March 31, 2015

The Honorable John Boehner  
Speaker, U.S. House of Representatives  
1011 Longworth House Office Building  
Washington, D.C. 20515

The Honorable Nancy Pelosi  
Minority Leader, U.S. House of Representatives  
235 Cannon House Office Building  
Washington D.C. 20515

The Honorable Harry Reid  
Minority Leader, U.S. Senate  
522 Hart Senate Office Building  
Washington, D.C. 20510-2803

The Honorable Mitch McConnell  
Majority Leader, U.S. Senate  
317 Russell Senate Office Building  
Washington, D.C. 20510-1702

Dear Speaker Boehner, Leader Pelosi, Leader McConnell and Leader Reid:

The National Consumer Voice for Quality Long-Term Care (Consumer Voice) and the undersigned organizations, urge members of the House to exclude nursing and skilled nursing facilities from the “Rule of Construction Regarding Healthcare Providers Standards of Care” contained in the Medicare Access and CHIP Reauthorization Act of 2015. This “standards of care” provision could have devastating consequences for residents of nursing homes, making it more difficult for vulnerable and frail nursing home residents to hold nursing homes accountable for poor care, abuse and negligence and to obtain their federally guaranteed rights under the Nursing Home Reform Law of 1987 (Omnibus Budget Reconciliation Act of 1987). This language is unnecessary, dangerous and should not be included in the SGR fix for physicians.

The Nursing Home Reform Law and the corresponding regulations have created important minimum requirements for nursing homes. More than one million nursing home residents, their families and the public rely upon these standards to keep residents safe.
safe. The federal requirements recognize a minimum level of care that each resident should receive in order for a nursing home to participate in the Medicare and Medicaid programs and for each resident to attain or maintain their highest level of well-being. They include important protections such as the right to be free from physical and chemical restraints, periodic assessments of each resident’s physical and psychological well-being, prevention of pressure ulcers and other avoidable poor care outcomes, provision of adequate nutrition and hydration, access to specialized rehabilitative services, and the right to be free from mental and physical abuse.

The “standards of care” provision within the proposed SGR fix would make it more difficult for consumers and their loved ones to use the violation of national requirements to establish a case of negligence in a lawsuit. The ability to hold substandard facilities accountable through the civil justice system for cases of poor care, neglect and abuse is essential for quality nursing home care. Government studies have repeatedly shown that state inspection agencies fail to penalize facilities for harming residents, even when they find serious injuries; moreover, many problems are never cited at all. Often the courts are the only recourse for consumers trying to hold nursing homes responsible for their actions. Less accountability could lead to poorer quality care and greater abuse and neglect of some of our nation’s most frail and vulnerable elders.

The drafters of the language in the SGR contend that the purpose of this provision is simply to protect physicians from federal guidelines created by the Affordable Care Act and to reemphasize existing law that establishes state law as the physicians’ standard of care. However, the reference in the standards of care provision to Titles XVIII and XIX of the Social Security Act would apply to the Nursing Home Reform Law and consequently could impact the ability of nursing home residents to fully benefit from federal protections designed to ensure their safety, welfare, and rights.

Please protect nursing home residents by eliminating nursing homes from the SGR Repeal and Medicare Provider Payment Modernization Act of 2015.

Sincerely,

The National Consumer Voice for Quality Long-Term Care
Public Citizen
Justice in Aging
Alliance for Justice
Center for Justice and Democracy
National Association of Consumer Advocates
Families for Better Care
National Association of Local Long-Term Care Ombudsmen
Hartford Institute for Geriatric Nursing
American Association of Nurse Assessment Coordination
Gerontological Advance Practice Nurses Association
National Gerontological Nurses Association
American Association of Long Term Care Nursing
Consumer Watchdog
National Association of State Long-Term Care Ombudsman Programs
National Association of Area Agencies on Aging (n4a)
National Academy of Elder Law Attorneys
Center for Elder Care and Advanced Illness (CECAI)

And the Following State and Local Organizations:

**Alabama**
Jefferson County Ombudsman Program

**Arkansas**
Arkansas Advocates for Nursing Home Reform

**California**
California Long-Term Care Ombudsman Association (CLTCOA)
Riverside Ombudsman Program
Monterey County Long-Term Care Ombudsman Program
Long-Term Care Ombudsman Services of San Luis Obispo
Mother Lode Long-Term Care Ombudsman Program
Ombudsman Services of San Mateo County, Inc.
Napa Long-Term Care Ombudsman Program
Long-Term Care Ombudsman Program, Area 1 Agency on Aging
Alzheimer’s Services of the East Bay
Ombudsman Services of Contra Costa County
Wise and Healthy Aging Long-Term Care Ombudsman Program, Los Angeles
Inter-Generational Services

Connecticut
Grimes Family Council

District of Columbia
District of Columbia Office of the Long-Term Care Ombudsman

Georgia
Georgia Mountains Long-Term Care Ombudsman Program
Georgia Watch

Hawaii
Hawaii Office of the State Long-Term Care Ombudsman

Illinois
Stop Women Abuse Now (SWAN)

Kansas
Kansas Advocates for Better Care

Kentucky
Kentuckians for Nursing Home Reform
Cumberland Valley Long-Term Care Ombudsman Program

Maine
Maine Office of the State Long-Term Care Ombudsman

Maryland
Montgomery County Long-Term Care Ombudsman Program
VOICES for Quality Care, Inc. (Maryland & D.C)

Massachusetts
Massachusetts Advocates for Nursing Home Reform
Eastpointe Family Council
Elder Services of the Merrimack Valley, Inc.
Franklin County Home Care Corporation

**Michigan**
Michigan Elder Justice Initiative

**Missouri**
VOYCE Long-Term Care Ombudsman Program

**Montana**
Agency on Aging Area IX

**Nebraska**
Nebraska Office of the State Long-Term Care Ombudsman

**Nevada**
Nevada Office of the State Long-Term Care Ombudsman

**New Jersey**
Care One

**New Hampshire**
New Hampshire Office of the State Long-Term Care Ombudsman

**New York**
New York Office of the State Long-Term Care Ombudsman
Long Term Care Community Coalition
Elder Justice Committee of Metro Justice
Greene County Department for Human Services
Steuben County Long-Term Care Ombudsman Program
Terrence Cardinal Cooke Family Council
Ombudsman Program, Arise Child and Family Service
Family Service League Long-Term Care Ombudsman Program

**North Carolina**
Area Agency on Aging Region B
Western Watauga Project on Aging
Charlotte-Mecklenburg Council on Aging
Senior Tar Heel Legislature
Yancey County Community Advisory Committee

**Ohio**
Ohio Association of Regional Long-Term Care Ombudsmen
Ohio Region 5 Long-Term Care Ombudsman Program

**Oklahoma**
A Perfect Cause

**Pennsylvania**
Center for Advocacy for the Rights and Interests of the Elderly (CARIE)

**Rhode Island**
Rhode Island Office of the State Long-Term Care Ombudsman

**Texas**
Nursing Home Victims Coalition, Inc.

**Utah**
Long-Term Care Ombudsman Program Utah County
Utah Office of the State Long-Term Care Ombudsman

**Vermont**
Vermont Ombudsman Project

**Virginia**
Birmingham Green Family Council
Appalachian Agency for Senior Citizens

**Washington**
Resident Councils of Washington
Snohomish County Long Term Care Ombudsman Program