CONGRESSIONAL BUDGET OFFICE
U.S. Congress
Washington, DC 20515

Douglas W. Elmendorf, Director

March 19, 2012

Honorable David Dreier
Chairman
Committee on the Rules
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

The Congressional Budget Office has reviewed H.R. 5, the Help Efficient, Accessible, Low-cost, Timely Healthcare (HEALTH) Act of 2011, as posted on the Web site of the House Committee on Rules on March 12, 2012. CBO estimates that enacting the bill would reduce direct spending and increase revenues; therefore, pay-as-you-go procedures apply. Together, the changes to direct spending and revenues would reduce future deficits by $13.7 billion over the 2013-2017 period and by $45.5 billion over the 2013-2022 period (see enclosed table).

Federal spending for active workers participating in the Federal Employees Health Benefits program is included in the appropriations for federal agencies, and is therefore discretionary. H.R. 5 would also affect discretionary spending for health care services paid by the Departments of Defense and Veterans Affairs. CBO estimates that implementing H.R. 5 would reduce discretionary spending by $1.1 billion, assuming appropriations actions consistent with the legislation.

H.R. 5 would impose limits on medical malpractice litigation in state and federal courts by capping awards and attorney fees, modifying the statute of limitations, and eliminating joint and several liability. It also would repeal the provisions of the Affordable Care Act (ACA) that established the Independent Payment Advisory Board (IPAB) and created a process by which that Board (or the Secretary of the Department of Health and Human Services) would be required under certain circumstances to modify the Medicare program to achieve certain specified savings.

CBO estimates that the changes in direct spending and revenues resulting from enactment of the limitations on medical malpractice litigation would reduce deficits by $48.6 billion over the 2013-2022 period. CBO also estimates that implementing those provisions would reduce discretionary spending by $1.1 billion, assuming appropriations actions consistent with the legislation. The basis for that estimate is described in the cost estimate CBO transmitted on March 10, 2011, for the HEALTH Act as ordered reported by the House Committee on the Judiciary on February 16, 2011. The estimated budgetary effects have been updated to assume enactment near the end of fiscal year 2012 and to reflect CBO's current budgetary and economic projections.

CBO estimates that enacting the provision that would repeal the Independent Payment Advisory Board would increase deficits by $3.1 billion over the 2013-2022 period. The basis for that estimate is described in the cost estimates CBO transmitted on March 7 and March 8, 2012, for H.R. 452 as ordered reported by the House Committee on Energy and Commerce and by the House Committee on Ways and Means, respectively.

H.R. 5 contains an intergovernmental mandate as defined in the Unfunded Mandates Reform Act (UMRA) because it would preempt state laws that provide less protection for health care providers and organizations from liability, loss, or damages (other than caps on awards for damages). CBO estimates the cost of complying with the mandate would be small and would fall well below the threshold established in UMRA for intergovernmental mandates ($73 million in 2012, adjusted annually for inflation).

H.R. 5 contains several mandates on the private sector, including caps on damages and on attorney fees, the statute of limitations, and the fair share rule.[1] The cost of those mandates would exceed the threshold established in UMRA for private-sector mandates ($146 million in 2012, adjusted annually for inflation) in four of the first five years in which the mandates were effective.

[1] Under the fair share rule, a defendant in a lawsuit would be liable only for the percentage of the final award that was equal to his or her share of responsibility for the injury.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Tom Bradley (for federal costs), Lisa Ramirez-Branum (for the intergovernmental impact), and Stuart Hagen (for the private-sector impact).

Sincerely,

Douglas W. Elmendorf

Douglas W. Elmendorf
Director

Enclosure

cc: Honorable Louise Slaughter
Ranking Minority Member

Congressional Budget Office
March 19, 2012

Estimated Budgetary Effect of H.R. 5, the Help Efficient, Accessible, Low-cost, Timely Healthcare (HEALTH) Act of 2011,

as posted on the Web site of the House Committee on Rules on March 12, 2012

(Billions of dollars, by fiscal year)

		2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2013-2017	2013-2022
								CHANGES IN REVENUES [a]					
Title I	**Medical Malpractice**												
	On-budget	*	0.1	0.2	0.4	0.7	0.7	0.8	0.8	0.9	0.9	1.4	5.4
	Off-budget	*	*	0.1	0.2	0.2	0.3	0.3	0.3	0.3	0.3	0.5	1.9
	Total changes in revenues	*	0.1	0.3	0.6	0.9	1.0	1.0	1.1	1.1	1.2	1.9	7.3
								CHANGES IN DIRECT SPENDING OUTLAYS					
Title I	**Medical Malpractice**	-0.1	-0.7	-2.3	-3.9	-4.9	-5.2	-5.5	-5.9	-6.3	-6.7	-11.7	-41.3
Title II	**Independent Payment Advisory Board**	*	*	*	*	*	0.5	1.1	0.4	0.4	0.8	-0.1	3.1
	Total changes in direct spending	**-0.1**	**-0.7**	**-2.3**	**-3.9**	**-4.9**	**-4.7**	**-4.4**	**-5.5**	**-5.9**	**-5.9**	**-11.8**	**-38.2**
								NET CHANGES IN THE UNIFIED-BUDGET DEFICIT FROM CHANGES IN DIRECT SPENDING AND REVENUES [b]					
	Total changes in the deficit	**-0.1**	**-0.8**	**-2.6**	**-4.5**	**-5.8**	**-5.7**	**-5.4**	**-6.6**	**-7.0**	**-7.1**	**-13.7**	**-45.5**
								CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Title I	**Medical Malpractice**	*	*	*	-0.1	-0.1	-0.2	-0.2	-0.2	-0.2	-0.2	-0.3	-1.1

Memorandum:

Title I, Medical Malpractice, would reduce unified-budget deficits by an estimated $48.6 billion over the 2013-2022 period through changes to direct spending and revenues.

NOTES:

* = changes in direct spending or revenues that are between $50 million and -$50 million.

a. For revenues, positive numbers indicate a decrease in the deficit and negative numbers indicate an increase in the deficit.

b. Positive numbers indicate an increase in the deficit and negative numbers indicate a decrease.