health care system would have collapsed. We had doctors leaving the State of California—particularly in specialties such as obstetrics and gynecology, neurosurgery, anesthesiology—moving to other States because the premiums that were required to be paid by our doctors had become so exorbitant that they either had to leave the State or no longer be able to practice medicine.

Information received by our Judiciary Committee from the National Association of State Insurance Commissioners indicates that since 1976, when it was adopted, California's medical professional liability premiums have risen at less than half the pace of the rest of the country. While I would caution that MICRA must not be perceived as a silver bullet, it was, nonetheless, an important step forward taken by our State and a sound model for reform. This is, once again, evidence that as laboratories of democracy, our States more often than not serve as incubators of reform.

At the same time, I do believe that it is important to recognize that the American legal system and our civil justice system, in particular, contains vagaries unique to each of the States which operate within the context of a system of federalism. In this regard, we need to be cautious on the Federal level in making assumptions about the impact of our actions. Even in California, itself, the effort to adopt a Federal medical liability reform statute has raised some questions about possible unintended consequences.

Even though one aspect of the impetus behind H.R. 5 is to bring relief to medical practitioners from the trap of defensive medicine, as suggested by the chairman of our committee—and I do believe that is true—physicians are, unfortunately, expressing some concerns over some of the provisions contained in H.R. 5.

Specifically, the California Medical Association, while they support getting rid of the board as we previously discussed, have expressed some opposition to the fair-share rule contained in section 4(d) of the HEALTH Act. They have expressed that the fair-share rule in H.R. 5 will preempt California's law and put full recovery by injured patients at risk. They inform us, ''As written, the fair share rule will dramatically increase the potential for physicians to face enforcement proceedings against their personal assets. This would force physicians to purchase increased medical professional liability insurance coverage, which will significantly increase liability premiums in California for physicians.''

Secondly, the California Medical Association has expressed ''serious concerns with granting complete immunity from punitive damages to medical produce and device manufacturers, distributors, and suppliers.'' They state, ''We believe this will force plaintiffs to look only to physicians and other providers to seek relief and will significantly increase physician exposure and liability costs.''

So I'm somewhat on the horns of a dilemma here. I do believe that we absolutely, as the physicians of the California Medical Association believe, ought to rid ourselves of the Independent Payment Advisory Board for fear that its implementation will, in fact, interfere with the doctor-patient relationship, interfere with the availability of medical care, interfere with the availability of physicians to seniors and others. But they have expressed some concerns that we have to give other States the benefit of MICRA. And I understand some of their concerns. I think we may be very well able to address that in further language.

Although it is my intention to vote for passage of H.R. 5, my hope is that before it would return to us from the Senate, we would specifically address the concerns raised by the physicians from my State. The necessary repeal of IPAB is an important reform. Some of these others contained in the further section of the health care act warrant support. But I do believe we need to have some changes, and I would look forward to those changes in a conference report or any bill which is returned to the body by the Senate.

I would like to say this, that for someone who practiced law for a number of years in the area of medical malpractice, with doctors and hospitals, and saw what a failure to limit noneconomic damages was doing to the availability of health care—not just the cost of health care, but the availability of health care in my home State—I do believe MICRA is a model that ought to be replicated by other States in the Union.

I do believe that the facts are in. Over 30 years, we've been able to see that it has improved access to health care, improved the number of physicians, particularly in difficult specialties, and it has brought down the overall cost of premiums and, therefore, the cost of medical care in my State.

The idea that somehow medical malpractice premiums have no effect either on the cost of care or the accessibility of care flies in the face of the experience of 30 years in my home State of California.

Mr. CONYERS. Madam Chair, I am pleased now to yield 1 minute to the former Speaker of the House of Representatives, our leader, the gentlewoman from California, NANCY PELOSI.

Ms. PELOSI. I thank the gentleman for yielding. I appreciate his leadership for helping us honor what our Founders put forth in our founding documents, which is life, liberty, and the pursuit of happiness. And that is exactly what the Affordable Care Act helps to guarantee: a healthier life, the liberty to pursue happiness free of the constraints that the lack of health care might provide to a family. If you want to be a photographer, a writer, an artist, a musician, you can do so. If you want to start a business, if you want to change jobs, under the Affordable Care Act, you have that liberty to pursue your happiness.

So that is why I am so pleased that this week we can celebrate the 2-year anniversary of the Affordable Care Act; and I want to mention some of the provisions that are in it but not before mentioning that the legislation on the floor today is a feeble attempt to unravel legislation that makes a big difference in the lives of America's families.

You be the judge: if you are a family with a child with asthma, diabetes, is bipolar, has a preexisting medical condition, up until this bill, your child could be discriminated against for life of ever receiving affordable health insurance and, therefore, care. The full thrust of the law does not take place until 2014; but already, for months now, no child in America can be denied health coverage because of a preexisting condition, and soon all Americans will have that same protection.

For the first time in American history, millions of American women and seniors have access to free preventive health services, services that prevent, that are better early intervention to detect a possible illness in a person.

□ 1900

Eighty-six million Americans have already received key preventive health benefits under the law, and more than 5 million seniors have saved over $3.2 billion in prescription drug expenses. Already, $3.2 billion in prescription drug benefits because of provisions of the law that are already in effect.

So if you're a senior and you're caught in the doughnut hole, or you would have been, you are already benefiting from this law. And that's what the Republicans are trying to take away from you, from your family, from your life, from your liberty, from your pursuit of happiness.

The last point about seniors and prescription drugs is particularly important because it fits in with our consistent commitment from day one as authors of Medicare in the sixties, fits with our consistent commitment to always strengthen Medicare for American seniors, never weaken it. Indeed, as I mentioned, Democrats created Medicare, sustained Medicare, and Democrats will always protect Medicare even from language that is so misleading as to make one wonder.

Republicans, on the other hand, have voted to end Medicare. End the Medicare guarantee. They have said that their goal for Medicare is for it to wither on the vine. And tonight's legislation is a part of the withering on the

vine. It's important for you to know that if you care about Medicare, if you depend on Medicare, this is the wither-on-the-vine scenario.

In fact, just yesterday, the Republicans released their budget, which would end the Medicare guarantee and shift cost to seniors. End the guarantee. What does that mean? Shift cost to seniors—perhaps up to $6,400 for most seniors a year—and, again, let Medicare wither on the vine. That's why today's legislation is such a cynical political ploy. And I know that American seniors will not be fooled by it.

Today brought legislation to repeal what is known as IPAB, the Independent Payment Advisory Board. Independent. Independent of political influence over decisions that are made. This piece of the legislation was a bend-the-curve to reduce the cost of health care in America.

Republicans are desperate to distract seniors from their real record on Medicare, and that's what they're trying to do today. I say that without any fear of contradiction and without any hesitation because nothing less is at stake than the well-being of our seniors, their personal health, and their economic health. And that means their security.

Further, in this bill Republicans have recycled their old medical malpractice liability legislation that undermines states' rights and hurts the rights of injured patients to obtain just compensation.

Because of the impact on American States of what they're trying to do in this bill, the bipartisan National Conference of State Legislatures has strongly opposed this bill. That bipartisan group says that after a careful review it had reached ''the resounding bipartisan conclusion that Federal medical malpractice legislation is unnecessary.''

Again, Madam Speaker, this week we celebrate the 2-year anniversary of the Affordable Care Act for what it embodies. It's about innovation. It's about not just health care in America but a healthier America. It's about prevention and innovation. It's about customized, personalized care. It's about electronic medical records. It's about lowering costs, expanding access, and improving quality.

So much misleading information is put out there about it that it's important to keep repeating the difference, the transformative nature of the legislation. In fact, it has already begun to transform the lives of America's children by saying no longer will they be denied coverage because they have a preexisting medical condition. And soon we can fully say that no longer being a woman is a preexisting medical condition, where women are discriminated against to the tune of a billion dollars a year, and cost of premiums, not to mention exclusion from obtaining coverage.

And so I proudly celebrate the 2-year anniversary, and I emphatically oppose the legislation on the floor. If you want to unravel Medicare, vote ''aye.'' If you want to support Medicare, if you think health care is a right for the many, not just a privilege for the few, vote ''no.''

Mr. SMITH of Texas. I yield myself such time as I may consume.

Mr. Chairman, most Americans still oppose ObamaCare yet support medical liability reform of the kind that we are considering tonight. A recent survey found that 83 percent of Americans believe that reforming the legal system needs to be part of any health care reform plan.

As the Associated Press recently reported, most Americans want Congress to deal with malpractice lawsuits driving up the cost of medical care, says an Associated Press poll. Yet Democrats are reluctant to press forward on an issue that would upset a valuable political constituency—trial lawyers—even if President Barack Obama says he's open to changes.

The AP poll found that support for limits on malpractice lawsuits cuts across political lines, with 58 percent of independents and 61 percent of Republicans in favor. Democrats were more divided. But still, 47 percent said they favor making it harder to sue while 37 percent are opposed. The survey was conducted by Stanford University with the nonprofit Robert Wood Johnson Foundation. In the poll, 59 percent said they thought at least half the tests doctors order are unnecessary—ordered only because of fear of lawsuits.

In a poll done by the Health Coalition on Liability and Access in October, 2009, 69 percent of Americans said they wanted medical liability reform included in health care reform legislation. Seventy-two percent said their access to quality medical care is at risk because lawsuit abuse forces good doctors out of the practice of medicine.

Mr. Chairman, let's support a bill that is so strongly endorsed by the American people.

I reserve the balance of my time.

Mr. CONYERS. Mr. Chairman, I am pleased to yield such time as he may consume to a member of the House Judiciary Committee, JERROLD NADLER, who has worked on this subject matter for quite a long time.

Mr. NADLER. I thank the gentleman for yielding, and I rise in opposition to this deeply flawed and deceptively named legislation.

Contrary to the bill's title, this bill will not promote access to better health care nor will it make health care more affordable. If the wishes of many of the proponents of this legislation come true and the Affordable Care Act is repealed and Medicare and Medicaid as we know them are curtailed or eliminated, then decent, affordable health care will remain out of reach for millions of Americans, including many who now have access to health care services.

I urge all Members to keep one fact in mind as we debate the medical malpractice aspects of this bill. These provisions would apply only to people who had meritorious claims of malpractice against them. You don't have to limit people's recoveries or attorneys fees for people without meritorious claims. So whatever we're doing here today will be done only to those who have been injured, whose injuries have been inflicted by someone else's wrongdoing, and who need and should be entitled to compensation.

The argument we hear, which is not a new one, is that if we allow the players in the health care industry, including Big Pharma, the manufacturers of defective medical devices, and even big insurance companies and HMOs that routinely pay for health care services, to escape the consequences of the harm they inflict, then somehow we'll all be better off.

□ 1910

This is not true, has never been true, and, despite the extravagant claims of the proponents of this bill and the industries lobbying for it, that will not be true if this multibillion dollar gift to bad actors in the health care industry were to become law.

Just how pricey a gift to industry are we talking about here? According to the Congressional Budget Office, $45.5 billion over the next decade. Now, anyone who believes that those savings will be passed along directly to consumers, health care providers, and victims of medical malpractice is living in a dream world. Some of us will remember the debates we had in this House for the 8 years preceding enactment of the 2005 Bankruptcy Code rewrite. We will no doubt remember the argument that abuse of the bankruptcy system was a hidden tax of $400 a year for every American and that tightening the rules would be of interest to all consumers. Well, we passed that huge giveaway to the big banks. Consumers have not seen a nickel of that $400. The banks pocketed all the money. If you think that this bill will lower costs for consumers, that the big insurance companies will not simply pocket the money, there's a famous bridge in my district that I might be willing to sell to you.

So keep in mind just who will be bearing the burden of this legislation: people who are subject to limitations on damages and on their ability to obtain competent counsel—something not imposed on insurance companies, drug companies, or HMOs. That may be good for the insurance companies, for the manufacturers of defective drugs and medical devices and all the other wrongdoers walking these Halls with open checkbooks, but it will come at the expense of their victims.

Nowhere does CBO, or their sponsors, explain why their belief that insurance companies, Big Pharma and medical device manufacturers will pass any savings along, nor do they account for the cost of the care needed by people who have been injured and who will be unable to receive adequate compensation.

This bill is not limited to suits against individual health care service providers, doctors and other licensed health care professionals. It would provide protection against malpractice claims for large corporations, insurance companies, health maintenance organizations, and pharmaceutical giants when they deal in defective products or when someone else's health is destroyed because an insurance company refused to pay for necessary care.

Mr. Chairman, we heard the gentleman from California refer to the California legislation that is the model for this legislation passed in 1976, 36 years ago. That legislation enacted a limit and said for noneconomic damages you can only get a recovery of $250,000 because you lost a leg when they removed the wrong leg. They felt in 1976 that $250,000 was an appropriate amount to limit it to. In today's dollars, that's $38,000.

But there's no inflator in that legislation, and there's no inflator in this legislation. That $250,000 in 1976 today is $1.4 million. So if we were modeling this on that, we should say the limit is $1.4 million, but we're not doing that. We're saying 250, and we're not putting an inflation adjustment in here, so it will be $250,000 this year, and 5 years from now it will be the equivalent of $100,000, and 10 years from now $35,000 and eventually zero.

I submit that it is very wrong. It may be that if malpractice causes a woman to lose her fertility, causes her to lose the ability to bear children, the medical costs to her may be minor, the lost wages, the economic damages may be minor. But the inability to bear a child should be limited to $250,000 and eventually to almost nothing because there's no inflation in this? If someone is put in a wheelchair for life, the pain and suffering is worth almost nothing? That's what is wrong with this legislation, and that's what's immoral about this legislation. That's why we ought to vote against this legislation.

Mr. SMITH of Texas. Mr. Chairman, I yield 5 minutes to the gentleman from Illinois (Mr. JOHNSON).

Mr. JOHNSON of Illinois. Mr. Chairman and Members of the House, first of all, let me thank the chairman for his willingness to allow me to speak on an issue on which we do not agree. I appreciate the courtesy; I appreciate the lively debate that has preceded me in, I think, probably a far more articulate way than I'm going to be able to articulate. But let me just, Mr. Chairman and Members of the House, address this in a bigger sense and then maybe in a specific sense from the standpoint of a Republican Member of the United States Congress.

To begin with, I believe that this addition is largely unrelated and almost entirely disconnected from the underlying bill. I believe it demonstrates some concern—or I believe it reveals some lack of concern—for sensitivity, and I think in a lot of ways reveals the duplicitousness that I think is inherent in a discussion of this issue. I think it is statist and antithetical to our beliefs, at least my beliefs and I think most of the Members' on this side of the aisle, with respect to what America is all about.

I look at this from the standpoint of a Republican Member in a Republican Party who has been a forerunner and who has dealt with the issue of states' rights and, quite frankly, has attacked this health care bill—and the Attorneys General—on a states' rights and interstate commerce basis. It is a classic example, Mr. Chairman and Members of the House, of what has historically been an area for states' rights. Whether it's the criminal justice or domestic law or civil justice, our Founding Fathers set in place a Federal level and a State level of government, and this strikes at the core of states' rights.

In addition to that, Mr. Chairman and Members of the House, separation of powers. We have been critical—and I think legitimately—from this side of the aisle with respect to HHS waivers that have been granted. We've been critical of the EPA and the U.S. DOT and so forth for their administration and their promulgation of rules without legislative authorization. And yet this entirely desecrates, in some ways, our whole judicial function, our whole judicial function regarding liability and damages. It is an intrusion into the judicial arena, which is something that is sacrosanct, and I think that's essential to our viewpoint of what the Constitution is all about.

It also strikes at the core of our free market system. I have been involved from a number of standpoints in the law practice; and I see a system that, in an overwhelming number of cases, works to effect justice. Two attorneys or more, witnesses, jurors, a judge, and the common law of 200 or 250 years almost inevitably results in just results. And now we have a situation, despite that commitment to free market that we have, where we're now proposing that the Federal Government dictate an imprimatur to override this whole system that's already in place and I think infringes on our constitutional right to a trial by jury.

It also strikes, I think, Mr. Chairman and Members of the House, what we Republicans say we believe in in terms of individual worth. One of our attacks, quite frankly, on the passage of this bill, which I largely subscribe to the attacks, is one that deals with the deep personalization of the individual inherent in President Obama's health care approach. This bill is a collectivist attack on personal realities and is a disregard for age, circumstances, State or community of residence; and I think that addresses in a very serious way the concept that we have constitutional worth of the individual.

In conclusion, this bill has essentially nothing to do with revenue production. We all know that. It obfuscates the underlying purpose of the bill, which is, quite frankly, to dismantle the inherent bureaucracy in the health care bill, which I largely subscribe to. It injects politics into a legitimate debate on a substantive public policy and prevents Republican and Democrat Members from an up-or-down vote and strikes, I think, at our fundamental beliefs of states' rights, of individualism and on constitutional premise.

In summary, I believe that a ''no'' vote is a vote to preserve individual dignity. Our ''no'' vote is one to maintain constitutional values, and it is to safeguard states' rights and the separation of powers. I know this is well intended, but this is not the vehicle to do it in. The vehicle is Austin, Texas, or Albany, New York, or Springfield, Illinois. I have some serious concerns about State legislation that would also interfere with separation of powers, but this is not the arena to do it in; it is not the bill to do it in; and I think, quite frankly, it is one that, unfortunately for me, strikes at the core of why I'm here. I'm not here to dismantle our common law system; I'm not here to dismantle the free market system; and I'm not here to dismantle states' rights. I'm here to stand up for what I think the American people sent us here for.

I don't think the health care bill was well considered. I think it should be substantially addressed in terms of this and other legislation. But this bill doesn't do it, ladies and gentlemen; and I, with all due respect, ask my colleagues on both sides of the aisle to join with me in a ''no'' vote on what I think may be a well intended, but certainly misdirected, effort. And I join with my colleagues over here and some over here in urging a ''no'' vote.

Mr. CONYERS. Mr. Chairman, I ask if the distinguished gentleman from Illinois (Mr. JOHNSON) would like additional time. If he requires any, I would be glad to arrange to yield him further time.

If you require more time, I would be delighted to yield it to you.

Mr. JOHNSON of Illinois. You are very kind to do that, Mr. CONYERS.

□ 1920

I think I probably pretty well addressed it. I think between myself and my inarticulate comments and your opposition and some opposition over here, I think the debate has been very good and good for the process. And this is one I'm with you on, sir.

Mr. CONYERS. I thank you, Mr. JOHNSON.

Mr. Chairman, I am pleased now to yield 4 minutes to the Judiciary Committee member from Florida (Mr. DEUTCH), who has worked very carefully with us on this subject matter.

Mr. DEUTCH. Mr. Chairman, it's no surprise that I am disappointed with the content of this bill before us today. I join with my colleagues who have expressed their disappointment, but I'm also disappointed with the process behind it.

Yesterday, for a totally bogus reason, the Rules Committee declared an amendment I offered out of order. They claimed it would add to the cost of the bill despite having no numbers. The amendment did not create some new regulation. It did not create new judicial proceedings. It did not set aside money for a new program.

Let me tell you what it did do, Mr. Chairman. It would have made a terrible bill slightly better. It's simple.

My amendment ensured that doctors who intentionally—not accidentally, but intentionally—harm their patients are not exempt from medical malpractice liability. If this Congress wishes to tell a child made blind by the negligence of his doctor that those in this Chamber know better than a jury, if my colleagues wish to pretend that the Seventh Amendment of the United States Constitution, guaranteeing a trial by jury, was somehow omitted from the Bill of Rights, I disagree, but so be it. The very least we can do is ensure that if a doctor intentionally abuses his patients that he will not evade justice.

Surely, the sponsors of this bill did not intend to extend liability caps to a pediatrician who sexually abused a child or a dentist who raped his patients under sedation. I'm disgusted to say that those are both real examples of the kind of abhorrent behavior H.R. 5 may mistakenly immunize without clarification.

Is it too much to ask that we simply think this through? Can someone explain to me how this amendment costs a penny? Better yet, will someone explain to the 103 children who were molested by a Delaware pediatrician that Washington wants to make it easier for sexual predators to evade justice?

My friends, differentiating between medical errors and intentional harm is not some wild and crazy new idea being pedaled by the left. Many States—blue States, red States, and in between—limit malpractice awards but make distinctions for intentional torts.

The majority could have considered my small change and protected the commonsense State laws that are already on the books. Instead, under the 112th Congress, relentless partisanship has poisoned this well and impeded our ability to write good laws. Perhaps, Mr. Chairman, perhaps the reason Americans are so disenchanted with Congress is because they know that it doesn't have to be this way.

I urge my colleagues to vote ''no'' on this legislation.

Mr. SMITH of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, lawsuit abuse drives doctors out of their practices. There's a well-documented record of doctors leaving the practice of medicine and of hospitals shutting down, particularly practices that have high liability exposure. This problem has been particularly acute in the fields of OB/GYN and trauma care as well as in rural areas.

The absence of doctors in vital practice areas is, at best, an inconvenience; at worst, it can have deadly consequences. Hundreds or even thousands of patients may die annually due to a lack of doctors.

According to one State study, 38 percent of physicians have reduced the number of higher-risk procedures they provide, and 28 percent have reduced the number of higher-risk patients they serve, all out of fear of liability.

The American College of Obstetricians and Gynecologists has concluded that:

> The current legal environment continues to deprive women of all ages, especially pregnant women, of their most educated and experienced women's health care providers.

A study from Northwestern University School of Medicine polled residents and found that many wished to leave the State to avoid its hostile malpractice environment. The study concluded that:

> Approximately one-half of graduating Illinois residents and fellows are leaving the State to practice. The medical malpractice liability environment is a major consideration for those that plan to leave Illinois to practice.

Without a uniform law to control health care costs, many States will continue to suffer under doctor shortages.

Mr. Chairman, I reserve the balance of my time.

Mr. CONYERS. Mr. Chairman, I am pleased now to yield as much time as he may consume to the distinguished gentleman from Georgia (Mr. JOHNSON), a member of the House Judiciary Committee.

Mr. JOHNSON of Georgia. Today, Mr. Chairman, I rise in opposition to this harmful bill, H.R. 5, the so-called Protecting Access to Healthcare Act.

Now, this bill is premised upon what I would call a story, because that's what my mamma used to tell me. My mamma and my grandmamma, as I was growing up, used to say that's wrong to say that someone is lying. Don't say that. You say that they're telling a story. So I grew up plagued with the guilt that comes from calling somebody a liar. I still have that sense of shame associated with that word ''liar.''

I'm not here to accuse anybody of lying, but I will say that H.R. 5, the so-called Protecting Access to Healthcare Act, is a story, is premised on the story that runaway frivolous lawsuits, medical malpractice lawsuits are a major cause of driving the cost of medical care through the roof. That's not true.

This bill restricts a patient's ability to recover compensation for damages caused by medical negligence, defective products, and irresponsible insurance companies. It also sets a cap of $250,000 for noneconomic compensatory damages which are awarded to victims for emotional pain and suffering, physical impairment and disfigurement.

I'm so sorry to have not had this photograph blown up. It's a photo of Caroline Palmer of Marietta, Georgia. Ms. Palmer was in an automobile accident back on March 23, 2007. She sustained two broken legs, a broken shoulder, abrasions on her arms, and a collapsed lung. While she was at the hospital, recuperating, they noticed that her left hand was swollen, dusky blue, and cool to the touch. But after so noting on her medical record, the doctor left work that day, and no further action was taken about that. That was a clear sign that blood was not flowing to that limb and that something was wrong.

□ 1930

Nothing was done. No followup. The next day they found that the IV line had been misplaced in her arm, and they referred her in for some treatments to try to reinvigorate the circulation in that arm, and there was nothing they could do.

They tried everything. They even subjected Caroline to a procedure on both arms to relieve the pressure and treat the loss of circulation by producing a large gaping hole in both arms, and that procedure failed. Whereupon, she then was subjected to the cutting off of her left arm and the cutting off of her right arm.

Now, we've talked a lot about, well, how much is a leg worth? How much is a leg worth when you lose a leg? Well, how much are two legs worth? How much are two arms worth?

This picture shows Caroline Palmer in this horrendous state; and under this amendment, under this bill, H.R. 5, this woman, this victim, would be limited to $250,000 for her pain and suffering and disfigurement, and that's not right.

How do you put a cap on someone's pain and suffering? How heartless is it to cap noneconomic damages when one has lost a limb? becomes blind?

How much is vision worth? How much is the ability to see? How much is that worth? $250,000, under this legislation.

If you become paralyzed at the hands of a negligent health care provider, can no longer walk, how much is that worth? $250,000.

These caps hurt the most vulnerable among us: children, senior citizens, and working poor. They can't even recover for economic losses such as lost wages. They may not be working. A child doesn't work. A child left with no arms is limited in noneconomic damages to $250,000. He's got to roll with that for the rest of his life—$250,000. It's not right.

Medical malpractice is about real people with real injuries. The Institute of Medicine estimates that 98,000 people die each year in the United States from preventable medical errors. Tort reform proposals, such as H.R. 5, fail to address the deaths and injuries associated with preventable medical errors every year.

Now, this, H.R. 5, is an unholy alliance between two stories: the one story which I just outlined to you and the

other story being the repeal of the 15-person Independent Payment Advisory Board, also known as IPAB, which was created under RomneyCare. Oops, I mean ObamaCare. Oops, I mean, the Affordable Care Act.

Now, while I do believe that there are some good reasons to be opposed to the IPAB and to vote to abolish it—I believe there are some good reasons for that—the rationing of medical care is not one of them. Anyone who says that this IPAB board has the power to cut the benefits paid to Medicare recipients has either not read the bill or is telling you a story.

Just for the record, I want to read 42 U.S.C. section G, 1395kkk. I'm not going to comment on the kkk right now, but that's the subsection of the subsection of 42 U.S.C. where the law that was passed, RomneyCare—I mean ObamaCare, I mean Affordable Health Care Act—is stated, the law, 42 U.S.C., and it says:

> The proposal shall not include any recommendation to ration health care, raise revenues or Medicare beneficiary premiums under section 1818, 1818A, or 1839, increase Medicare beneficiary cost-sharing (including deductibles, coinsurance, and copayments), or otherwise restrict benefits or modify eligibility criteria.

That is what ObamaCare, RomneyCare—I mean the Affordable Health Care Act—provides for. That's the law. Anybody who tells you otherwise is telling you a story.

Going back to the first story, I really oppose it for the reasons that I've previously stated. This bill is another example of the Republican majority bringing a partisan bill to the House floor that has virtually no chance of becoming a law. H.R. 5 does not create any jobs or grow the economy. It's a slap in the face, also, of states' rights—something we've heard—that the other side has depended on for a long time, states' rights, the 10th Amendment.

H.R. 5, ladies and gentlemen, denies States their right to have their own tort laws. The State of Georgia, for instance, in its constitution, says that all citizens are entitled to a jury trial. The legislature imposed a $350,000 cap on noneconomic damages in medical malpractice and other cases. The case went up to the Georgia Supreme Court, which ruled that to limit noneconomic damages deprives one of their constitutional right to a jury trial. This bill, H.R. 5, would do away with what the Georgia Supreme Court has ruled insofar as Georgia law is concerned. It's a gross overstepping of Federal legislation into the affairs of the State, and I oppose it.

I understand that there was a meeting yesterday, a specially called meeting that Majority Leader ERIC CANTOR called of the Tea Party Republican Caucus to kind of tighten some screws and twist some arms to get the caucus to go along with H.R. 5 so that no one would get embarrassed. Now, we've yet to see what will happen, but I believe that all of the Tea Party Republicans will fall into line and vote in favor of H.R. 5, which has absolutely no chance of passing once it goes to the other body.

□ 1940

I want to thank the ranking member of the Judiciary Committee, JOHN CONYERS, for giving me this time.

Mr. SMITH of Texas. Mr. Chairman, I am pleased to yield such time as he may require to the gentleman from Georgia, Dr. GINGREY, who happens to be the sponsor of the legislation we're considering tonight, the HEALTH Act.

Mr. GINGREY of Georgia. Mr. Chairman, I thank the chairman of the Judiciary Committee for yielding to me and the opportunity to follow directly my colleague from Georgia on the other side of the aisle.

A number of things were said. I feel grateful to have the opportunity to address those.

One of the comments that the gentleman made, the gentleman is my good friend, and he would agree with that. But in regard to this emergency caucus meeting with the Tea Party Caucus on the Republican side with our majority leader, ERIC CANTOR, I am an original member of the Tea Party Caucus in the House of Representatives. If there had been any emergency-called meeting, Mr. Chairman, I can assure you that I would have been right there with MICHELE BACHMANN and STEVE KING and others, the 20 of us that were original members of the House GOP Tea Party Caucus. There was no such meeting.

Let me refute that statement, although I greatly respect my friend from Georgia, from DeKalb.

Mr. JOHNSON of Georgia. Will the gentleman yield?

Mr. GINGREY of Georgia. I will be glad to yield to my friend.

Mr. JOHNSON of Georgia. I certainly don't want to misstate what actually happened, and I think I said that it's my understanding that that meeting was held. That's the information that I received.

Mr. GINGREY of Georgia. Reclaiming my time, and he did say that. He said it was his understanding. He didn't say it was a matter of fact. I appreciate that comment.

But another thing, Mr. Chairman, that I want to address, he named names. I think the lady's name was Ms. Palmer of Marietta, Georgia. I live in Marietta, Georgia, and have for the last 36 years. I represent Marietta, Georgia, in the 11th Congressional District and have for the last 9½ years.

The description of this unfortunate soul's injuries and the things that happened to her, the broken bones, the collapsed lung, the lack of blood flow to the extremities because of an improper placement of an intravenous line, maybe instead of in a vein in an artery, that resulted in amputations of her upper extremities. When the general public hears stuff like that, Mr. Chairman, they're horrified.

To think that we on this side of the aisle with H.R. 5, the HEALTH Act, which is part of the PATH Act that we are discussing on the floor today, to suggest that a person that suffers like that could only recover $250,000 in noncompensatory pain and suffering is absolutely untrue.

The gentleman, my friend from DeKalb, is an attorney. He knows the legal system. He's been in the courtroom. I'm not sure whether he's tried on the side of the plaintiff or the defense in regard to medical malpractice cases, but he clearly knows the difference in noneconomic pain and suffering in regard to this particular bill, and, on the other hand, recovery for severe losses, medical compensation, loss of wages, loss of extremities, what this poor soul suffered.

Let me just read, Mr. Chairman, this comment: Nothing in the HEALTH Act denies injured plaintiffs the ability to obtain adequate redress, including compensation for 100 percent of their economic loss. Essentially, anything to which a receipt can be attached. Believe me, the plaintiff's attorney will attach every receipt, including the medical costs, the cost of pain relief medication, their loss of wages, their future lost wages, rehabilitation costs, and any other economic out-of-pocket loss suffered as a result of a health care injury.

Economic damages include anything whose value can be quantified, including lost wages, home services, au pair, companion to go shopping, medical costs, rehabilitation of a home, access for someone who has an incapacity, an inability to access a normal home.

So, the gentleman, just like the gentleman from Iowa, the plaintiff's attorney that spoke on the floor earlier in regard to misleading statements, to suggest that in this legislation we would take away the ability of a person like Ms. Palmer of Marietta, Georgia, for a full and complete redress of grievances if a medical practitioner or a facility has performed below the standard of care for that local community—my colleague, the chairman of the Judiciary Committee, the distinguished chairman, gave me some statistics in regard to some of the economic losses that people have incurred and judgments that have been awarded by a jury of their peers.

Listen to this, Mr. Chairman. In August of 2010, Contra Costa County, a judgment for $5,500,000. These are California cases, by the way, Mr. Chairman. It's California law that H.R. 5 is based on. MICRA passed back in 1975.

But these are cases in 2010. This one in February 2010, Riverside County, $16,500,000; November, 2009, Los Angeles County, $5 million; October, 2009, Sacramento County, $5,750,000. I will go down to the last one, although there are several others on the list. July, 2007, Los Angeles County, an award of $96,400,000. This, Mr. Chairman, is in 2007. MICRA was passed in 1975.

This case in 2007, this plaintiff may have been awarded $250,000 noneconomic because there was a cap. But the cap is there not to deny them their day in court, their ability to be judged by a jury of their peers and a decision made in regard to just compensation.

There are 21 members of the House GOP Doctors Caucus. It includes 16 physicians, a psychologist, several dentists, several registered nurses. I'll guarantee you, Mr. Chairman, in every one of these cases I mentioned coming out of California, we would be sitting there fighting for those plaintiffs. Maybe even a witness for the plaintiff, for Mrs. Palmer, to say the sky is the limit, and, Mr. Plaintiff's Attorney, you tack on every economic cost that you can dream up, and we'll vote in favor of it.

But what we are opposed to, Mr. Chairman, is this opportunity for people to come in to court and clog up the court system and crowd out Mrs. Palmer and maybe many of these cases from California with frivolous lawsuits where there is no justification for the claim, where people are just hoping with a lottery mentality that some sympathetic jury will just simply say, Oh, gosh, we know there's no damage here. But after all, the doctor has $10 million worth of insurance. It's not coming out of his pocket. Let's award the plaintiff $6 million or $8 million worth of noneconomic pain and suffering—if you want to call it that—in damages.

□ 1950

That's the thing that's got to stop. That's what's causing the price of health care to rise astronomically. That's why doctors are ordering all of these unnecessary tests and practicing defensive medicine. Every time a patient comes to the emergency room with a headache, even though the doctor is skilled in physical diagnosis, in taking a history, and can examine that patient and look in their eyes, making sure there is no bulge of the pupils or the optic discs, they know that patient has a tension headache. They know it's perfectly safe to send him or her home with a prescription to return in 24 hours. But, no, because of these frivolous lawsuits, they're going to order a CAT scan that costs $1,500. You multiple that time and time and time again, that's what this is all about. That's the problem we're trying to solve.

For my friend from DeKalb—and he is my great friend—or my friend from Iowa or, indeed, the former Speaker, the minority leader, Ms. PELOSI, to come to the floor and very eloquently—and she is eloquent and speaks with a lot of passion, great ability, a great communicator—but to mislead is downright wrong.

The truth needs no adjectives, Mr. Chairman. The truth is what is in the PATH Act, H.R. 5. And I say to my colleagues: We need to pass this and do this in a bipartisan way and not worry here about what's going to happen in the Senate. Let's do the right thing in the House of Representatives, and let's do the people's work.

Mr. CONYERS. Mr. Chairman, I yield myself 1 minute to ask my friend and distinguished medical practicer and Member of Congress, Mr. GINGREY, is he aware that his bill, H.R. 5, eliminates joint and several liability for both economic and noneconomic damages?

I yield to the gentleman for that purpose.

Mr. GINGREY of Georgia. I thank the gentleman for yielding. This is his time, and I appreciate him yielding. It gives me an opportunity to explain in regard to joint and several liability.

Mr. Chairman, it's important for our colleagues on the House floor and anyone within shouting distance to understand what we're talking about in regard to joint and several liability.

Under current law, anyone who is named as a defendant in a medical malpractice suit is liable for whatever judgment is rendered. It matters not how much they participate in the case.

Let me give my good friend from Michigan, the ranking member of the Judiciary Committee, an example. Of course he knows this. Let's say it's an OB/GYN case and the surgeon who has done a hysterectomy on Friday is going to church on Sunday morning and asks his colleague to stop by and see the patient and to tell her that he'll be around that afternoon to check on her. The doctor says, sure, I'll be glad to.

He peeks his head in the door and Mrs. Jones said, I'm fine.

Okay. Your doctor will be around this afternoon to check on you.

Things go to heck in a hand basket. The operating physician maybe has practiced below the standard of care. But that doctor that covered, that peeked in the door, that really had nothing to do with the case, surely, as Mr. CONYERS knows, will be named in the lawsuit. And if he or she happens to have the deepest pockets under the current law, they could be liable for the entire judgment; whereas the doctor who practiced below the standard of care, who has a shallow pocket, would get off scot-free.

I yield back to my friend, and I thank you for the opportunity.

The Acting CHAIR (Mr. NUGENT). The time of the gentleman from Michigan has expired.

Mr. CONYERS. I yield myself an additional minute, and I thank Dr. GINGREY for his response.

I ask the author of this bill, H.R. 5, if the answer to my question of whether H.R. 5 eliminates joint and several liability for both economic and noneconomic damages is ''yes''?

Mr. GINGREY of Georgia. The answer is ''yes.''

Mr. CONYERS. I thank the gentleman very much.

Mr. Chairman, I am now pleased to yield as much time as she may consume to the gentlewoman from Houston, Texas, Ms. SHEILA JACKSON LEE.

Ms. JACKSON LEE of Texas. Let me thank the ranking member and also the chairman of the Judiciary Committee and the leadership for giving us the opportunity to celebrate, as we debate H.R. 5, the Affordable Care Act, which is 2 years in the making.

Clearly, it speaks to where we are today. So in celebration of the Affordable Care Act, let me first of all wish it a happy anniversary.

Before I start on the Affordable Care Act, let me indicate to my good friend from Georgia and the Physicians Caucus that many of us do not take a back seat to our support for physicians. How can I help myself, coming from a community where the Texas Medical Center is fighting for a permanent doctor fix, which we've not been able to secure from this Congress, and as well, being a champion of physician-owned hospitals. Because I do believe that physicians have a high level, an acuteness of their concern for their patient. Maybe it is also because in the last decade I've had to tend to ailing parents, both of whom I lost, and have seen doctors up close and personal dealing with one of the most difficult times in any child's life.

This is not about a fight of one side or another regarding doctors, and my constituents have been kind enough to give me time here to have gone through these debates over and over again. Let me just say very quickly: I am glad the Affordable Care Act is in place, because what we're celebrating today, as we talk about H.R. 5, is that women will not be dropped from insurance when they get sick or pregnant; insurance companies will not require women to obtain preauthorization for referral for access to an OB/GYN; millions of older women with chronic conditions will not be banned from care; 279,000 constituents in the 18th Congressional District will have improved employee health care; 187,000 uninsured in the 18th Congressional District will now have access to health care; and my hospitals, my public hospitals, my Texas Children's Hospital, St. Luke's, Methodist, Ben Taub, M.D. Anderson will be able to secure compensation in uncompensated care. I celebrate the Affordable Care Act.

But today we're discussing legislation that has already received a veto notice from the President, but we're here on the floor of the House discussing H.R. 5 and ignoring the fact that the Affordable Care Act has already confirmed health care is vital to America, and we in the Congress must protect it.

By the way, the Affordable Care Act is a preserver of Medicare and strengthens Medicare.

□ 2000

But let me tell you what we are facing with this legislation that is anchored with the component dealing with medical malpractice. We have

seen documentation across States that, in fact, medical malpractice is an insurance issue. And even when there is an attempt to, in essence, dumb down the recovery, we have seen that the insurance companies do not, in essence, reward the physicians. Insurance premiums are still high, high, high, high, high. How do I know? You can go to the State of Texas and ask physicians are their insurance premiums such that they're celebrating today. Yes, there were some measured declines, but they are paying high insurance premiums.

Now, in the findings of H.R. 5, our friends cite the Commerce Clause and indicate that Congress has a right to write this bill on health care because of the Commerce Clause. As I understand it, many are pursuing the challenge of the Affordable Care Act, suggesting we had no authority. But in their own bill, the findings cite interstate commerce as the basis of writing this bill. But there are some friends over there that just caught it, and one of the amendments from another gentleman from Georgia strikes the findings. This is a case of ''have your cake and eat it too'' because they know that tort law has, for a long time, been the prerogative of States.

So to cite President Reagan when he gave this seminal talk on tort law in 1986, his words:

> So over the years, tort law has helped us drive the negligent out of the marketplace. This, in turn, has permitted legitimate economic innovation to take its course and raise living standards throughout the Nation.

So the President agrees that tort law drives the negligent out of the arena. He then goes on to say, as he put together this task force:

> To be sure, much tort law would remain to be reformed by the 50 States, not the Federal Government. And in our Federal system of government, this is only right.

So my friends cannot deny that H.R. 5 implodes State law. It takes away the authority of States. And removing it by some late amendment is not going to make it right. You are going to violate the rights of Colorado, Florida, Illinois, Maryland, Michigan, Texas, and West Virginia that have enacted their own medical malpractice damage caps. You are going to implode the rights of Connecticut, Iowa, New York, Oregon, and Tennessee that have expressly chosen not to limit. And in this bill, if you have not limited it, then you are capped. In this bill, you rid the rights of those States that have not capped, and the flexibility only comes if you have capped and it is higher than what we have, and you obliterate constitutional State law that has its own caps.

So this is not as black-and-white as my good friends would like to make it. We are riding in on the high horse, and we are not?

For example, in my State of Texas, on May 29, 2010, Connie Spears went to a hospital reporting excruciating leg pain. This was all too familiar due to her previous blood clots. The emergency room doctor ran tests and discharged her with a bilateral leg pain. But what really happened is that she had blood clots around a vein filter. She got kidney failure. She went unconscious. To save her life, two legs were amputated. There was definitive negligence. And it is important to note that she sits today with no legs.

What we are suggesting is that we are now intruding into State law, that this individual now, under Federal law, loses noneconomic damages for pain and suffering and the extent of the negligence that was promoted and, as well, faces a Federal hard hat to prevent her from having relief. Now, this is in the State of Texas, and we have tort law reform that many oppose, but it is a State decision.

I offered an amendment that would have carved out an exemption for health care lawsuits for serious and irreversible injury, supported by two of my colleagues, Congressman HANK JOHNSON and Mr. QUIGLEY. It exempted victims of malpractice that resulted in irreversible injury, including loss of limbs and loss of reproductive ability, from the $250,000 cap. This was not accepted.

What we say today is people like Connie Spears, children, seniors who are limited in their noneconomic damages, now have no basis for punishing those who were blatant in their negligence, no way of dealing in a punitive manner to prevent these kinds of acts from happening and recognizing the loss of limbs of someone who may have been unemployed.

My friends cannot have it both ways, that is, challenging the Affordable Care Act because they say that interstate commerce does not allow us to do good, but yet coming back in their findings to suggest they have the upper hand.

Well, I'm going to join my friend on the other side of the aisle, Mr. JOHNSON, on states' rights. Today, on H.R. 5, you literally quash and extinguish states' rights; and in the course of doing so, you quash the rights of injured patients, for those that Ronald Reagan said to get negligence out of the marketplace, out of the way of those who need care so that the good can rise up.

So I would make the argument that we're now debating in a conflicted manner. I don't know what the positions of Republicans are. They want to get rid of the Affordable Care Act, which was premised on interstate commerce, the authority of Congress. They come right back at our 2-year anniversary, celebrating people who are living because of the Affordable Care Act, and now want to place their hat on doing this on interstate commerce. I want to know where all the states' rights advocates are and why you are abolishing and eliminating constitutional State law, why you are eliminating statutory law where individual States have expressed their will.

I believe this bill, along with the component that wants to dash the Affordable Care Act, is a bill destined for the President's veto. But more importantly, let me try to understand how we can have our good friends on the other side of the aisle have their cake and eat it too.

I'm celebrating with the celebratory cake of the Affordable Care Act. I don't mind celebrating this Congress' right to help save lives.

How do you put a bill on the floor of the House where you have argued that there is no right for us to be involved in health care, and now you want to dash the rights of those who have been injured through interstate commerce and the Congress of the United States of America? Frankly, the complexity of your argument is such that it makes no sense; and, frankly, I hope that my colleagues will join me and applaud the Affordable Care Act, celebrate the expanded life that we have provided, and also recognize that those individuals who seek remedy in the marketplace, who have been injured by negligence and acts that have been dastardly, are compensated in a fair and just manner. That is all we ask under the Constitution: due process and the rights of all Americans.

Mr. SMITH of Texas. Mr. Chairman, I yield 2 minutes to the gentleman from Georgia (Mr. GINGREY).

Mr. GINGREY of Georgia. Mr. Chairman, I appreciate Chairman SMITH yielding to me. And, of course, with great hesitation do I rise, because the gentlewoman who just spoke was recently rated one of the most eloquent, if not the most eloquent, Members of this body.

But even though she is eloquent, with all due respect, I think she is wrong. And with regard to the issue of the Commerce Clause and the issue of the Affordable Care Act, PPACA, and as is sometimes referred to, and not really pejoratively—if successful, it will be his legacy—ObamaCare.

□ 2010

This bill, Mr. Chairman, was created by forcing individuals to engage in commerce; that is, to purchase health insurance, under the penalty or a tax—I'm not sure from day to day how they're going to describe it, but without question that's not constitutional. And I expect maybe it will be a 5–4 decision in June of the Supreme Court, but maybe 9–0, because that is clearly unconstitutional. It is not applicable under the Commerce Clause to force people to engage in commerce. The Constitution says to regulate interstate commerce.

Of course, that is very much applicable in H.R. 5, in the Medical Liability Reform Act. Because when you have a situation in health care where there is no provision for certain medical specialties in a high-risk area like neurosurgery, obstetrics and gynecology, cardiovascular surgery, where babies have to be delivered beside the road.

The Acting CHAIR. The time of the gentleman has expired.

Mr. SMITH of Texas. I yield the gentleman 2 additional minutes.

Mr. GINGREY of Georgia. I thank the gentleman for yielding.

But clearly the gentlelady from Texas—and I think she knows this. Texas has enacted tort reform. They have caps that are different in fact than originally existed in California 35 years ago. The result in Texas, if all of my colleagues from Texas on this side of the aisle are truthful with me, is that the problem in Texas has stabilized. Physicians are coming back to Texas. There's no shortage of specialists because of the law that was passed in Texas.

And I want to point out to the gentlewoman, too, that in this bill there is a provision called flexi-caps that basically says whatever a State does preempts Federal law in regard to caps on noneconomic, as well as contingency fees for plaintiffs' attorneys, or any other provision of the law. State law prevails if they address that either before this bill is passed or after the bill is passed.

Ms. JACKSON LEE of Texas. Will the gentleman yield?

Mr. GINGREY. The gentlelady is eloquent but she's wrong on this issue, and I will yield to her.

Ms. JACKSON LEE of Texas. Dr. GINGREY, thank you for your kindness and your kind words. I would say that rather than being wrong, we disagree.

But what I would say is, if you do not have a cap, then this bill will supersede the laws in States that say they have no caps. And the only thing I would conclude on is that your bill is premised, even though you're citing the individual mandate—and we can quarrel about that as to whether or not it is a forced-upon mandate or whether there are options of that individual having employer-based insurance, et cetera—but it is premised on interstate commerce. And therefore you have an amendment being offered by one of your members to strike that.

The Acting CHAIR. The time of the gentleman has expired.

Mr. CONYERS. Mr. Chair, I yield the gentlelady 1 additional minute.

Ms. JACKSON LEE of Texas. I thank the gentleman.

The premise of this bill is interstate commerce, which in the initial arguments being made by my friends on the other side of the aisle, they argued vigorously that we couldn't even do health care under this premise, even though we have Medicare. The premise you have in this bill is under interstate commerce. But you have an amendment that is seeking to strike your findings because you were caught with a conflict between dealing with this question congressionally, which we're saying is legitimate from the perspective of the Affordable Care Act—you're trying to use it now—but you realize that there are Members who are now arguing the question of states' rights.

We have existing State law on tort reform—hundreds of years of tort reform—and you're trying to abolish it, and with this added legislation on medical malpractice you're now trying to supersede existing State law.

The Acting CHAIR. The time of the gentlewoman has expired.

Mr. CONYERS. I yield the gentlelady 1 additional minute.

Ms. JACKSON LEE of Texas. Where the amounts of moneys are not capped, where there are no caps, this bill places the $250,000 in. If there are no caps. That is an overriding of State law. No matter how you cut it, it's an overriding of State law enforcement. And you can't have your cake and eat it, too. I'm willing to celebrate the Affordable Care Act and eat the cake because it saves lives. But what you're doing here now is not. You're overriding State laws. Many States.

Mr. SMITH of Texas. Mr. Chairman, I yield 4 minutes to the gentleman from Arizona (Mr. QUAYLE), who is an active member of the Judiciary Committee.

Mr. QUAYLE. I thank the gentleman for yielding and for his work on this important piece of legislation.

Mr. Chairman, I rise in support of H.R. 5, the PATH Act, because our country is in urgent need of medical malpractice reform. Currently, we have a jackpot justice system that is not based in reality, and it's badly damaging our country's health care system. Profiteering attorneys know this. And that's why the number of malpractice suits has been precipitously rising year after year.

Back in the 1960s, one out of seven physicians would have had a malpractice claim over their entire lifetime. Today, it's one in seven physicians are sued each year. That is an astronomical jump in the number of claims that are being put on doctors. And the doctors are now being forced out of the profession even when they haven't done anything wrong. The practice of defensive medicine is harming the quality of care and pushing up costs. The enormous expense of ensuring a doctor against liability is making health care inflation much worse, not to mention the fact that the current system is damaging the doctor-patient relationship. It damages it in a way because every doctor has to see every interaction with the patient as a potential lawsuit. That is not what the doctor-patient relationship should be built on. It should be built on mutual respect and trust. And until we have something that actually addresses the medical malpractice problems that we have and we get the reforms that are much needed, that actual relationship is never going to improve.

So I urge the House to pass the PATH Act because it will do two vital things to get health care costs under control: First, it would eliminate ObamaCare's Independent Payment Advisory Board and thereby keep a board of unelected, unaccountable bureaucrats from restricting senior access to health care. It also brings medical malpractice lawsuits under control by capping noneconomic damages and limiting attorneys' fees so more money will actually go to the victims rather than overzealous trial lawyers.

These reforms will save taxpayers over $40 billion over the next decade. Everyone knows that we need to do something about rising health care costs, and this bill and taking care of the medical malpractice problems that we have will go a long way in getting those costs under control. This bill will give every Member of this House the opportunity to be part of the solution.

I urge my colleagues to vote ''yes'' on H.R. 5.

Mr. CONYERS. I yield such time as she may consume to a senior member of the Judiciary Committee, MAXINE WATERS of California.

Ms. WATERS. Thank you very much, Mr. CONYERS, former chair of the Judiciary Committee, ranking member, and a gentleman who has provided superb leadership in opposition to H.R. 5.

Mr. Chairman, I rise in strong opposition to H.R. 5, poorly titled Protecting Access to Healthcare, the so-called PATH Act, an unconstitutional, Big Government bill that violates the 10th Amendment and states' rights.

□ 2020

At the very start of the 112th Congress, my colleagues on the opposite side of the aisle declared that all business conducted in the House would be consistent with the Constitution. Yet if you read the constitutional authority statement attached to H.R. 5, the Republican sponsors seem to believe that the Commerce Clause magically creates a path for Congress to mandate nationwide caps on punitive damages in all medical malpractice lawsuits. The Republicans are telling all Americans, no matter how severe the injury or egregious the mistake by the doctor, hospital or drug manufacturer, that their losses are going to be capped at $250,000.

And with all due respect to the gentleman from Georgia, Representative GINGREY, who introduced H.R. 5, even his own State supreme court has found caps on punitive damages to be unconstitutional. In 2010, the Georgia supreme court unanimously struck down limits on jury awards in medical malpractice cases. The Georgia court determined that a $350,000 cap on noneconomic damages violates the right to a jury trial as guaranteed under the Georgia Constitution.

Section 110(a) of H.R. 5 would impose an even lower cap on damages in Georgia, effectively overturning the court's decision by an act of Congress. The section reads:

> The provisions governing health care lawsuits set forth in this Act preempt, subject to subsections (b) and (c), State law to the extent that State law prevents the application of any provisions of law established by or under this Act.

In addition to Georgia, other States like Arizona, Pennsylvania, Wyoming

and Kentucky whose State constitutions specifically prohibit damage limitations will have their constitutions overruled by Congress.

For Members who have for years now questioned the constitutionality of the Affordable Care Act, you need but take a look at H.R. 5. H.R. 5 goes far beyond anything passed by the Democratic majority. If you don't believe me, just listen to Tea Party Nation founder Judson Phillips. In slamming H.R. 5 he wrote:

Whether you think tort reform is a good idea or not, it is an issue that belongs to the States, not to the Federal Government. Tort law has always been governed by the States.

Now, I didn't say that, Mr. CONYERS didn't say that, and Ms. JACKSON LEE didn't say that. None of those who have been over here this evening opposing H.R. 5 and laying out the facts and the consequences of H.R. 5 said this. Let me repeat. I am quoting Tea Party Nation founder Judson Phillips:

Whether you think tort reform is a good idea or not, it is an issue that belongs to the States, not to the Federal Government. Tort law has always been governed by the States.

Even some of my Republican colleagues on the Judiciary Committee have expressed concerns. Congressman POE, Republican from Texas said:

I believe that each individual State should allow the people of that State to decide—not the Federal Government. If the people of a particular State don't want liability caps, that's their prerogative under the 10th Amendment.

Well, let's listen to what Congressman LOUIE GOHMERT, Republican of Texas, said:

The right of the States for self-determination is enshrined in the 10th Amendment. I am reticent to support Congress imposing its will on the States by dictating new State law in their own State courts.

To my conservative colleagues in this Chamber, don't be tricked. Don't be fooled. H.R. 5, simply and clearly put, violates states' rights. Reject this unconstitutional piece of legislation, protect States' constitutional rights to set tort law and just vote ''no'' on H.R. 5.

Now, let me just wrap this up by saying that the gentleman from Georgia referred over and over again, constantly, this evening about frivolous Californians. And he talked about these juries who didn't take into consideration the facts on these negligence cases, but rather looked at the insurance and said, oh, just give them whatever, they didn't care. Well, I came to defend California and to tell you the difference between what happened in tort reform in California and what you have been told by the gentleman from Georgia.

Supporters of H.R. 5 claim that it is the same as MICRA, a medical malpractice liability law passed in California in 1975. H.R. 5 is far different from MICRA, except that neither law delivered on lower insurance premiums. The differences are clear:

H.R. 5 applies damage caps in all ''health care lawsuits,'' including cases against drug companies, nursing homes, insurance companies and HMOs. MICRA only applies to malpractice cases against a doctor or a hospital.

Punitive damages are reserved for only the most egregious medical malpractice; they are meant to deter future dangerous conduct. H.R. 5 limits punitive damages. MICRA does not cap punitive damages.

H.R. 5 gives total immunity from punitive damages to drug and device manufacturers if their products have been approved by the FDA or are ''generally recognized as safe and effective.'' MICRA does not provide this kind of sweeping immunity for the drug industry.

H.R. 5 caps noneconomic damages at $250,000 in the aggregate, no matter how many parties have been damaged by medical malpractice, even when an injury results in loss of a marital relationship. California law recognizes a separate claim for loss of consortium—claims brought by the spouse of an injured patient. MICRA does not limit these claims.

Joint and several liability, which my leader asked you about, Mr. GINGREY, enables an individual to bring one claim against any of the parties involved in a medical malpractice injury and ensures that injured victims are fully compensated. H.R. 5 completely eliminates joint liability for both economic and noneconomic losses. California law only limits joint liability for noneconomic damages.

H.R. 5 and MICRA are alike in one main respect—by themselves, neither law can deliver on lower medical malpractice insurance premiums.

H.R. 5 includes unprecedented legal protections for the insurance industry, but no guarantee that any future savings will be passed onto doctors or patients.

Following the passage of MICRA, insurance premiums for doctors increased in California by 450 percent over the next 13 years. Premiums only decreased after California enacted Proposition 103, a ballot initiative that mandated a 20 percent rollback in premium rates. I was in the California legislature when that happened.

H.R. 5 does not guarantee lower premium rates for doctors. In fact, the bill only mentions insurance companies when giving them protection from liability.

So, again, I say, don't be fooled, don't be tricked. I don't really mean to imply, Mr. GINGREY, that you are trying to fool or trick anybody, but you're simply wrong. We have given our opposition in more ways than one this evening to H.R. 5. But since you alluded to or talked about or pointed directly to California and all of these people who simply have frivolous lawsuits and these poor juries who sit and don't take into consideration the facts and simply look at how much insurance is available and just award these tremendous amounts, I had to add to my testimony this evening a defense and an explanation and show the difference between MICRA and H.R. 5.

I think I have done that, and I think I have done that with the facts that exist. I am very pleased that I have been able to join with my colleagues this evening to not only reveal what H.R. 5 is and is not, but I think we have made the case. I think that we have put the facts forward in such a way that we're going to win on this issue. I ask you to oppose H.R. 5.

Mr. SMITH of Texas. Mr. Chairman, I yield such time as he may consume to the gentleman from Georgia, Dr. GINGREY.

□ 2030

Mr. GINGREY of Georgia. Mr. Chairman, I thank Chairman SMITH for yielding to me.

As good a communicator as the gentlewoman from California is, I would be quick to state that she is not the Great Communicator. The Great Communicator, of course, was President Ronald Reagan.

The gentlewoman from California talked about comments that were made on my side of the aisle, members of the Judiciary Committee, and named a couple of Members on my side of the aisle that were concerned about federalism and the 10th Amendment and states' rights. I just want to remind her that, at least from our perspective—and the gentlewoman may not agree with this at all—but from our perspective on this side of the aisle, the Great Communicator was President Ronald Reagan.

In a speech in 1986 to the U.S. Chamber of Commerce, after a commission had reported to him on this issue of medical liability reform and the need for same, the President very clearly outlined almost the identical provisions that are part of MICRA, the Medical Injury Compensation Reform Act, that was passed in his State that he governed for 8 years, the great State of California. So, again, the gentlelady makes her points well; but, quite honestly, I think there's a bit of embellishment on their side of the aisle.

Who do you trust? The gentleman from Arizona (Mr. QUAYLE) just spoke moments ago, Mr. Chairman, about who do we trust. Well, right above you, as you sit there, first of all, ''In God We Trust.'' In mom and dad we trust. In Dr. Bailey, Augusta, Georgia, we trust. In uncle we trust, but that's way down the line, way down the line.

I think our colleagues on the other side of the aisle think that Big Government should control everything, that they should make the decisions. That's where ObamaCare came from. To do it, they had to proffer a 2,800-page bill that is clearly unconstitutional.

H.R. 5 is not unconstitutional. You look at article I, section 8, clause 3, the Commerce Clause, and clearly it's constitutional. Requiring someone, forcing someone to engage in commerce, indeed, to purchase health insurance

under the penalty of a tax is unconstitutional, and that will be determined by the Supreme Court.

Mr. CONYERS. Mr. Chairman, we have no further requests for time. With the agreement of the chairman of the committee, I would like to close at this point.

Mr. SMITH of Texas. Mr. Chairman, we have no other speakers as well, and I am prepared to close on this side.

The Acting CHAIR. The Chair recognizes the gentleman from Michigan.

Mr. CONYERS. I'd like to thank all of the Members on both sides of the aisle that have participated in this important debate. There has been a lot of clarity, even though there has been a great difference in opinion.

I return the balance of my time with this thought in mind, that even though the author of this bill is a well-regarded medical practitioner and a distinguished Member of the body, he is a doctor, but he is not a lawyer.

I commend him on the fact that he agreed with the statement that to me determines a lot of people's point of view about this very controversial bill that is now before the floor, H.R. 5. That is, he agreed and answered in the affirmative that H.R. 5 eliminates joint and several liability for economic, noneconomic, and punitive damages. To me, with all the cases that have been of human suffering, of injury to women and children, of how wrong it would be to limit all of these kinds of damages to $250,000 in this 21st century is an insult to common sense and fair play.

Mr. GINGREY of Georgia. Will the ranking member yield?

Mr. CONYERS. I will yield to the gentleman.

Mr. GINGREY of Georgia. I appreciate very much you yielding to me for that, because clarification needs to be made.

You're suggesting that what I said was there would be a limitation of $250,000 because of the elimination of joint and several liability. That's not true at all. Whatever the judgment is, the $250,000 in noneconomic, the $10 million in economic, would be apportioned to the defendants in proportion to their liability. That's what the elimination of joint and several liability means, eliminating this deep-pocket mentality of plaintiff's attorneys.

Mr. CONYERS. Well, through the Chairman, I accept the comments of the gentleman from Georgia. I assume that his response to my question earlier is still ''yes.'' If that is the case, then all I can say is that I think there are very few people in the Federal legislature or among our citizenry who would say that there should not be an unlimited amount of recovery. The gentleman must have some feeling for the fact that $250,000 for the rest of the person's life, if they lose arms or legs, eyes, it's just unacceptable. I won't say that it's immoral, but it's unfair.

It's my hope that most of our colleagues, as we continue this debate tomorrow, will realize that that is the fatal flaw in a bill that may have some justification in other parts of it, but that limitation of damages cannot be rationalized nor justified by the collective body of this legislature. For that reason, sir, I am urging all of our colleagues to consider this one point that I make tonight, as I close, as to be controlling in their decision that they will make as we vote tomorrow on this bill.

I thank all of the Members that have joined in this debate this evening.

Mr. Chairman, I yield back the balance of my time.

Mr. SMITH of Texas. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I just want to reemphasize again that, under this bill, awards are possible that far exceed the $250,000 cap in noneconomic damages. That's because under the economic damages provision, there is simply no cap. As a result of that, States like California and Texas, which have adopted reforms very similar to the reforms in this particular piece of legislation, there have been numerous awards of multimillion dollars awarded to individuals who have been injured.

□ 2040

So even though we had that $250,000 noneconomic cap, that is not an absolute cap on the awards that have been made.

A minute ago, Dr. GINGREY mentioned that in California, for example, several years ago, I believe it was 2007, there was a $96 million award. And in the last year for which we have records, in 2010, there were awards, I think, for over $6 million, over $10 million, over $14 million. So an individual is able to be reimbursed for the costs and the injuries that that individual may have incurred.

Mr. Chairman, I also want to say that America's medical liability system increases the cost of health care and decreases access to care as doctors abandon their practices and avoid high-risk specialties out of fear of being sued. Medical liability reform, this bill tonight will solve this problem.

According to the Journal of the American College of Surgeons, 5 years after tort reform legislation passed in my home State of Texas, the number of physicians in the State increased by 24 percent. That is twice the rate of growth in population over the same period of time. Other States have seen similar results.

But most States have not enacted meaningful reforms and, as a result, frivolous lawsuits have created a medical liability crisis. This crisis has forced women to drive great distances to deliver their babies because their local hospital doesn't have an OB–GYN.

It has resulted in those who need complicated procedures being placed on waiting lists for months because the only available specialist has too many patients who seek care, and it has caused accident victims to lose their lives because their local emergency room no longer has a trauma center. America's broken medical liability system has caused patients to lose access to high-quality health services.

The liability reforms contained in the HEALTH Act will do these things: lead to a significant savings in health care expenses, reduce the practice of defensive medicine, halt the departure of doctors from high-litigation States and medical specialties, improve access to health care, and increase the affordability of health insurance. Also, according to the Congressional Budget Office, this legislation will reduce the Federal deficit by more than $45 billion over the next 10 years. This is a significant savings in a time of escalating deficits and debt.

We've seen the positive effects that similar medical liability reforms have had at the State level. Reforms in States like California and Texas have enhanced patient care, reduced doctor shortages, and decreased cost. It's time for Congress to enact these reforms for the benefit of all Americans.

Mr. Chairman, before I yield back the balance of my time, I'd like to thank the gentleman from Georgia, Dr. GINGREY, who has spoken so well so many times tonight, for introducing this piece of legislation that is going to help so many people across America.

With that, I yield back the balance of my time.

Ms. SCHWARTZ. Mr. Chair, I rise in opposition to the bill before us.

H.R. 452, the Medicare Decisions Accountability Act, had clear bipartisan support.

As a co-sponsor, I am deeply disappointed by Republicans' decision to link this legislation to an unrelated and partisan issue. This rule ensured that repealing IPAB would not be given serious consideration in the House.

My support for IPAB repeal reflects my confidence in and commitment to Medicare payment and delivery system reforms in the Affordable Care Act that will improve quality, increase efficiency and care coordination, and not only save lives but reduce costs.

IPAB is not a ''death panel'' or a ''rationing board.'' IPAB is simply the wrong approach to the right goal.

Abdicating responsibility for legislating sound health care policy, whether to an unelected commission or private insurers, undermines our ability to represent the needs of our constituents.

Republicans have once again demonstrated that political showmanship trumps legitimate concerns expressed by seniors and the medical community.

Linking IPAB repeal to tort reform—an unrelated, divisive, and polarizing issue—has brought what was once a bipartisan effort to a screeching halt.

I urge my colleagues to vote against this partisan stunt and put our Nation's seniors first.

Mr. FITZPATRICK. Mr. Chair, over the course of the last 2 years since the President signed the so called Affordable Care Act into law, bipartisan opposition to many portions of this legislation has steadily grown in this Chamber.

I have called for a full repeal of the law, however, it is vital that the most damaging sections be repealed here and now. One of

the most clearly flawed aspects of the Affordable Care Act is the creation of the Independent Payment Advisory Board.

As the House puts forward ideas to protect and save Medicare, the Administration has decided it can better serve seniors by cutting Medicare by more than $575 billion to create a panel of unelected, unaccountable Washington bureaucrats tasked with cutting Medicare even further.

More than 230 of my colleagues in the House and over 380 groups representing doctors, patients and employers have joined us in opposition to the IPAB. I urge the Senate and President to stand with us against this overreach of government power and pass the Protecting Access to Healthcare Act.

The Acting CHAIR. All time for general debate has expired.

Mr. SMITH of Texas. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. GRIFFITH of Virginia) having assumed the chair, Mr. NUGENT, Acting Chair of the Committee of the Whole House on the state of the Union, reported that that Committee, having had under consideration the bill (H.R. 5) to improve patient access to health care services and provide improved medical care by reducing the excessive burden the liability system places on the health care delivery system, had come to no resolution thereon.

THE AFFORDABLE CARE ACT: KEEPING SENIORS HEALTHY AND REDUCING HEALTH CARE COSTS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 5, 2011, the gentleman from New Jersey (Mr. PALLONE) is recognized for 38 minutes as the designee of the minority leader.

Mr. PALLONE. Mr. Speaker, I don't plan to use the entire time, but I come to the floor this evening basically to talk about the Affordable Care Act. Some call it the health care reform.

This Friday will be the second anniversary of the President's signing of the Affordable Care Act, or health care reform, and I'd like to talk a little bit about how it's helping so many people with patient protections and added benefits, whether you're talking about seniors or young people or women or just the general public.

The main thing that is heralded, if you will, by the Affordable Care Act is the opportunity over the next few years to expand health insurance to so many Americans who do not have health insurance now. We estimate there are variously between 40, maybe 45 million Americans that simply have no health insurance; and what that means is they either don't go to a doctor or they don't get any kind of health care unless they get very sick and end up going to the emergency room. The consequences of that is that they take no preventative care. They end up in the emergency room. Oftentimes, they can't afford to pay the cost of the emergency room, and that cost simply gets passed on to the hospital or, ultimately, to everyone else who is paying for health insurance.

So basically, what the Affordable Care Act does over the next few years is try to expand insurance coverage to something like 98, 99 percent of all Americans, taking up those 45 million people and, for the most part, making sure that they have health insurance. It does that in two basic ways:

First of all, it expands Medicaid, which is the health insurance program for people below a certain income. About 15 million Americans who have no health insurance now would be eligible for Medicaid under the Affordable Care Act over the next few years when it kicks in.

In addition to that, for the rest of the Americans who have no health insurance, most of them are people that either don't get it on their job, they're not eligible, or they're not offered health insurance by their employer, or they may be individuals who are employed on their own or at home or not employed in some capacity. They have a very hard time buying a health insurance policy on what we call the individual market. So what the Affordable Care Act does, it sets up exchanges in every State, or throughout the country, where you can get a very good package for a reasonable price, a very low-cost price, and, at the same time, it provides a subsidy through tax credits to many Americans, depending upon their income.

We estimate for a family of four making up to $70,000 or $80,000 a year would be eligible for some sort of subsidy or tax credit that would make their health insurance policy more affordable. So essentially, what we do is, between expansion of Medicaid and the subsidies, if you will, and the low-cost insurances offered now on these exchanges around the country, most people would end up with health insurance.

Now, what I wanted to talk about today are some of the benefits, if you will, that have already kicked in for various groups of people, particularly seniors. I wanted to start with seniors because many seniors, as you know, because they're on a fixed income, have a hard time making ends meet. Oftentimes, they can't afford their rent, they can't afford food, and for them to take extra money out of pocket to pay for health care costs is oftentimes very difficult, and they have to make choices between heat or food as opposed to health care.

One of the things that I really want to stress today, because I listened in the last few nights, because of the anniversary of the Affordable Care Act coming up on Friday, I've heard some of my colleagues on the Republican side of the aisle actually suggest that somehow the Affordable Care Act was going to negatively impact Medicare. Nothing could be further from the truth. In fact, the Affordable Care Act expands benefits for seniors under Medicare in many significant ways.

But it's particularly interesting that I hear that from the other side of the aisle, from the Republican side of the aisle this week because, on Tuesday, the Republicans unveiled their budget for the next fiscal year.

□ 2050

Once again as they did last year in last year's budget, the Republican budget this year essentially gets rid of Medicare, or what I would say ends traditional Medicare. So it's kind of strange to hear the Republicans talk about Medicare and the Affordable Care Act since the Affordable Care Act actually expands benefits for seniors under Medicare, whereas they unveiled their budget this week that actually abolishes, for all practical purposes, Medicare as we know it.

What the Republican budget does, once again, is say to seniors, Well, we're going to give you a voucher. We're going to give you a certain amount of money through a voucher, if you will, and you can take that and go out and buy private insurance instead of getting the guaranteed benefit under Medicare that seniors now have.

The problem with a voucher is that it's a fixed amount of money, and it's not all clear that seniors can buy health insurance with a voucher. But even if they could, because it's a fixed amount of money and it doesn't increase significantly over the years, what you'll find with that voucher is that more and more seniors would have to pay out of pocket either to purchase the insurance because the voucher is not enough or because they probably can't get a decent package equivalent to the Medicare guarantee, and therefore would have to pay out of pocket for certain costs that are not covered by the health care plan that they purchased with the voucher.

So it's sort of ironic to hear the Republicans talk about the Affordable Care Act and suggest that the Affordable Care Act should be repealed because of its impact on Medicare when in fact they're doing their best under the budget to basically end Medicare as we know it.

Let me talk a little bit about some of the benefits.

I want to talk about how the Affordable Care Act helps seniors, and then a little bit about how it helps women, and then a little bit about how it helps young people.

Of course, it helps everybody by simply expanding health care coverage for those who don't have health insurance.

But the benefits, in particular, I want to talk about and start with seniors.

I mentioned before that no group has been hit harder by soaring health care costs than seniors. With the economy struggling over the last several years, seniors have suffered even more as they've watched many of their pensions and investments dwindle, making