



May 20, 2020

The Honorable Nancy Pelosi
Speaker of the House
U.S. House of Representatives
Washington, DC 20515

The Honorable Chuck Schumer
Democratic Leader
U.S. Senate
Washington, DC 20510

Dear Speaker Pelosi and Leader Schumer:

We, the undersigned organizations write on behalf of the millions of men and women and the facilities on the frontlines of the national fight against COVID-19. Together, we represent more than 12 million Americans and their front line caretakers across 65,000 long-term care facilities, including doctors, medical directors, nurses, home health, hospice and palliative care organizations, skilled nursing facilities, long term care facilities, nursing homes, assisted living communities (including dementia and Alzheimer’s care), continuing care retirement communities, and independent senior living communities.

We are writing to respectfully request that Congress act to provide our members with reasonable liability protections during this health crisis by expanding the protections in section 3215 of the CARES Act to all health care professionals and front-line facilities.

As is well known, health care professionals and related staff, and the facilities in which they operate, are severely hamstrung as they fight to protect our nation against the novel coronavirus. The pandemic has highlighted our country’s shortage of personal protective equipment (PPE), lifesaving equipment, intensive care hospital beds, and health care professionals. The impact of these shortages, especially with respect to PPE, is exacerbated by uncertainty surrounding how the virus is transmitted and treatment protocols, and limitations in availability of testing. Federal and State actions early in the COVID-19 crisis, which, while well-intentioned further increased risks to facilities and providers, and those for which they care. While extraordinary steps are being taken to address the pandemic by government and private actors, including your successful efforts to enact meaningful emergency legislation, significant challenges remain. Despite these challenges, we witness daily acts of heroism as our front-line health care professionals and other key staff, without hesitation, answer the call to protect and save.

Given the unprecedented nature of the current crisis, numerous States have acted to ensure that as providers and facilities work to protect our nation’s seniors, reasonable liability protections are in place. These protections reflect the extraordinary circumstances in which all care is being provided. However, this is a national crisis, and a patchwork of State solutions (or sometimes none at all) results in inconsistency and confusion, in turn deterring additional help and creating a snowball effect of increasing financial and human costs. Congress should act to provide consistency in this area.

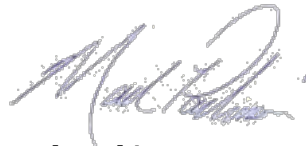
Congress already took a step in this direction--section 3215 of the federal CARES Act provided limited liability protections for volunteer health professionals for health care services performed during the pandemic. That same reasonable, limited liability should be extended to all our front-line health care professionals and health care institutions, including skilled home health, hospice and palliative care organizations, nursing facilities, long term care facilities, nursing homes, and assisted living communities (including dementia and Alzheimer's care). Reasonable protections are warranted given that the virus is highly contagious and can be transmitted by asymptomatic carriers, factors which, when combined with the lack of PPE and testing and changing guidance, have created an unprecedented situation. Such reasonable liability protections would be limited to actions taken in good faith, and not apply to actions involving gross negligence and willful or criminal misconduct, or that evidence conscious, flagrant indifference to the rights or safety of an individual. Additionally, liability protections should be time-limited to the duration of this public health emergency.

We ask that you join us in supporting our critical health care workers and infrastructure. Our health care workers will remain at the center of this crisis for the foreseeable future, and are the lynchpin of our ability to get Americans back to work. Given their service and critical role, they deserve reasonable liability protection during this uniquely challenging and unprecedented time.

Respectfully signed,



Calvin Groeneweg
President
American Assisted Living Nurses
Association (AALNA)



Mark Parkinson
President & CEO
American Health Care
Association/National Center for
Assisted Living (AHCA/NCAL)



David Schless
President
American Senior Housing Association
(ASHA)



James Balda
President & CEO
Argentum



Katie Smith Sloan
President and CEO
LeadingAge
Acting President and CEO
Visiting Nurses Association of America (VNA) /
ElevatingHOME



Christopher E. Laxton, CAE
Executive Director
The Society for Post-Acute and
Long-Term Care Medicine



William A. Dombi, Esq.
President
National Association for
Hospice and Home Care
(NAHC)



Bill McGinley
President and CEO
American College of Health Care
Administrators (ACHCA)



Theresa Soriano, MD MPH
President
American Academy of Home Care
Medicine (AAHCM)



Tom Koutsoumpas
President and CEO
National Partnership for
Hospice Innovation (NPHI)