

Is the IPAB unconstitutional?

Legal argument may be new line of attack
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The Independent Payment Advisory Board (IPAB), considered a crucial component to implementing the Affordable Care Act in the coming years, is facing increasing criticism and scrutiny and may even be challenged under constitutional grounds, reported American Medical News.

IPAB would make recommendations about potential cuts to Medicare providers in years that Medicare fails to meet spending targets; but its recommendations could only be overruled by Congress if it made equivalent cuts, according to Investor's Business Daily.

The panel is intended to be what American Medical News called "fiscal fail-safe." It is modeled after the Defense Base Closure and Realignment Commission, which makes politically unpopular decisions that Congress often cannot stomach, according to the article.

However, the IPAB has come under attack in a variety of quarters, including its constitutionality.

"IPAB is unconstitutional for a number of reasons and one of them is that the statute limits the ability of future Congresses to repeal IPAB by saying that the only way Congress can repeal it is with a special procedure in 2017," Michael Cannon, director of health policy studies at the Cato Institute, told Investor's Business Daily. "Congress cannot bind a future Congress like that. Only the Constitution can."