

The Honorable Mike Johnson
Speaker of the House
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Charles Schumer
Majority Leader
United States Senate
Washington, D.C. 20510

The Honorable Hakeem Jeffries
Democratic Leader
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Mitch McConnell
Minority Leader
United States Senate
Washington, D. C. 20510

Dear Speaker Johnson, Leader Jeffries, Leader Schumer, and Leader McConnell:

The underlying organizations representing a broad group of stakeholders are writing to strongly urge you to oppose H.R. 7513, S.3410, H.J Res 139, or any other bill or resolution that would bar the Centers for Medicare & Medicaid Services (CMS) from fulfilling its regulatory duty of creating safe nurse staffing standards.

As advocates on behalf of our nation's 1.2 million nursing home residents and over five hundred thousand nursing home workers, we strongly support the Administration's initiative to improve the quality of care in nursing homes. For decades, health researchers, geriatricians, nurses, and other clinical experts have recommended minimum nursing staffing requirements to improve the quality of care in nursing homes; a wide range of peer-reviewed literature demonstrates the causal connection between higher staffing and higher quality of care in nursing homes. As far back as 2001, the Center for Medicare & Medicaid Services (CMS) noted the "strong and compelling" evidence for having minimum staffing levels, even in an economy with a chronic workforce shortage. Moreover, a blue-ribbon panel convened by the National Academy of Science, Engineering, and Medicine (NASEM) in 2022 recommended minimum staffing standards for improving the quality of care in nursing homes.

H.J. Res. 139 and H.R. 7513, S.3410 not only ignore this expert advice, but would prevent CMS from ever setting any kind of staffing standard. If passed, these pieces of legislation would mean a continuation of the pattern of poor staffing in which residents receive unsafe and low-quality care. All residents, regardless of zip code, are entitled to appropriate professional nursing care.

Importantly, the final rule accommodates concerns expressed by the industry in many ways. The final rule allows nursing homes a generous period of time to prepare for the rule's implementation, with additional time for rural facilities. The final rule also contains an exemption process that would excuse facilities unable to meet staffing standards, potentially for years.

The final rule issued last month sets a minimum nursing staffing standard; it does not create a ceiling on staffing or impose a “one-size-fits-all” solution. The final rule in fact does nothing to alter a facility’s statutory obligation to provide “nursing services and specialized rehabilitative services to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident.” Under the final rule, facilities with a higher acuity case mix would continue to be required to staff at a level appropriate to meet the needs of those residents. The minimum staffing standard sets a floor for care, not a ceiling.

The rule sets a viable standard under current labor market conditions. There are more than enough nursing home workers who left or were let go by the nursing home during the pandemic to meet the demand for additional staff. These workers – more than 155,000 trained and experienced staff – could be persuaded to return to working in a nursing home if compensation were adequate. The Administration should not forego policies that would improve the quality of care simply because one industry segment — for-profit facilities — refuses to address a workforce problem of its own creation.

Although this rule will help all nursing home residents and workers, it will be particularly beneficial for an underpaid workforce composed primarily of women and people of color. Not only will this rule likely increase wages for a CNA workforce that averages just over \$17/hour, but it will reduce the on-the-job injuries that make working in nursing homes one of the most dangerous places to work. The final regulation may do more to improve healthy equity than any other policy this Administration has implemented.

In addition, these bills and the resolution would bar CMS from implementing a number of related policies that have nothing to do with staffing but could have far-reaching consequences for improving the quality of care. The rule requires that nursing homes use evidence-based, and data driven methods when assessing resident needs and improves transparency in Medicaid spending. Passage of these bills or the joint resolution would permanently bar CMS from ever issuing regulations in these important areas.

Congress should not step in at the 11th hour to kill a regulation that is product of a thorough and fair opportunity for all stakeholders to be heard. The industry had multiple opportunities to provide input on a range of concerns affecting the practical application of a national minimum standard. It spent massively on campaign contributions and advertisements – it cannot claim it was unable to get its views across.

The final rule represents a much-needed paradigm shift in nursing home oversight to promote quality of care. These bills represent nothing short of an attack on the legal framework that protects the lives of nursing home residents and the livelihood of nursing home workers. We urge you to vote “no” on this legislation, joint resolution, and any other effort to remove these critical protections from nursing home residents and workers.

Sincerely,