

October 9, 2013

The Honorable Dave Camp, Chairman
Ways & Means Committee
1102 Longworth House Office Building
Washington, DC 20515

The Honorable Sander Levin, Ranking Member
Ways & Means Committee
1106 Longworth House Office Building
Washington, DC 20515

Dear Chairman Camp and Ranking Member Levin:

As you are aware, during the development of the Medicare Patient Access and Quality Improvement Act of 2013 (H.R. 2810), a bipartisan provision was included to ensure that federal healthcare guidelines would not be misused in legal matters stemming from questions about medical liability. We, the undersigned organizations, ask that you keep this important provision in the bill as you go forward with committee action on H.R. 2810.

In recent years quality standards have come to play an increasing role in determining healthcare providers' payments, as you well know. H.R. 2810 continues this trend by expanding the implementation of quality measurements into the system which will replace the Sustainable Growth Rate (SGR) formula. We share your commitment to optimizing patient outcomes and look forward to a new payment system which helps achieve that goal.

The rule of construction provided in Section 5(c) of H.R. 2810 ensures that federal quality measurements will not be confused with questions about medical negligence. It does this by simply clarifying that federal healthcare guidelines or regulations which were not specifically designed to establish a standard of care should not be interpreted as creating a standard of care. This provision neither changes current medical liability laws, nor alters, in any fashion, the way courts currently determine if an act of medical negligence occurred. It merely ensures that provisions of federal healthcare law are used only as intended – not to either generate new lawsuits or protect providers from claims of negligence.

Standards of care and quality measurements are very different issues. The rule of construction in Section 5(c) appropriately demonstrates Congressional intent to help provide the highest quality healthcare possible without altering our legal standards.

We urge you to keep this important provision in the SGR reform bill going forward, and thank you for your consideration of our request.

Sincerely,

American Academy of Dermatology Association
American Academy of Otolaryngology—Head and Neck Surgery
American Association of Neurological Surgeons
American Association of Orthopaedic Surgeons
American Osteopathic Academy of Orthopedics
American Congress of Obstetricians and Gynecologists
American Society of Plastic Surgeons
American Tort Reform Association
Congress of Neurological Surgeons
Cooperative of American Physicians

Federation of American Hospitals
National Association of Health Underwriters
NORCAL Mutual Insurance Company
MAG Mutual Insurance Company
Medical Liability Mutual Insurance Company
Physicians Insurance A Mutual company
PIAA
ProAssurance Corporation
Texas Alliance for Patient Access
Texas Medical Liability Trust
Texas Osteopathic Medical Association
The Doctors Company

cc: All Committee Members