

June 10, 2013

The Honorable Fred Upton, Chairman
Energy & Commerce Committee
2125 Rayburn House Office Building
Washington, DC 20515

The Honorable Henry Waxman, Ranking Member
Energy & Commerce Committee
2125 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Upton and Ranking Member Waxman:

Please incorporate the text of H.R. 1473, the Standard of Care Protection Act, into draft legislation designed to replace the Medicare Sustainable Growth Rate (SGR) system with a more equitable and stable payment system.

In recent years, quality standards have come to play an increasing role in determining healthcare providers' payments. Based on information provided by the Committee, it is clear that you intend to expand the implementation of quality measurement into any system which eventually replaces the SGR. We share your commitment to optimizing patient outcomes and look forward to a new payment system which helps achieve that goal.

Our lingering concern is this: issues of healthcare quality are sometimes confused with questions about medical negligence. Absent clarifying language in the SGR package, there is strong likelihood that these issues would be further muddled, potentially negatively affecting the acceptance of any new quality standards by the healthcare community.

H.R. 1473 clarifies this issue by simply creating a rule of construction 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. The bill 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. Inserting the text of H.R. 1473 into any SGR replacement legislation would demonstrate Congressional intent to help provide the highest quality healthcare possible without altering our legal standards.

Thank you for giving our request your full consideration.

Sincerely,

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

Cooperative of American Physicians
NORCAL Mutual Insurance Company
MAG Mutual Insurance Company
Medical Liability Mutual Insurance Company
Physicians Insurance A Mutual company
PIAA
Texas Alliance for Patient Access
Texas Medical Liability Trust
The Doctors Company