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What I've Learned About the Congressional Budget Office and Health Care

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Forget President Obama, Harry Reid or Joe Lieberman. The most powerful people in the health care debate right now can be found on the 4th floor of the Ford House Office Building, a nondescript WPA government structure once used by the [FBI](#) to store fingerprint records. This is the Congressional Budget Office. The obscure economists, statisticians and “numbers” people who work there are so powerful that when they “score” a health care reform bill or amendment, they determine its fate, irrespective of how many hours of tortuous negotiations it took to get there.

I've been having a somewhat bewildering experience with the CBO myself, because I know something about one health care issue that CBO decided to score recently - the impact of limiting medical malpractice lawsuits, especially those involving horrible, costly injuries. Last October, CBO decided to drop into the middle of the health care debate a seven-page letter to Senator Orrin Hatch (R-UT) (and recently reiterated in another seven-page letter to Sen. Jay Rockefeller (D-WV)), that included CBO's precise and, one would think, thoroughly analyzed pronouncement: that tort limits would lower health care costs exactly \$54 billion between 2010 and 2019.

That led to lots of “I told you so's” from the right, and a flurry of headlines suggesting what a great way to save money! That confused many of us since this really amounted to only \$11 billion a year, or 0.5 percent of health care costs, a tiny fraction of the widely overstated estimates by the medical lobbies. One expert wrote to me, “this is so much less than anything generated by [the “tort reform” crowd] that my inclination is to declare victory and go home.” Wish it were that easy.

I read the letter and was shocked both by a number of assumptions CBO made and things they ignored to reach even this figure. CBO agreed to meet with me and a panel of experts

I helped assemble to hear our concerns. I walked into the meeting optimistic. I left feeling decidedly otherwise. Here is what I learned about the Congressional Budget Office.

1. Out of sight, out of mind. If a study doesn't exist about a problem, the problem doesn't exist, according to the CBO. The fact that there could be vast differences in the results based on factors it did not include because there are no current "studies" on it (like new burdens on Medicaid) was of absolutely no concern to them. "Send us any studies and we are happy to look at them," they explained. For example, while acknowledging the obvious - that more people will be injured and die when accountability is reduced - CBO would not factor this result into its "savings" because there are too few studies on the topic. Nevermind that one of the three studies CBO did mention found that to achieve these "savings", there would be a .2 percent increase in the nation's overall death rate. That's another 4,853 Americans killed every year by medical malpractice, or 48,250 Americans over the 10-year period CBO examines. How could this possibly be an acceptable trade off? Where are the headlines about that?

2. Transparency is a four-letter word. Want to check their numbers? Don't even ask. CBO arrives at its numbers by plugging selective studies into CBO's internal econometric models that no one ever sees. When, for example, I raised the transparency issue and specifically asked how CBO could find a 0.2 percent savings due to lower medical malpractice insurance rates for doctors, when years of historical experience show this to be untrue, my comments were met with glares, not data. When Senator Jay Rockefeller (D-WV) [asked CBO](#) for a "complete empirical analysis of the cost savings associated with medical malpractice reforms", CBO's response was another seven-page letter. No empirical analysis, no econometric models, no data.

3. Just the facts, ma'am? In my meeting, CBO took great offense to any suggestion that the document they issued was political or biased in any regard, insisting that they are not political. Yet to accomplish its predicted savings, CBO could not have devised a better "wish list" for the insurance industry. In fact, CBO analyzed such extreme restrictions on the legal rights of patients that no single state in the nation likely has imposed all of them collectively on patients in their states. CBO even identified one provision using poll-generated spin developed by Big Business.

4. Critics are really annoying. At our meeting with CBO, I was one of four experts, three of whom traveled from out of town. They gave us one hour to understand and then dissect their work. It soon became clear that this meeting was just a bothersome obligation for them. At the end, I said a few tough words. Stuart Hagan, who was primarily responsible

for the analysis, seemed clearly annoyed. When I finished speaking, he said nothing and simply walked out to go to another more important meeting.

But by then, the writing was already on the brick wall I was batting my head against.