June 20, 2024

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, S.J. Res. 91 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,

National Organizations

A. Philip Randolph Institute
ACA Consumer Advocacy
Acres of Angels
AFL-CIO
AFT: Education, Healthcare, Public Services
AgeLinc
ALEPH: Alliance for Jewish Renewal
Alliance for Retired Americans
American Association on Health and Disability
American Federation of State, County and Municipal Employees (AFSCME)
American Geriatrics Society
Angel LTC Advocacy
APALA, AFL-CIO (Asian Pacific American Labor Alliance)
Asian Americans Leadership Council
Autistic Self Advocacy Network
Battle Born Progress
Black Church Center for Justice and Equality
California Advocates for Nursing Home Reform
Caregivers for Compromise
Caring Across Generations
Center for Elder Law & Justice
Center for Health and Social Care Integration at RUSH
Center for Medicare Advocacy
Clergy and Laity United for Economic Justice (CLUE)
Coalition of Black Trade Unionists
Coalition of Labor Union Women, AFL-CIO
Commonwealth Consultants, Inc
Compassion & Choices
Disciples Center for Public Witness (Disciples of Christ)
DNC Seniors Coordinating Council
Economic Policy Institute
Elderly Advocates, Inc.
Families USA
Franciscan Action Network
Friends of Residents in Long Term Care
Geriatric Circle
Health & Medicine Policy Research Group
Health Care for America Now (HCAN)
Health Care for US
ICNA Council for Social Justice
Indian People’s Action
International Association of Machinists and Aerospace Workers
Interreligious Network for Worker Solidarity
Jewish Labor Committee
Jewish War Veterans of the U.S.A.
Jewish Women International
Justice in Aging
Kalmanovitz Initiative for Labor & the Working Poor
Kelinson & Lerner, PLC
Keshet
Limitless Judaism
Long Term Care Community Coalition
Medicare Rights Center
National Adult Protective Services
National Association of Local Long Term Care Ombudsman (NALLTCO)
National Association of Social Workers (NASW)
National Association of State LTC Ombudsman Programs
National Committee to Preserve Social Security and Medicare
National Consumer Voice for Quality Long-Term Care
National Disability Rights Network (NDRN)
National Employment Law Project
National Health Law Program
National Nurses United
National Partnership for Women & Families
National Rainbow PUSH Coalition
National Women's Law Center
Native American Disability Law Center
NETWORK Lobby for Catholic Social Justice
Pax Christi USA
PHI
Pride at Work
Progressive National Baptist Convention, Inc.
Reconstructionist Rabbinical Association
SEIU
Senior Services Plus, Inc
Social Justice Commission, Progressive National Baptist Convention, Inc.
Society for Humanistic Judaism
Steelworkers Organization of Active Retirees (SOAR)
The Center for Law and Social Policy
The Workers Circle
Union for Reform Judaism
Union Veterans Council, AFL-CIO
Unitarian Universalists for a Just Economic Community
Unitarian Universalists for Social Justice
United Steelworkers (USW)
Well Spouse Association
Workplace Fairness

State Organizations
Albemarle Commission Area Agency on Aging
Arise Chicago
AriYael Jewish Healing Center
Arizona Alliance for Retired Americans
Arizona Long-Term Care Ombudsman Program
Bear River Area Agency on Aging
CA Office of the State Long-Term Care Ombudsman
California Association of Long Term Care Medicine (CALTCM)
California Labor Federation, AFL-CIO
California Long-Term Care Ombudsman Association
California Nurses Association/National Nurses Organizing Committee
Center for Advocacy for the Rights and Interests of Elders (CARIE)
Central Iowa CWA Retiree's
Chicago Jewish Labor Committee
Chicago Votes
Chicago Women Take Action
Citizen Action of Wisconsin
City of Evanston Health and Human Services
City of Poquoson
Colorado Alliance for Retired Americans
Colorado State Long-Term Care Ombudsman Program
Community Legal Aid, Society, Inc.
Connecticut AFL-CIO
Dar al-Hijrah Islamic Center
DC Nurses Association
Delaware AFL-CIO Council
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SWPA CLUW
Tennessee Office of the State LTC
Ombudsman
Texas Caregivers for Compromise
The Chicago Chapter National Black Nurses Association
The Hale Group, an Iowa-based Advocacy Firm
The Office of the State Long-Term Care Ombudsman, Mississippi
The Senior Source
TN AFL CIO
United Action for Idaho
United Food & Commercial Workers International Union (UFCW)
United Vision for Idaho
Virginia AFL-CIO
Virginia Organizing VOYCE
Washington LTC Ombudsman Program
Washington State Alliance for Retired Americans
Washington State Regional Long Term Care Ombudsman Program
West Virginia Center on Budget and Policy
WI Board on Aging and Long Term Care
Wisconsin Alliance for Retired Americans
Wisconsin State AFL-CIO
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Wyoming Long-Term Care Ombudsman Program