

Date

Representative/Senator _____
City, State, Zip

**RE: Support for American Academy of Sleep Medicine's (AASM)
Proposal to Establish a Safe Harbor for a Board Certified Sleep
Medicine Physician (BCSMP)**

Dear _____:

As a sleep specialist and as a member of the American Academy of Sleep Medicine (AASM), an organization consisting over 10,000 physicians, researchers and health care professionals and 2,500 accredited sleep centers, I am writing to respectfully ask for your support to create a 'Safe Harbor' for a Board Certified Sleep Medicine Physician (BCSMP).

On January 19, 2012, the Office of Inspector General (OIG) received a proposal (attached) from the AASM recommending the development of a Safe Harbor for a BCSMP. The proposal would allow a BCSMP to perform and interpret a sleep test, provide diagnosis, and distribute the appropriate durable medical equipment (DME) (e.g., CPAP, APAP equipment) to Medicare patients for use in the treatment of obstructive sleep apnea (OSA). To date, the AASM has not received a response from the OIG.

As your constituent, I ask that you support AASM's proposal by contacting Mr. Daniel R. Levinson, Inspector General, Office of Inspector General, to request that the OIG establish a Safe Harbor for the BCSMP. I have attached a template letter that you may use to indicate your support for the proposal to Mr. Levinson.

Supporting the AASM proposal demonstrates that you advocate for a new and efficient model of patient management that will: increase access to care; improve adherence to PAP therapy; provide services to medically underserved areas; and realize significant cost savings for CMS. The proposal also contains safeguards which will make it easier to detect fraud and abuse.

The AASM proposal was in response to the OIG's *Solicitation of New Safe Harbors and Special Fraud Alerts (Federal Register/Vol. 76, No. 250/, December 29, 2011)* which solicited for proposals to develop new or modifying existing Safe Harbor provisions under the Physicians Self-Referral Law ('Stark'). The Safe Harbor provision specifies that although there are various payment and business practices which could potentially violate the self-referral statute, such practices would not be treated as criminal offenses.

The current Medicare practice model for OSA is fragmented. Current Federal law prevents a sleep physician from providing a sleep test and dispensing the therapeutic DME. In addition, now that the Supreme Court has upheld the Affordable Care Act (ACA), it is estimated that 32 million uninsured Americans will enter into the health care system.

Because of the influx of new patients and the fragmentation of care for OSA patients, the current Medicare policy for sleep health care is untenable. DME companies will be unable to manage the entry of new patients mandated into the health care system. For these reasons, it is essential that a Safe Harbor is established for sleep physicians.

As I mentioned earlier, the positive outcomes that the AASM proposal offers include:

- **Increase in Access to Health Care:** Access will increase for patients with OSA because physician services, equipment and supplies that are medically necessary to diagnose and treat OSA will be coordinated from one entity – the BCSMP and his/her staff.
- **Improved Quality of Health Care Services and Adherence:** Quality of care will increase dramatically as will the patient's adherence with treatment since there will be no hand-off to other providers and all care, including testing, treatment and long-term follow-up will be directed and managed by the BCSMP.
- **Reduced Cost to the Federal Health Care Programs:** The cost to the Federal health care program will decrease dramatically because only medically necessary services, supplies and equipment will be prescribed and delivered to the patient.
- **Provision of Services in Medically Underserved Areas or to Medically Underserved Populations:** The concept of the BSCMP managing patient care can be replicated in underserved areas and made available to medically underserved populations.

As described in the proposal, the AASM has educated its membership about the prevention of fraud and abuse. Recent AASM courses and member resources have included topics related to improved medical record documentation, correct coding and development of a compliance plan. Current Medicare rates of fraud and abuse in DME are very high; CPAP and related supplies as distributed by DME suppliers are no exception. The AASM has indicated that if a Safe Harbor is granted for BCSMPs, their education efforts related to compliance plan development will expand to potential fraud and abuse concerns and make fraud and abuse easier to detect.

Thank you for allowing me the opportunity to submit my support for the AASM proposal. I sincerely appreciate your consideration.

Sincerely,

Your name