



# **New Entities Created Pursuant to the Patient Protection and Affordable Care Act**

**Curtis W. Copeland**  
Specialist in American National Government

July 8, 2010

**Congressional Research Service**

7-5700

[www.crs.gov](http://www.crs.gov)

R41315

## Summary

The Patient Protection and Affordable Care Act (PPACA, P.L. 111-148, March 23, 2010) creates, requires others to create, or authorizes dozens of new entities to implement the legislation. Some of these new entities are offices within existing cabinet departments and agencies, and are assigned certain administrative or representational duties related to the legislation. Other entities are new boards and commissions with particular planning and reporting responsibilities. Still others are advisory bodies that were created to study particular issues, offer recommendations, or both. Although PPACA describes some of these new organizations and advisory bodies in detail, in many cases it is currently impossible to know how much influence they will ultimately have over the implementation of the legislation.

This report describes dozens of new governmental organizations or advisory bodies that are mentioned in PPACA, but does not include other types of entities that were created by the legislation (e.g., various demonstration projects, grants, trust funds, programs, systems, formulas, guidelines, risk pools, websites, ratings areas, model agreements, or protocols). A table in the **Appendix** is organized in terms of entities (1) that were created by PPACA itself (e.g., through statutory language stating that an organization is “established” or “created”); (2) that PPACA requires the President to establish (e.g., “the President shall establish”); (3) that PPACA requires the Secretary of the Department of Health and Human Services (HHS) to establish (e.g., “the Secretary shall establish”); (4) that PPACA requires some other organization to establish; and (5) that PPACA authorizes to be established. For each entity listed, the table identifies (to the extent provided in the legislation) the relevant section of PPACA, the name of the entity, the date that the entity is required to be created and its location, the composition of the entity and its leadership, and the purpose and duties of the entity.

The precise number of new entities that will ultimately be created pursuant to PPACA is currently unknowable, for the number of entities created by some sections is contingent upon other factors, and some new entities may satisfy more than one requirement in the legislation. Although PPACA states that certain entities were “established” by the legislation, in practical terms, these entities will not be able to function until members are appointed and appropriations are provided or made available. The legislation sometimes indicates when and where certain entities are to be established, how members are to be appointed, the amount and timing of appropriations, whether certain general management laws are applicable, and when the entities will cease to exist. In other cases, however, PPACA is silent with regard to these and other issues. The degree of specificity in these provisions may have implications for congressional control and, conversely, the amount of discretion that agencies will have in the implementation of the legislation. PPACA significantly increased the appointment responsibilities of the Comptroller General of the United States, and it is unclear how the Government Accountability Office (GAO) will be able to independently audit entities whose members are appointed by the head of GAO.

This report will not be updated.

## **Contents**

Introduction .....	1
This Report .....	1
Total Number of New PPACA Entities Is Unclear .....	2
Appointments and Appropriations Will Allow PPACA Entities to Function.....	4
Provisions Creating New Entities Vary in Specificity.....	5
Creation, Appointment, and Operational Dates .....	5
Location.....	7
Staffing .....	9
Duties and Responsibilities .....	10
Members and Leaders .....	11
Funding Provisions .....	13
Applicability of General Management Laws.....	14
Duration.....	16
Other Provisions .....	17
Appointments by the Comptroller General .....	17
Concluding Observations .....	19

## **Appendixes**

Appendix. Entities Created Pursuant to PPACA .....	20
--	----

## **Contacts**

Author Contact Information .....	39
----------------------------------	----

## Introduction

The Patient Protection and Affordable Care Act (PPACA, P.L. 111-148, March 23, 2010) creates, requires others to create, or authorizes dozens of new entities to implement the legislation. Some of these new entities are offices within existing cabinet departments and agencies, and are assigned certain administrative or representational duties related to the legislation. Other entities are new boards and commissions with particular planning and reporting responsibilities. Still others are advisory bodies that were created to study particular issues, offer recommendations, or both. Although PPACA describes some of these new organizations and advisory bodies in detail, in most cases it is currently impossible to know how much influence they will ultimately have over the implementation of the legislation.

## This Report

This report describes dozens of entities that PPACA created, requires others to create, or authorizes. To identify these entities, CRS searched the legislation (the enrolled version of H.R. 3590, as passed by the House and the Senate, since the public law was not yet available) using the terms “there is established,” “there is created,” “there is hereby created,” “shall establish,” “shall create,” “shall convene,” “shall appoint,” “purpose of this section to establish,” “there is hereby established,” and “there is authorized to be established.” Although these searches revealed dozens of new entities created pursuant to PPACA, it is unclear whether the searches identified all of the organizations created by or through the legislation. (Other organizations may have been created using other terms.)

The **Appendix** to this report provides a table listing the PPACA offices and advisory bodies that were identified through these searches. The table does not include other types of activities and work products that PPACA created or required to be created, such as demonstration projects, grants, trust funds, programs, systems, formulas, guidelines, risk pools, websites, ratings areas, model agreements, and protocols.<sup>1</sup> It also does not include organizations that have been created to help implement PPACA, but that are not specifically mentioned in the legislation.<sup>2</sup>

The table in the **Appendix** is organized in terms of governmental units and advisory bodies (1) that appear to have been created by PPACA itself (e.g., through statutory language stating that an organization is “established” or “created”); (2) that PPACA requires the President to establish (e.g., “the President shall establish”); (3) that PPACA requires the Secretary of the Department of Health and Human Services (HHS) to establish (e.g., “the Secretary shall establish”); (4) that PPACA requires some other organization to establish (e.g., state governments or agencies within

---

<sup>1</sup> In some cases, the new organizations and advisory bodies included in this report are related to these new projects, funds, and grant programs. For example, Section 10409(d) of PPACA established a Cures Acceleration Network (CAN) program within the Office of the Director of the National Institutes of Health. Because it was described as a “program” in PPACA, it is not included in this report. However, the same section of PPACA established a 24-member CAN Board to advise the Director of NIH on the conduct of activities under the program. The CAN Board is included in this report.

<sup>2</sup> N.C. Aizenman, “Hard work beings in health-care law’s details,” *Washington Post*, June 3, 2010, p. A15. The article said that only one new agency had been created by early June 2010, the Office of Consumer Information and Insurance Oversight. That office is not specifically mentioned in PPACA.

HHS); and (5) that PPACA authorizes to be established. For each entity (or set of entities) listed, the table identifies (to the extent provided in the legislation)

- the relevant section of PPACA,<sup>3</sup>
- the name of the entity,
- the date that the entity is required to be created and its location,
- the composition of the entity and its leadership, and
- the purpose and duties of the entity.

Other CRS reports describe some of these new PPACA organizations in greater detail.<sup>4</sup> The primary purposes of this report are to list as many of these entities in one place as is possible, to describe how they are similar to and different from each other, and to make other general observations about them.

## **Total Number of New PPACA Entities Is Unclear**

Although some observers have asserted that PPACA will result in a precise number of new boards and commissions,<sup>5</sup> the exact number of new organizations and advisory bodies that will ultimately be created pursuant to the legislation is currently unknowable. Some individual sections of PPACA are expected to create more than one new entity, the number of entities created pursuant to some sections of the legislation is contingent upon other factors, the requirements in more than one section may be satisfied by a single new entity, and some new entities may be created to implement the legislation even though they are not specifically mentioned in PPACA.

The **Appendix** to this report identifies dozens of sections of PPACA that create or require the establishment of new entities, but some of those sections are expected to create more than one new office or advisory body to implement the legislation. For example, Section 10334(b) of PPACA (“Minority Health”) requires the heads of six separate agencies within HHS to each establish their own offices of minority health. Other provisions in the legislation may result in an indeterminate number of new organizations. For example:

- Section 1002 of PPACA (“Health Insurance Consumer Information”) refers to an “independent office of health insurance consumer assistance, or an ombudsman”

---

<sup>3</sup> Certain sections of PPACA amended existing law by adding new sections. For example, Section 1001 of PPACA amended Part A of Title XXVII of the Public Health Service Act (42 U.S.C. 300gg et seq.) and created new Sections 2711 through 2719 of the act. Throughout this report, references are to the relevant sections of PPACA, not any new sections of other legislation that may be created by PPACA.

<sup>4</sup> See, for example, CRS Report R40942, *Private Health Insurance Provisions in the Patient Protection and Affordable Care Act (PPACA)*, by Hinda Chaikind et al.; CRS Report R41196, *Medicare Provisions in the Patient Protection and Affordable Care Act (PPACA): Summary and Timeline*, coordinated by Patricia A. Davis; CRS Report R41210, *Medicaid and the State Children’s Health Insurance Program (CHIP) Provisions in PPACA*, coordinated by Julie Stone; and CRS Report R41278, *Public Health, Workforce, Quality, and Related Provisions in the Patient Protection and Affordable Care Act (PPACA)*, coordinated by C. Stephen Redhead and Erin D. Williams.

<sup>5</sup> See, for example, <http://factsnotfantasy.blogspot.com/2010/04/healthcare-act-money-pit.html>, which lists 159 “new boards and commissions created under the new health care law.” Many of the listed “boards and commissions” are actually grants, demonstration or pilot projects, and programs.

that state governments must designate to be eligible to receive a grant. Because it is not clear how many states will seek such grants, it is unclear how many of these offices will be established.

- Section 1323(d) of the legislation requires state governments to establish or designate public or non-profit “state advisory councils,” but exempts states that opt out of the program. Because the number of states that will opt out is currently unknown, it is unclear how many state advisory councils will be established.
- Section 5208(b) states that nurse-managed health clinics that apply for a grant must ensure that a “community advisory committee” will be established. Because it is unknown how many such clinics will apply for a grant, the number of these committees is also unknown.
- Section 6301(a) of PPACA says that the Patient-Centered Research Institute “may appoint permanent or ad hoc expert advisory panels as determined appropriate.” How many such panels will be “determined appropriate” by the institute is currently unclear.

It is also possible that one new entity could satisfy multiple PPACA requirements. For example, Section 2951 of PPACA (“Maternal, Infant, and Early Childhood Home Visiting Programs”) contains two separate requirements for the Secretary of HHS to establish advisory bodies in relation to early childhood home visitation programs conducted with grants—(1) one body that obtains recommendations regarding the technical assistance provided to entities that are required to develop and implement an improvement plan (i.e., those that do not demonstrate improvement in at least four of six specified areas); and (2) another body that makes recommendations on the design and plan for the evaluation of statewide needs assessments and grants. Given that both advisory bodies are required in relation to different elements of the same program (technical assistance and evaluation), it is possible that one body could perform both tasks.

Some PPACA requirements may be satisfied by existing entities. For example, Section 1104(b) states that a required review committee on operating rules for health information transactions can be the National Committee on Vital and Health Statistics or “any appropriate committee as determined by the Secretary.” The National Committee on Vital and Health Statistics has been in operation for more than 55 years.<sup>6</sup> Other new entities were created by eliminating existing entities and transferring functions. For example, Section 3509(a) of the legislation establishes an Office on Women’s Health within the Office of the Secretary of HHS, transferring all functions and authorities of an existing Office on Women’s Health from the Public Health Service. Also, Section 5103 of PPACA requires the Secretary of HHS to create a National Center for Health Workforce Analysis, transferring the responsibilities and resources of the existing National Center for Health Workforce Analysis in the Health Resources and Services Administration (HRSA) within HHS to the new center within 180 days after enactment (i.e., by September 19, 2010).<sup>7</sup>

In addition to the entities that PPACA specifically creates, requires others to create, or authorizes, other entities have been established administratively to implement the legislation, and others may be established in the future. For example, on April 19, 2010, HHS established an Office of Consumer Information and Insurance Oversight to implement many of the provisions in the

---

<sup>6</sup> For more information, see <http://www.ncvhs.hhs.gov/intro.htm>.

<sup>7</sup> See <http://bhpr.hrsa.gov/healthworkforce/reports/> for a listing of reports during the past 10 years from the existing National Center for Health Workforce Analysis.

legislation that address private health insurance. PPACA does not mention such an office. According to the office's website,

Our office is responsible for ensuring compliance with the new insurance market rules, such as the prohibitions on rescissions and on pre-existing condition exclusions for children that take effect this year. It will oversee the new medical loss ratio rules and will assist states in reviewing insurance rates. It will provide guidance and oversight for the state-based insurance exchanges. It will also administer the temporary high-risk pool program and the early retiree reinsurance program, and compile and maintain data for an internet portal providing information on insurance options.<sup>8</sup>

## **Appointments and Appropriations Will Allow PPACA Entities to Function**

In some cases, the language in PPACA appears to have created certain entities and advisory bodies as of the date that the legislation was enacted. For example, Section 3201(a) of PPACA states that "There is created within the Centers for Medicare & Medicaid Services a Center for Medicare and Medicaid Innovation ... to carry out the duties described in this section." Section 3403(a) states that "There is established an independent board to be known as the 'Independent Medicare Advisory Board.'"

In other cases, PPACA appears to require someone else to create these new entities. For example, Section 4001(a) states that "The President shall establish, within the Department of Health and Human Services, a council to be known as the 'National Prevention, Health Promotion and Public Health Council.'" Section 4001(f) requires the President to establish an advisory group to the council within HHS composed of not more than 25 non-federal members to be appointed by the President. Section 3509(a) states that "The Secretary (of HHS) shall establish within the Office of the Administrator of the Health Resources and Services Administration, an office to be known as the Office of Women's Health."

The wording of these provisions notwithstanding, in practical terms, many of these entities will not be able to function until their members are appointed and funds are appropriated or made available for the entities to operate (to the extent that operating funds are required). For example, neither the National Prevention, Health Promotion and Public Health Council nor the advisory group to the council will be able to function until the President acts to convene the council and appoint members to the advisory group.

The experience of the Administrative Conference of the United States (ACUS) is instructive in this regard. Congress created ACUS in 1964, but did not provide an appropriation for the agency until 1968, when it was able to begin operations. In 1995, Congress eliminated ACUS, and it went out of existence the next year.<sup>9</sup> In 2004, Congress reauthorized appropriations for ACUS during FY2005 through FY2007, but no appropriations were subsequently provided for those years.<sup>10</sup> As

---

<sup>8</sup> See <http://www.hhs.gov/ociio/index.html>.

<sup>9</sup> See P.L. 104-52 (November 19, 1995, 109 Stat. 480), which appropriated \$600,000 to ACUS with the proviso that the funds "shall only be available for the purposes of the prompt and orderly termination of the Administrative Conference of the United States by February 1, 1996."

<sup>10</sup> P.L. 108-401, October 30, 2004, 118 Stat. 2255.

a result, ACUS still did not exist during this period. In July 2008, ACUS was again reauthorized for appropriations for FY2009 through FY2011,<sup>11</sup> and in March 2009, Congress appropriated \$1.5 million for ACUS to use during the remainder of FY2009 (i.e., until about six months later at the end of September 2009).<sup>12</sup> However, Professor Paul Verkuil's nomination as chairman of ACUS was not received in the Senate until November 2009, and he was not confirmed until March 2010. It was only at that point that ACUS could begin to secure office space and hire staff.

## Provisions Creating New Entities Vary in Specificity

The PPACA provisions creating or requiring others to create new entities vary considerably in their degree of specificity. For some of the entities, the legislation goes into great detail describing such characteristics as when they are to be established, where they are to be located, their structure and composition, their purposes, how certain members are to be appointed, the amount or timing of appropriations, the application of certain general management laws, and when they will cease to exist. In other cases, however, PPACA is silent with regard to some or all of these dimensions. Those differences may have significant implications for congressional control and, conversely, agency discretion in the implementation of PPACA.

### Creation, Appointment, and Operational Dates

Some sections of PPACA indicate when certain entities are to be established, when members are to be appointed, or when operations are to commence. For example:

- Section 5605 of PPACA requires that eight appointments be made to the Commission on Key National Indicators “not later than 30 days after the date of enactment” (i.e., by April 22, 2010).<sup>13</sup>
- Section 8002(c) of the legislation requires the Secretary of HHS to create a “Personal Care Attendants Workforce Advisory Panel” within 90 days after enactment (i.e., by June 21, 2010).<sup>14</sup>
- Section 1322(b)(3) requires the Comptroller General of the United States at the Government Accountability Office (GAO) to appoint members of an advisory board to the Consumer Operated and Oriented Plan (CO-OP) program within three months after enactment (i.e., by June 23, 2010).<sup>15</sup>
- Section 5101(c)(3)(C) requires that the Comptroller General appoint members of the “National Health Care Workforce Commission” by September 30, 2010.<sup>16</sup>

---

<sup>11</sup> P.L. 110-290, July 30, 2008, 122 Stat. 2914.

<sup>12</sup> P.L. 111-8, March 11, 2009, 123 Stat. 656.

<sup>13</sup> On April 22, 2010, the Senate majority leader appointed Dr. Ikram Kahn and Dr. Dean Ornish to the commission. On June 7, 2010, the Senate minority leader appointed Dr. Wade F. Horn and Dr. Nicholas N. Eberstadt to the commission.

<sup>14</sup> HHS created this advisory panel on June 16, 2010. U.S. Department of Health and Human Services, “Establishment of the Personal Care Attendants Workforce Advisory Panel,” 75 *Federal Register* 34140, June 16, 2010.

<sup>15</sup> The acting Comptroller General made these appointments on June 23, 2010. See [http://www.gao.gov/press/co\\_op2010jun23.html](http://www.gao.gov/press/co_op2010jun23.html).

<sup>16</sup> On May 7, 2010, the Acting Comptroller General published a notice in the *Federal Register* requesting nominations to the commission. See U.S. Government Accountability Office, “National Health Care Workforce Commission,” 75 (continued...)

- Section 3021(a) requires the Secretary of HHS to ensure that the Center for Medicare and Medicaid Innovation is carrying out its duties by January 1, 2011.
- Section 4305(b) requires the Secretary of HHS to establish an “Interagency Pain Research Coordinating Committee” no later than one year after the date of enactment (i.e., by March 23, 2011).
- Section 1104(b) requires the Secretary of HHS to establish a “review committee” on operating rules for health information transactions no later than January 1, 2014.

Other sections of the legislation do not specify when the newly created entities are required to be established, but instead require certain reports or other work products by a particular date—thereby giving an indication of when the entities will need to begin operations to meet those deadlines. For example:

- Section 4001(a) requires the President to establish a National Prevention, Health Promotion, and Public Health Council within HHS, but does not specify when he must do so. However, the section requires the council to issue its first report to the President and relevant committees of Congress by July 10, 2010.<sup>17</sup>
- Section 3012(a) requires the President to convene an Interagency Working Group on Health Care Quality, but does not specify when he must do so. However, the section requires the working group to issue its first report to Congress by December 31, 2010.
- Section 2951 requires an “independent advisory panel” to review and make recommendations on the design and plan for evaluation of statewide needs assessments and grants within one year of enactment (i.e., by March 23, 2011).
- Section 2951 requires an advisory panel to provide technical assistance to entities that are required to develop an improvement plan. Eligible entities are required to develop an initial report within 30 days after the end of the third year of the program, a corrective action plan (if needed), and a final report showing any improvements by December 31, 2015.

In other cases, however, PPACA does not indicate when the new organizations must be created, when members must be appointed, or when work products are due. As a result, the individuals charged with establishing these entities or making appointments appear to have a great deal of discretion to determine when, or if, they will be created. For example:

- Section 3403(a) of PPACA requires the Comptroller General to appoint the 10 members of a “consumer advisory council” to the Independent Medicare Advisory Board, but it does not specify when the appointments are to be made or when the council is to begin operations.<sup>18</sup>

---

(...continued)

*Federal Register* 25259, May 7, 2010.

<sup>17</sup> On June 10, 2010, President Obama issued Executive Order 13544 establishing the National Prevention, Health Promotion, and Public Health Council. The President, Executive Order 13544 of June 10, 2010, “Establishing the National Prevention, Health Promotion, and Public Health Council,” *75 Federal Register* 33983, June 16, 2010.

<sup>18</sup> Section 3403(a) requires the advisory council to meet at least twice each year, but the first year of appropriations is not until FY2012.

- Section 10409(d) establishes the Cures Acceleration Network (CAN) Review Board, and says that the 24-member board is to be appointed by the Secretary of HHS, and that the board is to meet four times per year. However, this section does not specify when the board must be established or when it should begin giving advice to the Director of the National Institutes of Health (NIH) on the conduct of the CAN program.
- Section 3509(a) requires the Secretary of HHS to establish a National Women’s Health Information Center, but does not specify when the Secretary must do so or when the center is to begin operations.
- Section 4003(a) requires the director of the Agency for Healthcare Research and Quality (AHRQ) within HHS to convene a Preventive Services Task Force, and the task force is to provide yearly reports to congress and agencies identifying gaps in research. However, the section does not indicate when the task force is to be convened, or when the first report to Congress is to be delivered.

Where creation dates are specified in PPACA, it is not clear what the consequences are of not meeting those targets. In some cases, the specified creation or appointment dates have already passed.<sup>19</sup> For example:

- Section 10501(b) required that members of the Interagency Access to Health Care in Alaska Task Force be appointed by various cabinet secretaries within 45 days of enactment (i.e., by May 7, 2010).
- Section 10413(b) requires that the Secretary of HHS establish an advisory committee in relation to a public education campaign regarding young women’s breast health within 60 days after enactment (i.e., by May 22, 2010).

As of June 25, 2010, CRS could find no indication that these organizations had been created.<sup>20</sup>

## **Location**

In some cases, PPACA states, in either specific or general terms, where these new governmental organizations and advisory bodies are to be located. For example:

- Section 4001(f) states that the Advisory Group on Prevention, Health Promotion, and Integrative and Public Health is to be “located within the Department of Health and Human Services and report to the Surgeon General.”
- Section 3021(a) states that the Center for Medicare and Medicaid Innovation is to be established within the Centers for Medicare and Medicaid Services (CMS).

---

<sup>19</sup> One provision, Section 2602(a), required that the Federal Coordinated Health Care Office be created by March 1, 2010—more than three weeks before PPACA was enacted on March 23, 2010.

<sup>20</sup> According to press accounts, some of these entities were in the process of being established as of mid-June 2010. For example, letters had reportedly been sent to agencies asking for appointees to the Interagency Access to Health Care in Alaska Task Force. See Julian Pecquet, “Obama administration pushes back on healthcare reform implementation,” *The Hill*, June 17, 2010, available at <http://thehill.com/blogs/healthwatch/health-reform-implementation/103745-obama-administration-pushes-back-on-healthcare-reform-implementation>.

- Section 3509(a) states that the Office on Women’s Health is to be located within the Office of the Secretary of HHS. Also, Section 3509(b) requires the Office of Women’s Health created by this section to be located within the office of the director of the Centers for Disease Control and Prevention (CDCP).
- Section 6703(a) establishes the Elder Justice Coordinating Council within the Office of the Secretary of HHS.

In other cases, PPACA provides a general description of the new organization, but permits substantial discretion regarding where the new entities are to be positioned. For example, Section 4003(a) of the legislation requires the director of AHRQ to convene a Preventative Services Task Force, but does not specify where that task force is to be located. It does, however, state that the task force is to be “independent,” that the task force is not subject to the Federal Advisory Committee Act, and that its members are to be “not subject to political pressure.” It goes on to say that AHRQ is to provide ongoing administrative, research, and technical support to the task force.

Much more commonly, however, PPACA does not indicate in either specific or general terms where the newly created entities are to be established. As a result, the appointing authorities will be able to make those determinations. For example:

- Section 5605(b) of the legislation creates a Commission on Key National Indicators, with the commission composed of eight members appointed equally by the majority and minority leaders of the Senate, and the Speaker and the minority leader of the House of Representatives. The commission is to oversee a new national indicators system “enabled” by the National Academy of Sciences (NAS), make recommendations on how to improve the system, and enter into contracts with NAS. It is also to develop annual reports to Congress and to NAS. However, it is not clear where this congressionally appointed commission will be located, or even if it is organizationally within the legislative branch of government.<sup>21</sup>
- Section 5101(a) establishes a National Health Care Workforce Commission and requires it to report to Congress and the administration regarding at least one priority level by March 2011. However, PPACA does not specify where the commission is to be physically or organizationally located. Members are to be appointed by the Comptroller General (a legislative branch official), and may be paid at a per diem rate up to a certain level of the Executive Schedule (EX). The section also states that the commission “shall submit requests for appropriations in the same manner as the Comptroller General of the United States submits requests for appropriations. Amounts so appropriated for the Commission shall be separate from amounts appropriated for the Comptroller General.”
- Section 6703(a) created an Advisory Board on Elder Abuse, Neglect, and Exploitation, and requires the board’s members to be appointed by the Secretary of HHS. Although the board is presumably established somewhere within HHS

---

<sup>21</sup> Typically, when members of a commission are appointed by Members of Congress and the commission reports to Congress, the commission is located in the legislative branch. In this case, however, the Commission on Key National Indicators also reports to the National Academy of Sciences. For more information such commissions, see CRS Report RL33313, *Congressional Membership and Appointment Authority to Advisory Commissions, Boards, and Groups*, by Matthew Eric Glassman.

(since the members are to be appointed by the Secretary), PPACA does not indicate exactly where.

## **Staffing**

Some of the new PPACA entities are described as offices within federal departments or agencies, or as free-standing federal offices, authorized federal appropriations, and therefore appear to be staffed solely by federal employees. For example,

- Section 3509(a) of the legislation establishes an Office on Women’s Health within the Office of the Secretary of HHS, transferring all functions and authorities of an existing Office on Women’s Health from the Public Health Service. The new office is to be headed by a deputy assistant secretary for women’s health, and is authorized appropriations for FY2010 through FY2014.
- Section 10334(b) requires the heads of six agencies within HHS to establish offices of minority health, and the Secretary of HHS must designate an “appropriate” amount of funds for each office from each agency’s appropriation.

Other PPACA entities also appear to be composed solely of federal employees, but the employees are to be drawn from more than one federal agency. For example:

- Section 6703(a) of the legislation establishes an Elder Justice Coordinating Council within the Office of the Secretary of HHS, and is composed of the Secretary of HHS (or a designee), the Attorney General (or a designee), and the head of any other federal department or agency designated by the Secretary of HHS.
- Section 4001(a) requires the President to establish a National Prevention, Health Promotion and Public Health Council composed of the Secretaries of HHS, Agriculture, Education, Transportation, Labor, and Homeland Security; the heads of six other agencies; and the head of any other agency that the chairperson (the Surgeon General) determines is appropriate.
- Section 3012(a) requires the President to convene an Interagency Working Group on Health Care Quality composed of senior-level representatives from HHS, CMS, NIH, CDCP, and AHRQ, 17 other departments and agencies; and “any other Federal agencies and departments with activities relating to improving health care quality and safety, as determined by the President.”
- Section 3509(a) states that the HHS Coordinating Committee on Women’s Health is to be composed of senior-level representatives from each agency and office within HHS.

Other PPACA organizations appear to be made up of non-federal staff, or a mixture of federal and non-federal staff. For example:

- Section 4001(f) of PPACA establishes an Advisory Group on Prevention, Health Promotion, and Integrative and Public Health within HHS, “composed of not more than 25 non-Federal members appointed by the President.”

- Section 4305(b) establishes an Interagency Pain Research Coordinating Committee composed of not more than 7 voting members from federal agencies, and 12 other voting members who are not federal employees.
- Section 6703(a) establishes an Advisory Board on Elder Abuse, Neglect, and Exploitation, with the board composed of 27 members appointed by the Secretary of HHS “from among members of the general public who are individuals with experience and expertise in elder abuse, neglect, and exploitation prevention, detection, treatment, intervention, or prosecution.”
- Section 1323(d) requires state governments (other than those who opt out) to establish or designate public or nonprofit entities as state advisory councils. The members of these councils are required to be representatives of the public, and must include health care consumers and providers.
- Section 10409(d) states that members of the Cures Acceleration Network (CAN) Review Board may be paid up to a certain salary, but goes on to say that members who are officers or employees of the United States “shall serve without compensation in addition to that received for their services as officers or employees of the United States.”

In some cases, it is unclear whether other PPACA organizations will be staffed with federal employees, non-federal employees, or both. For example:

- Section 3403(a) establishes an Independent Medicare Advisory Board, with 15 voting members appointed by the President by and with the advice and consent of the Senate. The members are required to include national experts in health finance and economics, actuarial science, health facility management, and other health services. Conceivably, these board members could be drawn from federal employees, non-federal employees, or a mixture. However, once any non-federal nominees are confirmed by the Senate and sworn in as “officers of the United States,” they will effectively become federal employees.
- The same section of PPACA also refers to a consumer advisory council to the board, with the members of the council appointed by the Comptroller General to “represent the interests of consumers and particular communities.” These council members could also conceivably be federal employees, non-federal employees, or a mixture.
- Section 5605(b)(2)(B) states that members of the Commission on Key National Indicators “shall not include Members of Congress or other elected Federal, State, or local government officials.” This language does not preclude non-elected federal, state, or local officials from serving on the commission, as long as they meet the qualifications specified in the legislation (i.e., “individuals who have shown a dedication to improving civic dialogue and decision-making through the wide use of scientific evidence and factual information”).

## **Duties and Responsibilities**

Some of the new entities were created, required, or authorized by PPACA for specific administrative, coordinative, or representational purposes. For example:

- The Center for Medicare and Medicaid Innovation was created within CMS by Section 3021(a) of PPACA “to test innovative payment and service delivery models to reduce program expenditures.”
- The Elder Justice Coordinating Council was established by Section 6703(a) to make recommendations to the Secretary of HHS for the coordination of activities by HHS, the Department of Justice, and other agencies regarding elder abuse, neglect, exploitation, and other crimes against elderly citizens.
- The consumer advisory council to the Independent Medicare Advisory Board created by Section 3403(a) was established to “represent the interests of consumers and particular communities.”
- The Interagency Pain Research Coordinating Committee created by Section 4305(b) of the legislation is instructed to summarize advances in pain care research; identify gaps in research; and make recommendations to avoid duplication of efforts, disseminate information on pain care, and expand partnerships.

In some cases, however, PPACA does not prescribe specific responsibilities for entities created or required by the legislation. For example:

- Section 3509(a) directs the Secretary of HHS to establish a Coordinating Committee on Women’s Health composed of representatives from each agency and office within the department, but the section does not delineate specific duties or responsibilities for this office.
- Section 5208(b) says that nurse-managed health clinics applying for a grant must ensure that a “community advisory committee” is established within 90 days of receiving a grant, but the section does not specifically indicate what the committee is supposed to do or what powers it possesses.
- Section 10334(b) of PPACA requires the heads of six agencies within HHS to establish offices of minority health, but does not specify duties for those offices.

Where specific duties are not delineated in PPACA, those responsible for leading these organizations (and those responsible for appointing those leaders) appear to have substantial latitude in determining how the organizations will operate, and for what purposes.

## **Members and Leaders**

Some of the provisions in PPACA specify how the members and leaders of the newly created entities are to be appointed. For example:

- Section 3403(a) of the legislation states that the 15 voting members of the Independent Medicare Advisory Board are to be appointed by the President, with the advice and consent of the Senate. Appointed members hold office of staggered six-year terms. The chairperson is appointed by the President from among the members, with the advice and consent of the Senate, and the board annually elects a vice chairperson. Members can be removed by the President only for neglect of duty or malfeasance.

- Section 3403(a) also states that the Comptroller General is to appoint the 10 members of a “consumer advisory council” to the Independent Medicare Advisory Board from each of the 10 regions established by the Secretary of HHS. The council “shall represent the interests of consumers and particular communities,” and officers are to be elected by the members of the council.
- Section 6703(a) states that the Advisory Board on Elder Abuse, Neglect, and Exploitation is to be composed of 27 members appointed by the Secretary of HHS after soliciting nominations through a notice in the *Federal Register*.<sup>22</sup> The board is required to elect a chair and vice chair at the first meeting.

In other cases, PPACA prescribes either the composition or leadership of the new entity, but not both. For example:

- Section 3509(b) states that the Office of Women’s Health is to be headed by a director who is appointed and reports to the director of the CDCP. However, the section does not specify the size or composition of the office.
- Section 10413(b) states that the members of an advisory committee in relation to a public education campaign regarding young women’s breast health is to include organizations and individuals with expertise in such issues as breast cancer, disease prevention, diagnosis, and rehabilitation, but does not specify the leadership of the committee.

In a number of cases, PPACA does not indicate how either the members or the leaders of the new organizations and advisory bodies are to be selected. For example:

- Section 2951 requires the Secretary of HHS to establish an advisory panel regarding technical assistance to be provided to entities that must establish an improvement plan in relation to early childhood home visitation programs conducted with grants, but does not specify the composition or leadership of the panel.
- Section 3021 establishes a Center for Medicare and Medicaid Innovation within CMS to “test innovative payment and service delivery models to reduce program expenditures under the applicable titles while preserving or enhancing the quality of care furnished to individuals under such titles.” However, the section does not specify the composition or leadership of the center.
- Section 3509(a) requires the Secretary of HHS to establish a National Women’s Health Information Center to (among other things) “facilitate the exchange of information regarding matters relating to health information, health promotion, preventive health services, research advances, and education in the appropriate use of health care.” However, the section does not specify the composition or leadership of the center.
- Section 4003(b) requires the director of the CDCP to convene a Community Preventive Services Task Force to (among other things) “review the scientific evidence related to the effectiveness, appropriateness, and cost-effectiveness of community preventive interventions for the purpose of developing

---

<sup>22</sup> No other section of PPACA requires solicitation of nominations in this manner.

recommendations.” However, the section does not specify the composition or leadership of the task force.

## **Funding Provisions**

PPACA contains two types of budgetary provisions in relation to the new entities created by or through the legislation.<sup>23</sup> Several of the provisions directly provide funding (referred to as “direct spending”), bypassing the annual appropriations process, through techniques such as multi-year or permanent appropriations. Some of these provisions also impose other requirements or conditions. For example:

- Section 1322 of the legislation requires the Secretary of HHS to establish a “Consumer Operated and Oriented Plan (CO-OP)” program to “foster the creation of qualified nonprofit health insurance issuers to offer qualified health plans in the individual and small group markets in the States in which the issuers are licensed to offer such plans.” The section also created a 15-member advisory board for the program, and goes on to say that “There are hereby appropriated, out of any funds in the Treasury not otherwise appropriated, \$6,000,000,000 to carry out this section.”
- Section 2951 on “Maternal, Infant, and Early Childhood Home Visiting Programs” requires the Secretary of HHS to establish two advisory panels, and states that “Out of any funds in the Treasury not otherwise appropriated, there are appropriated to the Secretary to carry out this section” \$100 million for FY2010, \$250 million for FY2011, \$350 million for FY2012, \$400 million for FY2013, and \$400 million for FY2014. It goes on to say that “Funds made available to an eligible entity under this section for a fiscal year shall remain available for expenditure by the eligible entity through the end of the second succeeding fiscal year after award. Any funds that are not expended by the eligible entity during the period in which the funds are available under the preceding sentence may be used for grants to nonprofit organizations under subsection (h)(2)(B).”
- Section 3021 requires the Secretary of HHS to establish a Center for Medicare and Medicaid Innovation within CMS, and states that “There are appropriated, from amounts in the Treasury not otherwise appropriated” \$5 million for FY2010, \$10 billion for FY2011 through FY2019, and \$10 billion for each subsequent 10-fiscal year period. It also specifies that the \$5 million appropriated in FY2010, and not less than \$25 million of the funds appropriated in each fiscal year thereafter, shall be available to design, implement, and evaluate payment and service delivery models.
- Section 3403 of the legislation appropriates \$15 million for the Independent Medicare Advisory Board to carry out its duties and functions, and states that this amount should be increased in subsequent fiscal years by the increase in the Consumer Price Index (CPI). The section specifies that 60% of the appropriations are to be transferred from the Federal Hospital Insurance Trust Fund, and the remaining 40% transferred from the Federal Supplementary Medical Insurance

---

<sup>23</sup> For a listing of all appropriations and transfers in PPACA, see CRS Report R41301, *Appropriations and Fund Transfers in the Patient Protection and Affordable Care Act (PPACA)*, by C. Stephen Redhead.

Trust Fund. Also, it says that the chairman may not submit a request for appropriations without the prior approval of a majority vote of the board.

Other PPACA provisions authorize appropriations for the newly created entities, but do not provide those appropriations directly. In these cases, funding must be provided through subsequent action in the annual appropriations process, when the specific budgetary resources being provided are determined. Most of these provisions are general, authorizing “such sums as may be necessary” within particular years, or without specifying the time periods covered by the authorization. For example, Section 3509(f) of the legislation requires the Secretary of HHS to establish an Office of Women’s Health with the office of the administrator of HRSA, and states that “there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2010 through 2014.”

More commonly, however, PPACA neither directly provides funding for the newly created entities, nor provides an authorization for appropriation. Whether authorized or not, Congress may elect not to appropriate funds for the operation of certain entities, and may subsequently prohibit general funds for being used for those entities. As noted earlier in this report, if funds are not provided or permitted, it is questionable whether these entities will be able to function. Also, Congress may subsequently place additional conditions on such appropriations, requiring that certain conditions be met to use appropriated funds.<sup>24</sup>

## **Applicability of General Management Laws**

Over the years, Congress has enacted a series of general management laws that are designed to regulate the activities, procedures, and administration of all or most executive branch agencies in such areas as regulatory and information management, personnel management, financial management, procurement, and strategic planning.<sup>25</sup> These management laws include the Federal Advisory Committee Act (FACA, 5 U.S.C. Appendix);<sup>26</sup> the Paperwork Reduction Act (PRA, §§ 3501-3520);<sup>27</sup> and numerous civil service requirements governing personnel and ethics issues.

In some cases, PPACA specifically indicates whether certain of these general management laws apply to new entities and advisory bodies. In particular, several of the advisory bodies created

---

<sup>24</sup> Congress can also use appropriations restrictions to require or prevent subsequent regulations. See CRS Report RL34354, *Congressional Influence on Rulemaking and Regulation Through Appropriations Restrictions*, by Curtis W. Copeland.

<sup>25</sup> For a detailed discussion of these general management laws, see CRS Report RL30795, *General Management Laws: A Compendium*, by Clinton T. Brass et al.

<sup>26</sup> Among other things, FACA mandates certain structural and operational requirements for many federal advisory committees, including formal reporting and oversight procedures for the bodies. FACA requires that committee membership be “fairly balanced in terms of the points of view represented,” and advice provided by committees be objective and accessible to the public. Additionally, FACA requires nearly all committee meetings be open to the public. For more information, see CRS Report R40520, *Federal Advisory Committees: An Overview*, by Wendy R. Ginsberg.

<sup>27</sup> Among other things, the PRA requires agencies to justify any collection of information from the public by establishing the need and intended use of the information, estimating the burden that the collection will impose on respondents, and showing that the collection is the least burdensome way to gather the information. Agencies must receive approval from the Office of Management and Budget for each information collection request before it is implemented. For more information on the PRA, see CRS Report R40636, *Paperwork Reduction Act (PRA): OMB and Agency Responsibilities and Burden Estimates*, by Curtis W. Copeland and Vanessa K. Burrows.

through the legislation are exempted from Section 5 or Section 14 of FACA, or are exempted from the act entirely.<sup>28</sup> For example:

- Section 1322 of PPACA states that the board providing advice to the Secretary of HHS in awarding loans and grants under the Consumer Operated and Oriented Plan (CO-OP) program is exempt from Section 14 of FACA.
- Section 5101 states that the National Health Care Workforce Commission is to be composed of 15 members appointed by the Comptroller General “without regard to section 5 of the Federal Advisory Committee Act (5 U.S.C. App.).”
- Section 8002(a) states that Section 14 of FACA does not apply to the CLASS Independence Advisory Council.
- Sections 4003(a) and 4003(b) state that the Preventative Services Task Force and the Community Preventive Services Task Force, respectively, are not subject to FACA.

Several other sections of the legislation provide exemptions from the PRA, and at least one of those exemptions applies to a new entity created by PPACA. Section 3021(a) (which established the Center for Medicare and Medicaid Innovation within CMS) states that the PRA “shall not apply to the testing and evaluation of models or expansion of such models under this section.” Other sections of PPACA exempt certain organizations from particular requirements in federal civil service laws. For example:

- Section 3403(a) of the legislation states that the chairperson of the Independent Medicare Advisory Board “may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Board to perform its duties.”
- Section 5101(f) states that the National Health Care Workforce Commission may employ and fix the compensation of an executive director (not exceed the rate of basic pay payable for EX-V, which is \$145,700 per year in 2010) and such other personnel “without regard to the provisions of title 5, United States Code, governing appointments in the competitive service.”

---

<sup>28</sup> Section 5 of FACA delineates the responsibilities of congressional committees. Among other things, this section states that “In the exercise of its legislative review function, each standing committee of the Senate and the House of Representatives shall make a continuing review of the activities of each advisory committee under its jurisdiction to determine whether such advisory committee should be abolished or merged with any other advisory committee, whether the responsibilities of such advisory committee should be revised, and whether such advisory committee performs a necessary function not already being performed. Each such standing committee shall take appropriate action to obtain the enactment of legislation necessary to carry out the purpose of this subsection.” The section also states that “In considering legislation establishing, or authorizing the establishment of any advisory committee, each standing committee of the Senate and of the House of Representatives shall determine, and report such determination to the Senate or to the House of Representatives, as the case may be, whether the functions of the proposed advisory committee are being or could be performed by one or more agencies or by an advisory committee already in existence, or by enlarging the mandate of an existing advisory committee.” Among other things, Section 14 of FACA states that an advisory committee established after the date of the legislation “shall terminate not later than the expiration of the two-year period beginning on the date of its establishment unless (A) in the case of an advisory committee established by the President or an officer of the Federal Government such advisory committee is renewed by the President or such officer by appropriate action prior to the end of such period; or (B) in the case of an advisory committee established by an Act of Congress, its duration is otherwise provided for by law.”

- Section 8002(a) states that the members of the CLASS Independence Advisory Council “shall be appointed by the President without regard to the civil service laws and regulations.”

Whether other organizations and advisory bodies created by PPACA would be covered by these or other general management laws may depend on where these entities are located. For example, entities located in the Executive Office of the President are generally less likely to be covered than entities created as or as part of cabinet departments and independent agencies.<sup>29</sup> Also, entities located in the legislative branch are unlikely to be covered by these laws directed at executive branch organizations. However, because the location of many of these entities is not specified in PPACA, it may be impossible to say whether these laws apply to them until they are created.

## **Duration**

A few of the new organizations created through PPACA are expected to have limited life spans, and are expected to terminate after fulfilling their missions. For example:

- The Interagency Access to Health Care in Alaska Task Force created by Section 10501(b) of PPACA is required to assess access to health care for beneficiaries in Alaska, and to report to Congress by September 19, 2010. The task force terminates upon submission of the report.
- Section 1322(b)(3) states that the advisory board making recommendations to the Secretary of HHS regarding the award of loans and grants under the Consumer Operated and Oriented Plan (CO-OP) must “terminate on the earlier of the date that it completes its duties under this section or December 31, 2015.”

In some cases, PPACA contemplates scenarios for the termination of certain entities. For example:

- Section 5602 of PPACA states that the Secretary of HHS can terminate a negotiated rulemaking committee if the committee is unlikely to reach consensus on a methodology and criteria for designating medically underserved populations and health professions shortage areas.
- Section 3403(a) states that if a specified joint resolution is enacted by August 17, 2017, then the Independent Medicare Advisory Board and the consumer advisory council created by that section will terminate on August 16, 2018.
- Section 4305(b) states that the Secretary of HHS is to review the continued need for the Interagency Pain Research Coordinating Committee at least every two years.

However, most of the new organizations delineated in PPACA appear to be of a more indeterminate life span. The legislation either suggests an ongoing role of the entity, or does not indicate a termination date.

---

<sup>29</sup> See CRS Report RL32592, *General Management Laws and the 9/11 Commission's Proposed Office of National Intelligence Director (NID) and National Counterterrorism Center (NCTC)*, by Clinton T. Brass and Curtis W. Copeland.

## Other Provisions

For some of the organizations created or required by PPACA, the legislation goes into substantial detail describing how vacancies on the bodies are to be filled, how members can be removed, whether members are compensated (and if so, how much), whether travel expenses are covered, the qualification and/or representational requirements for membership, and whether federal employees may be detailed to the body. For example:

- Section 1322(b)(3)(C) states that any vacancy on the Consumer Operated and Oriented Plan (CO-OP) program advisory board “shall be filled in the same manner as the original appointment.”
- Section 3403(a) states that members of the Independent Medicare Advisory Board must include national experts in such fields as health finance and economics, actuarial science, and health facility management. They may be removed by the President only for neglect of duty or malfeasance. Members are to be paid at the daily rate of EX-III (\$165,300 per year in 2010), and the chairperson at the daily rate of EX-II (\$179,700 per year in 2010).
- Section 5101(a) specifies that members of the National Health Care Workforce Commission are to be paid at the per diem rate of EX-IV (\$155,500 per year in 2010). It also says that federal employees may be detailed to the commission without reimbursement.
- Section 6703(a) states that federal employees may be detailed to the Elder Justice Coordinating Council without reimbursement.
- Section 10409(d) states that members of the Cures Acceleration Network (CAN) Board (other than current federal employees) may be paid up to a daily rate for EX-IV, are allowed travel expenses at rates authorized for persons employed intermittently by the federal government under Section 5703(b) of Title 5, United States Code, and “serve at the pleasure of the Secretary.”

More commonly, however, PPACA does not go into great detail with regard to these matters. The implications of some of these differences are unclear. For example, if PPACA does not indicate whether members of an advisory body can be paid, it is not clear whether they can or cannot be paid. Also, if PPACA does not say that federal employees can be detailed to a particular advisory body, it is not clear whether such details are or are not permitted.

## Appointments by the Comptroller General

PPACA requires GAO to study and report on a variety of issues.<sup>30</sup> In addition, six sections of the legislation require the Comptroller General (CG) to make at least 83 appointments to new entities and advisory bodies.

- Section 1322(b) requires the CG to appoint the 15 members of an advisory board as part of the CO-OP program.

---

<sup>30</sup> See Sections 1001, 1313(b), 1322, 1401(c), 3001(a)(4), 3403(b), 4001(i), 4204(e), and 5605(d).

- Section 3403(a) requires the CG to make 10 appointments to a “consumer advisory council” to the Independent Medicare Advisory Board.
- Section 5101(a) requires the CG to appoint 15 members of the National Health Care Workforce Commission, and to appoint the leadership of the commission.
- Section 6301(a) requires the CG to appoint 19 members of the Patient-Centered Outcomes Research Institute to staggered six-year terms.
- Section 6301(a) also requires the CG to appoint up to 15 members of the “standing methodology committee” (which is to be established by the Patient-Centered Outcomes Research Institute).
- Section 10607 requires the CG to appoint at least 9 but not more than 13 members of a panel to review demonstration grant applications (re alternatives to medical tort litigation) from the states.

Although Congress had previously tasked the CG with making appointments to other bodies,<sup>31</sup> PPACA increased the CG’s appointment responsibilities significantly (from 45 positions to at least 128 positions). Some of the entities on which the CG’s PPACA appointees serve arguably carry out more than just advisory or representational duties. For example:

- The Patient-Centered Outcomes Research Institute (which is described in PPACA as “neither an agency nor establishment of the United States Government”) is directed to improve evidence regarding how health conditions can be prevented, diagnosed, and treated through research and dissemination of findings. The institute is directed to carry out its research agenda through contracts and data collection efforts.<sup>32</sup>
- The National Health Care Workforce Commission is directed to communicate and coordinate with the Departments of Health and Human Services, Labor, Veterans Affairs, Homeland Security, and Education on related activities administered by one or more of the departments. PPACA also says that the commission is to develop and initiate evaluations of education and training activities to determine whether the demand for health care workers is being met; identify barriers to improved coordination at the federal, state, and local levels and recommend ways to address such barriers; and encourage innovations to address population needs, constant changes in technology, and other environmental factors.<sup>33</sup>

---

<sup>31</sup> The Balanced Budget Act of 1997 (P.L. 105-33) required the CG to appoint the 15 members of the Medicare Payment Advisory Commission (MedPAC), an independent congressional agency that advises Congress on issues related to the Medicare program. The CG also designates the chairman and vice chairman from commission members. The Children’s Health Insurance Program Reauthorization Act of 2009 (P.L. 111-3) required the CG to appoint the 17 members of the Medicaid and CHIP Payment and Access Commission (MACPAC), which is required to review the policies of the Medicaid program and State Children’s Health Insurance Program and make recommendations to Congress. The CG also designates the chairman and vice chairman from commission members. The American Recovery and Reinvestment Act of 2009 (P.L. 111-5) required the CG to appoint 13 of the 20 members of the HIT (Health Insurance Technology) Policy Committee, which is charged with recommending a “policy framework for the development and adoption of a nationwide health information technology infrastructure that permits the electronic exchange and use of health information” (Sec. 3002(b)(1)).

<sup>32</sup> Section 6301(a) of PPACA, which amended Title XI of the Social Security Act (42 U.S.C. 1301 et seq.).

<sup>33</sup> Section 5101 of PPACA.

Also, it is unclear how GAO will be able to independently audit these entities when the CG has appointed their members. According to the independence standard in GAO's *Government Auditing Standards*, audit organizations "must be free from personal, external, and organizational impairments to independence, and must avoid the appearance of such impairments of independence."<sup>34</sup>

## Concluding Observations

Although the precise number of governmental organizations and advisory bodies that will be created pursuant to PPACA cannot currently be determined, the legislation will undoubtedly lead to dozens of new entities being established in the coming months and years. The roles that these entities are expected to play in the implementation of PPACA vary significantly. Many of the organizations were designed to represent certain constituencies, gather and report information, or coordinate different agencies or groups. Other organizations appear to have more decision making authority, and perhaps as a consequence, are more controversial. For example, the Independent Medicare Advisory Board's recommendations to reduce the rate of growth in Medicare spending are required to be implemented by the Secretary of HHS unless Congress approves an alternative proposal. Some observers have already expressed concerns about the amount of power given to this board.<sup>35</sup>

Congress has a range of options as it attempts to oversee the creation and operation of the entities established as a result of PPACA, and the nature of that oversight will likely vary somewhat depending on how the relevant statutory provisions are written. If the legislation delineates when and where the new entities are to be created, how they are to be staffed and operate, and what they are to accomplish, congressional oversight can focus on whether those statutory requirements have been met. On the other hand, if PPACA is silent with regard to these types of issues, then the nature of congressional oversight will likely be different, and may focus on whether these new offices and advisory bodies are being established at all, whether they are duplicative of each other, and whether they are contributing to the overall purposes of the legislation. Whether specific or general, oversight of the implementation of PPACA can provide Congress with the information needed to decide whether the legislation needs to be changed in the future.

---

<sup>34</sup> U.S. Government Accountability Office, *Government Auditing Standards*, GAO-07-731G, p. 29, available at <http://www.gao.gov/new.items/d07731g.pdf>.

<sup>35</sup> See, for example, John Reichard, "Independent Medicare Board Hit by Politics Even Before It Takes Shape," *CQ Today*, May 3, 2010, p. 5; Mari Edlin, "Medicare Advisory Board causing anxiety," *Managed Healthcare Executive*, May 2010, p. 7; and Jennifer Lubell, "Power over prices," *Modern Healthcare*, June 28, 2010, pp. 6-8.

## Appendix. Entities Created Pursuant to PPACA

Section of PPACA	Name of Entity	Location/Creation Date/ Appropriation	Composition/Leadership	Purpose/Duties of the Entity
<b>Entities Created by PPACA (e.g., “There is established ... ”)</b>				
3021(a)	Center for Medicare and Medicaid Innovation (CMI)	CMI was created “within” CMS. Creation date not specified (although presumably created on the date of enactment). Secretary of HHS is directed to ensure that CMI is carrying out its duties by 01/01/11. PPACA appropriates (“from amounts in the Treasury not otherwise appropriated”) \$5 million for FY2010, \$10 billion for FY2011 through FY2019, and \$10 billion for each subsequent 10-year fiscal period.	Composition and leadership of CMI is not specified. CMI is directed to “consult representatives of relevant Federal agencies, and clinical and analytical experts with expertise in medicine and health care management.”	Purpose of CMI is “to test innovative payment and service delivery models to reduce program expenditures” under Titles XVIII or XIX of the Social Security Act, while preserving or enhancing the quality of care. PPACA delineates 18 models that the Secretary “may include,” and seven other factors that CMI “may consider” in selecting models. The Secretary must evaluate each model tested and may expand the duration and scope of a model through rulemaking. Beginning in 2012, the Secretary must submit an annual report to Congress describing the models tested and the results of the evaluations.

Section of PPACA	Name of Entity	Location/Creation Date/ Appropriation	Composition/Leadership	Purpose/Duties of the Entity
3403(a)	Independent Medicare Advisory Board	No location or creation date specified (although presumably created on the date of enactment). First proposals due in 2014. Appropriates \$15 million for FY2012, with subsequent appropriations increased by the CPI. Specifies that 60% of the appropriations are to be transferred the Federal Hospital Insurance Trust Fund, and the remaining 40% transferred from the Federal Supplementary Medical Insurance Trust Fund. Requests for appropriation may not be submitted by the chairperson without prior approval by a majority vote of the board.	Board composed of (1) 15 voting members appointed by the President, by and with the advice and consent of the Senate; and (2) the Secretary of HHS and the administrators of CMS and HRSA, who serve as ex officio nonvoting members. Appointed members hold office for staggered six year terms, and must include national experts in health finance and economics, actuarial science, health facility management, and other health services. chairperson is appointed by the President from among the members, with the advice and consent of the Senate. Board annually elects a vice chairperson. Members can be removed by the President only for neglect of duty or malfeasance. Members are to be paid at the daily rate of EX-III; chairperson at EX-II. Chairperson may appoint and terminate an executive director (paid up to EX-V) and other personnel "without regard to the civil service laws and regulations." Federal employees can be detailed to the board without reimbursement.	Purpose of the Board is to make recommendations to reduce the per capita rate of growth in Medicare spending. The Chief Actuary of CMS determines the projected per capita growth rate under Medicare for the second year following the determination year. If the projection exceeds the target growth rate for that year, the Board must submit a proposal containing recommendations to reduce the growth rate. The Secretary of HHS is required to implement such proposals unless Congress enacts legislation pursuant to this section. Proposals must meet certain requirements and draft proposals must be submitted to the Secretary and the Medicare Payment Advisory Commission. The Board must submit proposals to the President and Congress, starting in January 2014.

Section of PPACA	Name of Entity	Location/Creation Date/ Appropriation	Composition/Leadership	Purpose/Duties of the Entity
3403(a)	No name specified. PPACA refers to a “consumer advisory council” to the Independent Medicare Advisory Board that was also created by this section.	No location or creation date specified (although presumably created on the date of enactment).	Members are 10 consumer representatives appointed by the Comptroller General, one each from the 10 regions established by the Secretary of HHS as of the date of enactment. Officers are to be elected by the members of the council. Section 14 of FACA does not apply.	Council to “advise the Board on the impact of payment policies under this title on consumers” and to “represent the interests of consumers and particular communities.” Council to meet at least two times per year in the District of Columbia, with meetings open to the public.
3509(a)	Office on Women’s Health (PPACA transfers to this office all functions and authorities of the existing Office on Women’s Health of the Public Health Service.)	Located within the Office of the Secretary of HHS; no creation date specified (although presumably created on the date of enactment).  PPACA authorizes such sums as may be necessary for FY2010 through FY2014.	Composition of the office not specified; headed by a Deputy Assistant Secretary for Women’s Health, who “may” report to the Secretary.	Help the Secretary establish goals and objectives within HHS regarding women’s disease prevention, health promotion, service delivery, research, and education; establish HHS Coordinating Committee on Women’s Health and a National Women’s Health Information Center; provide advice and consultation to the Secretary; and coordinate with the private sector.
3509(b)	Office of Women’s Health	Located within the office of the director of CDCP; no creation date specified (although presumably created on the date of enactment).  PPACA authorizes such sums as may be necessary for FY2010 through FY2014.	Composition of the office not specified; headed by a director, who is appointed by and reports to the director of CDCP. No date specified for appointment of director.	Report on CDCP’s level of activity regarding women’s health conditions; establish goals within CDCP regarding prevention, research, education, and policy; consult with others; serve on the HHS Coordinating Committee on Women’s Health.

Section of PPACA	Name of Entity	Location/Creation Date/ Appropriation	Composition/Leadership	Purpose/Duties of the Entity
3509(e)	Office of Women's Health and Gender-Based Research	<p>Located within the office of the director of AHRQ; no creation date specified (although presumably created on the date of enactment).</p> <p>PPACA authorizes such sums as may be necessary for FY2010 through FY2014.</p>	<p>Composition of the office not specified; headed by a director who is appointed by and reports to the director of AHRQ. No date specified for appointment of director.</p>	<p>Report on AHRQ's level of activity regarding women's health; establish goals within AHRQ for research important to women's health; identify projects that should be supported; consult with others; serve on the HHS Coordinating Committee on Women's Health.</p>
3509(g)	Office of Women's Health	<p>Located within the office of the commissioner of the FDA. No creation date specified (although presumably created on the date of enactment).</p> <p>PPACA authorizes such sums as may be necessary for FY2010 through FY2014.</p>	<p>Composition of the office not specified; headed by a director who is appointed by and reports to the commissioner of the FDA. No date specified for appointment of director.</p>	<p>Report on FDA's levels of activity regarding women's participation in clinical trials and analysis by sex in testing of drugs, devices, and biological products; establish goals within FDA for issues of concern to women; consult with others; serve on the HHS Coordinating Committee on Women's Health.</p>

Section of PPACA	Name of Entity	Location/Creation Date/ Appropriation	Composition/Leadership	Purpose/Duties of the Entity
5101(a)	National Health Care Workforce Commission	<p>Location and creation date not specified (although presumably created on the date of enactment). Members of the commission must be appointed by 09/30/10.</p> <p>PPACA authorizes such sums as may be necessary (no years). The Commission is to submit requests for appropriation in the same manner as the Comptroller General.</p>	<p>Composed of 15 members with national recognition for expertise in health care labor market analysis who are appointed by the Comptroller General to three-year staggered terms without regard to Section 5 of FACA. No date specified for appointments. Members must include representatives from the health care workforce, employers, third-party payers, consumers, unions, and others. Members to be paid at per diem rate of EX-IV. Federal employees may be detailed to the commission without reimbursement. Chairman and vice chairman designated from members by the Comptroller General.</p>	<p>Recognize efforts to develop health care career pathways; disseminate information on promising retention practices; review current and projected workforce supply and demand; report to Congress and the administration on at least one priority area by 04/01/11 (and annually thereafter), and on the healthcare workforce priorities by 10/01/11 (and annually thereafter). Commission must meet at least quarterly.</p>
5605(b)	Commission on Key National Indicators	<p>No location or creation date specified (although presumably created on the date of enactment). Members of the commission are to be appointed within 30 days after enactment (i.e., by 04/22/10), and the commission is to develop and implement a schedule for completion of reviews and reports within 60 days after enactment (i.e., by 05/22/10).</p>	<p>Commission is composed of eight members appointed equally by the majority and minority leaders of the Senate and the Speaker and minority leader of the House of Representatives. Members serve two-year terms, except initial term is three years. Members cannot include elected officials, and must have shown a dedication to improving decision-making through the use of scientific evidence. The commission selects two co-chairpersons from among members.</p>	<p>Commission is to conduct comprehensive oversight of a new national indicators system, make recommendations, coordinate with users and providers, and enter into contracts with NAS. After selection of co-chairpersons, submit first annual report to Congress within one year, and first annual report to NAS within six months.</p>

Section of PPACA	Name of Entity	Location/Creation Date/ Appropriation	Composition/Leadership	Purpose/Duties of the Entity
6703(a)	Elder Justice Coordinating Council	Located within the Office of the Secretary of HHS. No creation date specified (although presumably created on the date of enactment).	Council is composed of the Secretary of HHS (or designee), the Attorney General (or designee), and the head of any other federal department or agency designated by the chair. Federal employees may be detailed to the council without reimbursement. Secretary is designated as the council chair. Section 14 of FACA does not apply to the council.	Council is to make recommendations to the Secretary for coordination of activities by HHS, DOJ, and other agencies regarding elder abuse, neglect, exploitation, and other crimes against elders. Submit report every two years to certain congressional committees starting two years after enactment of the Elder Justice Act of 2009.
6703(a)	Advisory Board on Elder Abuse, Neglect, and Exploitation	Location and creation date not specified.	Board composed of 27 members appointed by the Secretary from the general public with expertise in elder abuse, neglect, and exploitation prevention, detection, treatment, intervention, or prosecution. Secretary required to publish a notice in the <i>Federal Register</i> soliciting nominations. Members appointed to staggered three-year terms. Board to elect the initial chair and vice chair at first meeting.	Board to create short- and long-term multi-disciplinary strategic plans for the development of the field of elder justice and make recommendations to the Elder Justice Coordinating Council. Duties include developing innovative approaches to prevent abuse and neglect in long-term care, establishing panels to improve the quality of care, and reporting to the Council and congressional committees within 18 months after enactment of the Elder Justice Act of 2009.

Section of PPACA	Name of Entity	Location/Creation Date/ Appropriation	Composition/Leadership	Purpose/Duties of the Entity
8002(a)	CLASS Independence Advisory Council  (Section 8002(a) also created the Community Living Assistance Services and Supports Act (CLASS) program.)	Location and creation date not specified. PPACA authorizes “such sums as may be necessary” for FY2011 and “for each fiscal year thereafter.” Appropriations remain available until expended.	Composed of not more than 15 individuals “not otherwise in the employ of the United States.” Members are appointed by the President “without regard to the civil service laws and regulations,” but no appointment date specified. Most of the members are to be “representative of individuals who participate or are likely to participate in the CLASS program.” Members serve overlapping three-year terms. President appoints one member as chair “from time to time.” Section 14 of FACA does not apply.	Advise the Secretary of HHS on the administration of the CLASS program and regulations, including the CLASS Independence Benefit Program, the determination of monthly premiums, and the financial solvency of the program. The council is also to evaluate the alternative benefit plans developed and recommend the plan that the council determines best balances price and benefits in an actuarially sound manner.
8002(a)	Board of Trustees of the Class Independence Fund	Location and creation date not specified.	Composed of the Secretaries of the Departments of the Treasury, Labor, and HHS, and two members of the public (both of whom cannot be from the same political party) who are nominated by the President and subject to confirmation by the Senate. Secretary of the Treasury is the managing trustee of the board.	Duties of the board include (1) holding the CLASS Independence Fund; (2) reporting to Congress by April 1 of each year on the operation and status of the fund; (3) reporting immediately to Congress whenever the Board concludes that the amount of the fund is not actuarially sound; and (4) reviewing the general policies followed in managing the fund, and recommending changes in such policies, The board is required to meet at least once each calendar year.

Section of PPACA	Name of Entity	Location/Creation Date/ Appropriation	Composition/Leadership	Purpose/Duties of the Entity
10334(a)	Office of Minority Health	PPACA transfers existing office within the Office of Public Health and Science to the Office of the Secretary. No transfer date specified (although presumably on the date of enactment).	Composition of the office not specified. Office headed by the Deputy Assistant Secretary for Minority Health, who shall report directly to the Secretary.	Office is to “retain and strengthen authorities ... for the purpose of improving minority health and the quality of health care minorities receive and eliminating racial and ethnic disparities.” Submit a report to “appropriate” committees of Congress by 03/23/11 (and biennially) summarizing agency activities.
10409(d)	Cures Acceleration Network (CAN) Review Board	Sec. 10409(d) establishes CAN program within the Office of the Director of NIH, but the location of the CAN Review Board is not specified. Creation date not specified (although presumably created on the date of enactment).	Secretary appoints 24 Board members from specified fields and organizations, who serve at the pleasure of the Secretary. Date of appointment not specified. Members serve four-year terms, not more than three terms (and not more than two consecutively). Member compensation at EX-IV daily rate (except current federal employees). Specified ex-officio members to be appointed by the Secretary. Secretary designates the chairperson and vice chairperson from the members of the Board.	Advise and provide recommendations to the Director of NIH on the conduct of the activities of the CAN program. Board is to meet four times per year at the call of the chairperson. Quorum consists of 13 members.

Section of PPACA	Name of Entity	Location/Creation Date/ Appropriation	Composition/Leadership	Purpose/Duties of the Entity
10501(b)	Interagency Access to Health Care in Alaska Task Force	Location and creation date not specified (although presumably created on date of enactment). Task Force members are to be appointed within 45 days of the date of enactment (i.e., by 05/07/10).	Task force to be composed of “Federal members” appointed within 45 days of enactment (i.e., by 05/07/10). Secretary of HHS appoints one member each from the department, CMS, and the Indian Health Service; Secretary of DOD appoints one member from TRICARE Management Activity; Secretary of the Army appoints one from the Army Medical Department; Secretary of the Air Force appoints one from Air Force medical officers; Secretary of Veterans Affairs appoints one each from the department and the Veterans Health Administration; Secretary of DHS appoints one from the Coast Guard. Chairperson to be appointed by the Secretary of HHS from the members of the task force.	Assess access to health care for beneficiaries of federal health care systems in Alaska, develop a strategy to improve delivery of health care to those beneficiaries. Report to be submitted to Congress within 180 days of enactment (i.e., by 09/19/10) containing findings, strategies, recommendations, policies and initiatives. Task Force terminates upon submission of the report.
<b>Entities to be Established by the President (e.g., “President shall establish ... ”)</b>				
3012(a)	Interagency Working Group on Health Care Quality	No location or creation date specified. (The President is instructed to “convene” the working group.)	Composed of senior level representatives from HHS, CMS, NIH, CDCP, FDA, HRSA, AHRQ, SAMHSA, and ACF; 13 other specified departments and agencies; and any other agencies selected by the President. Chaired by the Secretary of HHS, with rotating vice-chair.	Collaboration, cooperation, and consultation among departments and agencies; avoidance of duplication of effort; alignment of public and private sector initiatives; report to Congress by 12/31/10 and annually thereafter.

Section of PPACA	Name of Entity	Location/Creation Date/ Appropriation	Composition/Leadership	Purpose/Duties of the Entity
4001(a)	National Prevention, Health Promotion and Public Health Council	The President to establish the Council within HHS; no creation date specified.	Composed of the Secretaries of HHS, Agriculture, Education, Transportation, Labor, and Homeland Security; the heads of six other agencies; and the head of any other agency that the chairperson determines is appropriate. President appoints the Surgeon General as chairperson.	Provide coordination and leadership regarding prevention, wellness and health promotion; develop national prevention and health care strategy; provide recommendations to President and Congress. Report to President and "relevant committees" of Congress by 07/10/10, and annually thereafter (through 01/01/15). By 03/23/11, the Chairperson is to make public a national prevention, health promotion, and public health strategy.
4001(f)	Advisory Group on Prevention, Health Promotion, and Integrative and Public Health	Group is to be located "within the Department of Health and Human Services and report to the Surgeon General." Creation date not specified.	Composed of not more than 25 nonfederal members appointed by the President. Appointees are to include a "diverse group of licensed health professionals," including those with expertise in certain areas (e.g., worksite health promotion, preventive medicine, and geriatrics).	Develop policy and program recommendations, and advise the National Prevention, Health Promotion and Public Health Council (created in Sec. 4001(a)) on lifestyle-based chronic disease prevention and management, integrative health care practices, and health promotion.
<b>Entities to be Created by the Secretary of HHS</b>				
1104(b)	"Review committee" on operating rules for health information transactions.	Committee is to be "chartered by or within the Department of Health and Human Services," and to be established by the Secretary no later than 01/01/14.	Committee can be the National Committee on Vital and Health Statistics or "any appropriate committee as determined by the Secretary." No leadership specified.	Hearings required by 04/01/14, and report by 07/01/14 on updating and improving standards and operating rules. Committee to recommend a single set of operating rules per transaction standard. Secretary to issue interim final rule within 90 days of report.

Section of PPACA	Name of Entity	Location/Creation Date/ Appropriation	Composition/Leadership	Purpose/Duties of the Entity
2602(a)	Federal Coordinated Health Care Office	The Secretary of HHS is to establish the office within CMS no later than 03/01/10.	Office to be headed by a director appointed by and in direct line of authority to the Administrator of CMS. Composition of the office not specified.	Purpose is to bring together officers and employees of the Medicare and Medicaid programs to integrate benefits, and coordinate federal and state efforts for “dual eligible” individuals. Specific duties include providing states and others with the tools needed to align benefits; helping states coordinate services with other Medicare items and services; providing support for coordination of contracting and oversight; and coordinate with the Medicare Payment Advisory Commission. Secretary to submit annual report to Congress with the budget.
2951	Name not specified. In relation to early childhood home visitation programs conducted with grants, PPACA requires the Secretary to establish “an advisory panel” regarding technical assistance to be provided to entities that are required to develop an improvement plan.	Location and creation date not specified. Initial report required within 30 days after the third year of the program. Final report from eligible entities showing improvements required by 12/31/15.	Composition and leadership not specified.	Advisory panel created “for purposes of obtaining recommendations regarding the technical assistance provided to entities” who are required to develop an improvement plan (entities not showing improvement in at least four of six specified areas).
2951	Name not specified. In relation to early childhood visitation programs conducted with grants, PPACA requires the Secretary to appoint “an independent advisory panel” regarding the evaluation of such programs.	Location and creation date not specified. The advisory panel is required to make recommendations within one year of enactment (i.e., by 03/23/11).	The panel is to consist of “experts in program evaluation and research, education, and early childhood development.” Leadership not specified.	Panel to review and make recommendations on the design and plan for an evaluation of statewide needs assessments under 2951(b) and grants under 2951(c) and (h)(3)(B).

Section of PPACA	Name of Entity	Location/Creation Date/ Appropriation	Composition/Leadership	Purpose/Duties of the Entity
3509(a)	HHS Coordinating Committee on Women's Health	Location and creation date not specified. (The Secretary of HHS is directed to establish the committee "acting through" the Office of Women's Health that was created by this subsection.)	Chaired by the Deputy Assistant Secretary for Women's Health and composed of senior level representatives from each agency and office in HHS.	Duties not specified.
3509(a)	National Women's Health Information Center	Location and creation date not specified. (The Secretary of HHS is directed to establish the center "acting through" the Office of Women's Health that was created by this subsection.)	Leadership and composition not specified.	Facilitate the exchange of information regarding health promotion, services, research and education; assist in analysis of issues.
3509(f)	Office of Women's Health	Secretary of HHS is to establish the office within the Office of the Administrator of HRSA; no creation date specified.  Office is authorized "such sums as may be necessary" from FY2010 through FY2014.	Office to be headed by a director appointed by the Administrator. Composition of the office not specified.	Report to the Administrator on level of activity regarding women's health; establish goals; identify projects to be supported; consult with others.
4305(b)	Interagency Pain Research Coordinating Committee	Location of the committee not specified; Secretary of HHS is to establish the committee no later than 03/23/11. The Secretary is to review the necessity of the committee at least every two years.	Chair selected by voting members (subject to approval by the Director of NIH); not more than 7 voting federal representatives appointed by the Secretary; 12 other voting members (6 non-federal health professionals and 6 from the public); other nonvoting members as determined by the Secretary.	Summarize advances in pain care research; identify gaps in research; and make recommendations to avoid duplication of efforts, how to disseminate information on pain care, and how to expand partnerships.

Section of PPACA	Name of Entity	Location/Creation Date/ Appropriation	Composition/Leadership	Purpose/Duties of the Entity
5103(a)	National Center for Health Workforce Analysis	Location not specified. Section 5103(b) states that the responsibilities and resources of the existing National Center shall be transferred to this center within 180 days (i.e., by 09/19/10).	Leadership and composition not specified.	Develop information regarding the healthcare workforce; evaluate programs; develop performance measures and benchmarks
5602	Negotiated Rulemaking Committee	Location not specified. Secretary of HHS is required to appoint the committee within 30 days after the end of a notice and comment period. Goal is to publish the resultant rule for comment by July 1, 2010. However, if consensus is not likely, the Secretary may terminate the Committee.	Leadership and composition not specified.	Purpose of the committee is to develop the methodology and criteria for designating medically underserved populations and health professions shortage areas.
8002(c)	Personal Care Attendants Workforce Advisory Panel	Location not specified. Panel to be created by the Secretary of HHS within 90 days after enactment (i.e., by 06/21/10).	Secretary required to ensure that the panel includes individuals with certain characteristics (e.g., seniors, individuals with disabilities, representatives of providers and the workforce). Leadership of the panel is not specified.	Panel established “for the purpose of examining and advising the Secretary and Congress on workforce issues related to personal care attendant workers.”
10413(b)	Name not specified. PPACA requires the Secretary to “establish an advisory committee” in relation to a public education campaign regarding young women’s breast health.	Location not specified. Committee must be established within 60 days after enactment (i.e., by 05/22/10).	Secretary to appoint “such members as deemed necessary to properly advise the Secretary,” but must include organizations and individuals with expertise in such issues as breast cancer, disease prevention, diagnosis, and rehabilitation.	Committee to assist in creating and conducting a required public education campaign, and a required health care professional education campaign regarding breast health, symptoms, and early diagnosis and treatment of breast cancer in young women.

Section of PPACA	Name of Entity	Location/Creation Date/ Appropriation	Composition/Leadership	Purpose/Duties of the Entity
<b>Entities to be Created by Other Agencies/Organizations</b>				
1002	No name specified. PPACA refers to an “independent office of health insurance consumer assistance, or an ombudsman” that state governments must “designate” to be eligible to receive a grant.	Location and creation date not specified (although PPACA indicates the office must be designated before receiving a grant). PPACA appropriates \$30 million for the first fiscal year (available until expended), and authorizes “such sums as may be necessary” in subsequent years.	Composition and leadership of the office not specified.	Office is to receive and respond to inquiries and complaints concerning health insurance coverage under federal requirements and state law. Specific duties include assisting with the filing of complaints and appeals; collecting, tracking, and quantifying problems and inquiries; educating consumers; and assisting consumers with enrollment.
1322(b)(3)	No name specified. PPACA refers to an “advisory board” appointed by the Comptroller General as part of the Consumer Operated and Oriented Plan (CO-OP) program that was created in this section.	Original appointment of board members required to be made by the Comptroller General within three months after enactment (i.e., by 06/23/10). Board terminates when it completes its duties, but no later than 12/31/15. Location of advisory body is not specified.	Board composed of 15 members appointed from among individuals with qualifications described in Section 1895(c)(2) of the Social Security Act (Medicare Payment Advisory Commission). Individuals must meet ethics and conflict of interest standards protecting against insurance industry involvement. No compensation for board members (other than travel expenses). Section 14 of FACA does not apply.	No specific purposes or duties delineated, although the section states that the Secretary of HHS must “take into account the recommendations of the advisory board” in awarding loans and grants under the CO-OP program. The advisory board terminates on the earlier of the date that it completes its duties or December 31, 2015.

Section of PPACA	Name of Entity	Location/Creation Date/ Appropriation	Composition/Leadership	Purpose/Duties of the Entity
1323(d)	State Advisory Councils	No location or date specified. PPACA says that state governments (other than those that opt out) are to “establish or designate” public or non-profit entities as the council.	Members must be representatives of the public and must include health care consumers and providers. Leadership not specified.	Councils are to provide recommendations to the Secretary of HHS on operations and policies of a community health insurance option in the states, including integration of quality improvement and cost containment mechanisms, facilitation of public awareness, and alternative payment structures.
4003(a)	Preventive Services Task Force	Location and creation date not specified. AHRQ director is to “convene” the task force, and it is to be “independent” (although the agency is to provide ongoing administrative, research, and technical support). Task force is authorized “such sums as may be necessary for each fiscal year” to carry out its activities.	Composition and leadership not specified, although members of the task force are to be “independent and, to the extent practicable, not subject to political pressure.” PPACA states that the task force is not subject to FACA, and should coordinate with the Community Preventive Services Task Force and the Advisory Committee on Immunization Practices.	Review scientific evidence regarding clinical preventive services to develop and update recommendations for the health care community, to be published in the Guide to Clinical Preventive Services. Duties include development of new topic areas and recommendations; review interventions and update recommendations at least every five years; and submit yearly reports to Congress and agencies identifying gaps in research.

Section of PPACA	Name of Entity	Location/Creation Date/ Appropriation	Composition/Leadership	Purpose/Duties of the Entity
4003(b)	Community Preventive Services Task Force	Location and creation date not specified. CDCP director is to “convene” the task force, and it is to be “independent” (although the director is required to provide ongoing administrative, research, and technical support). Task force is authorized “such sums as may be necessary for each fiscal year” to carry out its activities.	Composition and leadership not specified, PPACA states that the task force is not subject to FACA, and should coordinate with the Preventive Services Task Force and the Advisory Committee on Immunization Practices.	Review scientific evidence regarding community preventive interventions and develop recommendations, to be published in the Guide to Community Preventive Services. Duties include development of new topic areas and recommendations, review interventions and update recommendations at least every five years; and submit yearly reports to Congress and agencies identifying gaps in research.
4304	No name specified. PPACA requires the Director of the CDCP to establish and appoint “an advisory council” in relation to the Epidemiology and Laboratory Capacity Grant Program.	No location or creation date specified.	No composition or leadership specified.	Council to determine “national guidelines” and “capacities and functions” for an information exchange relating to improved information systems.
5208(b)	No name specified. Nurse-managed health clinics (NMHC) applying for a grant must ensure that a “community advisory committee” will be established.	The advisory committee must be established by the NMHC within 90 days of receiving a grant. No location specified.	A majority of the members of the advisory committee must be individuals who are served by the NMHC. Leadership not specified.	Purpose and duties not specified.
6301(a)	No name specified. PPACA says that the Patient-Centered Outcomes Research Institute “shall appoint expert advisory panels in carrying out randomized clinical trials under the research project agenda under paragraph (2)(A)(ii).”	Location and creation date not specified.	The advisory panels must include representatives of practicing and research clinicians, patients, and other experts. The panels may include a technical expert of each manufacturer or medical technology that is included under the topic of the panel.	Advisory panels are to advise the Institute and the agency or entity conducting the research on the research question involved and the research design or protocol. The panels are to be available as a resource for technical questions that may arise.

Section of PPACA	Name of Entity	Location/Creation Date/ Appropriation	Composition/Leadership	Purpose/Duties of the Entity
6301(a)	No name specified. PPACA says that the Patient -Centered Outcomes Research Institute “shall appoint an expert advisory panel” in the case of a research study on rare disease.	Location and creation date not specified.	The advisory panel must include representatives of practicing and research clinicians, patients, and other experts. The panel may include a technical expert of each manufacturer or medical technology that is included under the topic of the panel.	PPACA says that the advisory panel is to assist “in the design of the research study (for rare disease) and determining the relative value and feasibility of conducting the research study.”
6301(a)	“Standing methodology committee” to be established by the Patient-Centered Outcomes Research Institute.	Location and creation date not specified (although work required to begin within 18 months of the establishment of the Institute).	Leadership not specified; committee to be composed of not more than 15 scientific experts appointed by the Comptroller General plus the directors of NIH and AHRQ (or their designees).	Work to develop and improve the science and methods of comparative clinical effectiveness research by developing and updating methodological standards for research.
10104(q)	No name specified. PPACA requires the OPM Director “to establish an advisory board” in relation to multi-state health plans.	Location and creation date not specified.	PPACA states that a “significant percentage of the members of such board shall be comprised of enrollees in a multi-State qualified health plan, or representatives of such enrollees.” No leadership of the board is specified.	The board is to “provide recommendations on the activities described in this section.” The section deals with OPM entering into contracts with health insurance issuers to offer at least two multi-state plans through each exchange.
10334(b)	Individual Offices of Minority Health (6)	PPACA requires the heads of CDCP, HRSA, SAMHSA, AHRQ, FDA, and CMS to establish offices of minority health. Creation dates and locations not specified.  The Secretary of HHS must designate an “appropriate” amount of funds for each office from each agency’s appropriation.	The composition of the offices is not specified. The director of each office is appointed by and reports to each agency head. Directors are to have “documented experience and expertise in minority health services research and health disparities elimination.”	No specific purpose or duties delineated. However, no new regulatory authority is permitted.

Section of PPACA	Name of Entity	Location/Creation Date/ Appropriation	Composition/Leadership	Purpose/Duties of the Entity
10607	No name specified. PPACA refers to a “review panel composed of relevant experts” appointed by the Comptroller General to review demonstration grant applications (re alternatives to medical tort litigation) from the states.	Location and creation date not specified. The Comptroller General is required to make available “information, personnel, and administrative services” to the panel, and agencies are required to provide requested information.	The Comptroller General is required to appoint at least 9 but not more than 13 “highly qualified and knowledgeable individuals” to serve on the review panel,, and must ensure that certain entities receive fair representation (e.g., patient advocates, health care providers and organizations, attorneys, insurers, and state officials). Chairperson is the Comptroller General or his designee.	No specific duties delineated. The Secretary of HHS is to consult with the review panel in reviewing states’ applications for demonstration grants, and in entering into a contract with a research organization to evaluate the effectiveness of the grants.
<b>Entities “Authorized” to be Established</b>				
6301(a)	Patient-Centered Outcomes Research Institute	No location or creation date specified. PPACA states that the Institute is “authorized to be established.” The Institute is described in PPACA as a nonprofit corporation “which is neither an agency nor establishment of the United States Government.”	The Institute’s Board of Governors includes the director of AHRQ (or designee); the director of NIH (or designee); and 19 members to be appointed by the Comptroller General by 09/23/10 to staggered six-year terms (including 3 representing patients, 7 representing physicians and providers, 3 representing manufacturers or developers, and 2 representing the federal government or the states). <sup>a</sup> Comptroller General is to designate the chairperson and vice chairperson from board members.	The Institute is to assist patients, clinicians, purchasers, and policy-makers by improving evidence regarding how health conditions can be prevented, diagnosed, and treated through research and dissemination of findings. Duties include identifying research priorities and establishing an agenda, carrying out the agenda through research and contracts, and collecting data.

Section of PPACA	Name of Entity	Location/Creation Date/ Appropriation	Composition/Leadership	Purpose/Duties of the Entity
6301(a)	No name specified. PPACA states that the Patient-Centered Outcomes Research Institute (also created by this section) “may appoint permanent or ad hoc expert advisory panels as determined appropriate.”	No location or creation date specified.	PPACA states that each panel “shall include representatives of practicing and research clinicians, patients, and experts in scientific and health services research, health services delivery, and evidence-based medicine in the relevant topic.”	PPPACA says the panels are “to assist in identifying research priorities and establishing the research project agenda” for the Institute. It also says that the panels can be used “for other purposes.” The Institute is to provide “support and resources” to help patient and consumer representatives.

**Source:** CRS.

- a. The number of board members was raised from 17 to 19 (with the number of physician and provider representatives increased from 5 to 7) by Section 10602 of PPACA.

## **Author Contact Information**

Curtis W. Copeland  
Specialist in American National Government  
cwcopeland@crs.loc.gov, 7-0632