

# Fight the Repeal of the Revised Nursing Home Regulations!

## What is the Congressional Review Act?

The Congressional Review Act (CRA)<sup>1</sup> is a law passed in 1996 that allows Congress to repeal or prevent a regulation issued by a federal agency from taking effect. The CRA states that all regulations passed in the last 60 legislative days under the previous administration are subject to repeal. This means any regulations that were issued since June 13, 2016 can be repealed through the CRA.

Congress has 60 legislative days starting January 24, 2017 in the United States Senate and January 31, 2017 in the United States House of Representatives to use the CRA to repeal the regulation. The resolution to repeal must pass in both the Senate and the House and be signed by the President of the new administration. Even if the new President vetoes the resolution, the repeal can also be successful if the resolution passes with 2/3 of the votes in both the Senate and the House.

Once a regulation or final rule is repealed through the CRA, the agency cannot regulate anything “substantially similar” again. The CRA has only been used effectively once in history to repeal a final rule. It was used on an OSHA ergonomics rule, more than 15 years ago, during President Bush’s administration. Since the repeal of that ergonomics rule, OSHA has not issued a new ergonomic standard.

\*Regulations that were issued in the last 60 days are colloquially known as “midnight regulations” or “midnight rules.”

## How can the Congressional Review Act be used to repeal the revised federal nursing home regulations?

The revised federal nursing home regulations<sup>2</sup> were issued by the Centers for Medicare & Medicaid Services (CMS), a federal agency. They have a published date of October 4, 2016, which falls into the last 60 legislative days of President Obama’s administration. Therefore, Congress can repeal them using the CRA.

## What would it mean for consumers if the revised federal nursing home regulations were repealed?

The revised federal nursing home regulations establish important consumer protections that were not included in the previous regulations. These protections include:

- Comprehensive care. Treatment and services expanded to include pain management, dialysis, and behavioral health services.
- Improved staff training. All staff, contractual employees, and volunteers must be trained in areas such as caring for people with dementia, communication, and resident rights.

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<sup>1</sup> See <https://www.law.cornell.edu/uscode/text/5/801> to view the text of the Congressional Review Act.

<sup>2</sup> See <https://www.gpo.gov/fdsys/pkg/FR-2016-10-04/pdf/2016-23503.pdf> to view the text of the revised federal nursing home regulations.

- Safeguards against abuse, neglect, and exploitation. A nursing home cannot employ a licensed individual with a disciplinary action, must report suspicions of a crime to law enforcement, and must train all staff on abuse prevention.
- Increased visitation rights. A resident can accept visitors at any time of day.
- Elimination of care plan gap. Nursing homes must develop an initial care plan within 48 hours; previously residents could be without a care plan for up to 21 days.
- Protection against “dumping” residents in hospitals. If a nursing home refuses to allow a resident to return from a hospital stay, the resident now has an immediate appeal right.
- Prohibiting forced arbitration. Nursing homes cannot force residents into private arbitration for claims of abuse, neglect, or other instances of substandard care.

If the revised nursing home regulations are repealed, these important consumer protections would be lost. To read more about why the revised nursing home regulations are vital for consumers, view our resource [here](#). To view more information about the revised nursing home rule, visit [here](#).

## What can you do to say NO to the repeal of the revised federal nursing home regulations?



The Consumer Voice will be tweeting about the CRA and the dangers of utilizing it to repeal the revised federal nursing home regulations. *We are counting on all of you to take part in this Congressional Review Act Twitter Storm and say NO to the repeal of the revised federal nursing home regulations.*

[Tweet](#) as much as you can on **January 30, 2017 from 3-4 PM ET**. Continue tweeting afterwards until February 11, 2017. For tweets to be effective, we recommend that you tweet at least once a day. You can also tweet specifically at your members of Congress. You can find your members of Congress [here](#). You can find their twitter handles on their corresponding webpages or on this [verified list](#) from Twitter.

## Here are some sample tweets to get you started!

The 50 major #RulesAtRisk of repeal under the #CRA incl. the revised federal nursing home regs, which provide

Repealing public protections like the revised federal nursing home regulations under the #CRA will put all long-term care consumers at risk.

The #CRA's "substantially similar" clause means that we will lose important nursing home resident protections forever from the new regs.

Public protections finalized after June 13, 2016 are at risk of repeal under the #CRA.

Striking down nursing home #regulations will decrease quality of care standards established in nursing homes.

# Sample tweets continued...



We stand to lose person-centered care planning if the nursing home #regulations are repealed under the #CRA.

Nursing home residents need the increased safeguards against abuse, neglect and exploitation in the revised nursing home #regulations.

Repealing the revised nursing home #regulations through the #CRA will strip consumers of getting the quality care they deserve.

Revised nursing home #regulations ensure residents receive a care plan within 2 days. If repealed through #CRA, residents can up to 21 days.

Revised nursing home #regulations give residents more rights to visit their friends and families. Do not repeal the regs through #CRA.

Nursing home residents deserve better trained staff requirements set out in revised nursing home #regulations. Do not repeal through #CRA.

#ConsumerVoice stands by the revised nursing home #regulations. Important protections will be lost if repealed through #CRA.

Protect nursing home residents' rights to care that is improved in revised nursing home #regulations. The #CRA will take away quality care.

I stand with #ConsumerVoice and defend the revised nursing home #regulations. Do not repeal these important regulations by using the #CRA.

When a regulation is repealed under the #CRA, there is no going back.

Protect quality nursing home care and stand up against the repeal of the revised NH regulations. #CRA

The 1.3 million seniors living in nursing homes today need the revised regulations. Do not repeal #CRA!