

March 15, 2022

The Honorable Nancy Pelosi
Speaker
United States House of Representatives
Washington, DC 20515

The Honorable Kevin McCarthy
Minority Leader
United States House of Representatives
Washington, DC 20515

Dear Speaker Pelosi and Minority Leader McCarthy,

The undersigned organizations write to urge the House of Representatives to pass Forced Arbitration Injustice Repeal (FAIR) Act, H.R. 963, legislation which would make forced arbitration agreements between consumers and corporations illegal. **As groups that represent long-term care consumers and their families, we especially appreciate that this bill would prohibit providers of these services from enforcing pre-dispute arbitration agreements in situations where consumers have been harmed.** Over 200,000 residents and staff of long-term care facilities died from COVID-19, while others suffered from isolation and neglect. We must increase protections for nursing home residents and accountability for nursing homes by passing the FAIR Act.

When abuse or neglect causes serious injuries or even death, forced arbitration clauses deprive consumers and their families of their right to seek justice in court before an impartial judge or jury. Forced arbitration clauses are usually hidden in the fine print of “take-it-or-leave-it” agreements, such as nursing home admission forms. They require disputes to be resolved through private arbitration providers, rather than in court. Information in arbitration proceedings against long-term care providers is usually confidential, which allows unsafe providers to prolong misconduct and suppress information about dangerous conditions and practices. The proceedings are final, with few rights to appeal. For these and other reasons, nursing homes and other long-term care providers, such as assisted living communities, should be prohibited from imposing them on the very individuals who depend on these caregivers for their survival.

Admission into a nursing facility is a difficult and confusing time for residents and their families, who are often under extreme pressure to find nursing facility placement for a loved one. Often, they are no longer able to care for their loved ones and have nowhere else to turn. Consumers seeking access to an assisted living residence or services at home or in the community are generally also in a stressful position to find care and services quickly. When a person is seeking care for themselves or a loved one, they should be able to focus on the quality of care and range of services available, not on whether their legal rights will still exist in the event of future abuse or neglect.

The FAIR Act will rightfully protect nursing home residents and other individuals receiving long-term services and supports from being forced into arbitration that may have a substantial adverse impact on their rights. We urge the House of Representative to pass this extremely important bill.

Sincerely,

California Advocates for Nursing Home Reform
Center for Independence of the Disabled, NY
Center for Medicare Advocacy
Community Legal Services of Philadelphia
Justice in Aging
Law Firm of D.F. Truhowsky
Long Term Care Community Coalition
Levin & Perconti
NALLTCO - Nat'l Assoc. of Local Long Term Care Ombudsman
National Association of Social Workers (NASW)
National Association of State Long Term Care Ombudsman Programs
National Consumer Voice for Quality Long-Term Care
New York Association on Independent Living
Public Citizen

Cc: Members of the House of Representatives