



(Original Signature of Member)

117TH CONGRESS  
1ST SESSION

**H. R.** \_\_\_\_\_

To improve care furnished and to support the workforce in skilled nursing facilities under the Medicare program and in nursing facilities under the Medicaid program, and for other purposes.

---

IN THE HOUSE OF REPRESENTATIVES

Mr. NEAL (for himself and Mr. PALLONE) introduced the following bill; which was referred to the Committee on \_\_\_\_\_

---

**A BILL**

To improve care furnished and to support the workforce in skilled nursing facilities under the Medicare program and in nursing facilities under the Medicaid program, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Nursing Home Im-  
5 provement and Accountability Act of 2021”.

1     **TITLE I—TRANSPARENCY AND**  
2                   **ACCOUNTABILITY**

3     **SEC. 101. IMPROVING THE ACCURACY AND RELIABILITY OF**  
4                   **CERTAIN SKILLED NURSING FACILITY DATA.**

5           (a) REDUCTION IN PAYMENTS FOR INACCURATE RE-  
6     PORTING.—Section 1888(e)(6)(A) of the Social Security  
7     Act (42 U.S.C. 1395yy(e)(6)(A)) is amended—

8           (1) in the header, by striking “FOR FAILURE TO  
9     REPORT”; and

10          (2) in clause (i)—

11           (A) by striking “For fiscal years” and in-  
12     serting the following:

13                   “(I) FAILURE TO REPORT.—For  
14                   fiscal years”; and

15           (B) by adding at the end the following new  
16     subclause:

17                           “(II) REPORTING OF INAC-  
18                           CURATE INFORMATION.—For fiscal  
19                           years beginning with fiscal year 2025,  
20                           in the case of a skilled nursing facility  
21                           that submits data under this para-  
22                           graph, measures under subsection (h),  
23                           or resident assessment data described  
24                           in section 1819(b)(3) with respect to  
25                           such fiscal year that is inaccurate (as

1                   determined by the Secretary through  
2                   the validation process described in  
3                   section 1888(h)(12) or otherwise),  
4                   after determining the percentage de-  
5                   scribed in paragraph (5)(B)(i), and  
6                   after application of clauses (ii) and  
7                   (iii) of paragraph (5)(B) and of sub-  
8                   clause (I) if this clause (if applicable),  
9                   the Secretary shall reduce such per-  
10                  centage for payment rates during such  
11                  fiscal year by 2 percentage points.”.

12               (b) DATA AND MEASURES VALIDATION.—Section  
13 1888(h)(12) of the Social Security Act (42 U.S.C.  
14 1395yy(h)(12)) is amended—

15               (1) in subparagraph (A), by striking “and the  
16               data submitted under subsection (e)(6)” and insert-  
17               ing “, the data submitted under subsection (e)(6),  
18               and, beginning with fiscal year 2024, the resident  
19               assessment data described in section 1819(b)(3)”.

20               (2) in subparagraph (B), by striking “of  
21               \$5,000,000” and all that follows through the period  
22               at the end and inserting the following: “of—

23                       “(i) \$5,000,000 for each of fiscal  
24                       years 2023 through 2025; and

1                   “(ii) \$50,000,000 for the period of fis-  
2                   cal years 2026 through 2035;  
3                   to the Centers for Medicare & Medicaid Serv-  
4                   ices Program Management Account, to remain  
5                   available until expended.”.

6           (c) PROVIDING AUTHORITY TO COLLECT DATA ON  
7   ADDITIONAL MEASURES.—Section 1888(e)(6)(B)(i)(II) of  
8   the Social Security Act (42 U.S.C. 1395yy(e)(6)(B)(i)(II))  
9   is amended by inserting “, and data on any other validated  
10   measure specified by the Secretary” after “under such  
11   subsection (d)(1)”.

12   **SEC. 102. ENSURING ACCURATE INFORMATION ON COST**  
13                   **REPORTS.**

14           Section 1888(f) of the Social Security Act (42 U.S.C.  
15   1395yy(f)) is amended by adding at the end the following  
16   new paragraphs:

17                   “(5) AUDIT OF COST REPORTS.—

18                   “(A) IN GENERAL.—Beginning in 2022,  
19                   and annually thereafter, the Secretary shall  
20                   conduct an audit of cost reports submitted  
21                   under this title for a representative sample of  
22                   skilled nursing facilities.

23                   “(B) FUNDING.—The Secretary shall pro-  
24                   vide for the transfer, from the Federal Hospital  
25                   Insurance Trust Fund under section 1817 to

1 the Centers for Medicare & Medicaid Services  
2 Program Management Account, of  
3 \$250,000,000 for fiscal year 2023 for purposes  
4 of carrying out this paragraph. Amounts trans-  
5 ferred pursuant to the previous sentence shall  
6 remain available until expended.

7 “(6) REVIEW OF RELATIONSHIP BETWEEN  
8 COST REPORT DATA AND QUALITY.—

9 “(A) IN GENERAL.—Not later than 2 years  
10 after the Secretary completes the first audit de-  
11 scribed in paragraph (5), and not less fre-  
12 quently than once every 2 years thereafter, the  
13 Inspector General of the Department of Health  
14 and Human Services shall conduct an analysis  
15 of, and submit to Congress a report on, the re-  
16 lationship between skilled nursing facility ex-  
17 penditures for functional accounts described in  
18 paragraph (3) and skilled nursing facility qual-  
19 ity (as specified by the Inspector General).

20 “(B) FUNDING.—The Secretary shall pro-  
21 vide for the transfer, from the Federal Hospital  
22 Insurance Trust Fund under section 1817 to  
23 the Inspector General of the Department of  
24 Health and Human Services \$25,000,000 for  
25 fiscal year 2023 for purposes of carrying out

1           this paragraph. Amounts transferred pursuant  
2           to the previous sentence shall remain available  
3           until expended”.

4 **SEC. 103. REQUIRING A SURETY BOND FOR SKILLED NURS-**  
5 **ING FACILITIES.**

6           (a) **MEDICARE.**—Section 1819(a) of the Social Secu-  
7 rity Act (42 U.S.C. 1395i–3(a)) is amended—

8           (1) in paragraph (2), by striking “and” at the  
9           end;

10           (2) in paragraph (3), by striking the period and  
11           inserting “; and”; and

12           (3) by adding at the end the following new  
13           paragraph:

14           “(4) provides the Secretary with a surety bond  
15           in a form specified by the Secretary and in an  
16           amount that is not less than the minimum of  
17           \$500,000, unless the Secretary waives the provision  
18           of such surety bond due to such facility providing a  
19           comparable surety bond under State law.”.

20           (b) **MEDICAID.**—Section 1919(a) of the Social Secu-  
21 rity Act (42 U.S.C. 1396r(a)) is amended

22           (1) in paragraph (2), by striking “and” at the  
23           end;

24           (2) in paragraph (3), by striking the period and  
25           inserting “; and”; and

1           (3) by inserting after paragraph (3) the fol-  
2           lowing new paragraph:

3           “(4) provides the Secretary with a surety bond  
4           in a form specified by the Secretary and in an  
5           amount that is not less than the minimum of  
6           \$500,000, unless the Secretary waives the provision  
7           of such surety bond due to such facility providing a  
8           comparable surety bond under State law.”.

9   **SEC. 104. SURVEY IMPROVEMENTS.**

10          (a) IN GENERAL.—Section 1128I of the Social Secu-  
11       rity Act (42 U.S.C. 1320a–7j) is amended—

12               (1) in the section heading, by striking “**AC-**  
13               **COUNTABILITY REQUIREMENTS FOR**” and in-  
14               serting “**ADDITIONAL REQUIREMENTS WITH RE-**  
15               **SPECT TO**”; and

16               (2) by adding at the end the following new sub-  
17       section:

18       “(i) SURVEY IMPROVEMENTS.—

19               “(1) REVIEW.—The Secretary shall review  
20               (and, as appropriate, identify plans to improve) the  
21               following:

22                       “(A) The extent to which surveys con-  
23                       ducted under subsection (g) of sections 1819  
24                       and 1919 and the enforcement process under  
25                       subsection (h) of sections 1819 and 1919 result

1 in increased compliance with requirements  
2 under sections 1819 and 1919 and subpart B  
3 of part 483 of title 42, Code of Federal Regula-  
4 tions, with respect to facilities.

5 “(B) The timeliness and thoroughness of  
6 State agency verification of deficiency correc-  
7 tions at facilities.

8 “(C) The appropriateness of the scoping  
9 and substantiation of cited deficiencies at facili-  
10 ties.

11 “(D) The accuracy of the identification  
12 and appropriateness of the scoping of life safe-  
13 ty, infection control, and emergency prepared-  
14 ness deficiencies at facilities.

15 “(E) The timeliness of State agency inves-  
16 tigations of—

17 “(i) complaints at facilities; and

18 “(ii) reported allegations of abuse, ne-  
19 glect, and exploitation at facilities.

20 “(F) The consistency of facility reporting  
21 of substantiated complaints to law enforcement.

22 “(G) The ability of the State agency to  
23 sufficiently hire, train, and retain individuals  
24 who conduct surveys.



1           “(H) Any other area related to surveys of  
2 facilities, or the individuals conducting such  
3 surveys, determined appropriate by the Sec-  
4 retary.

5           “(2) REPORT.—Not later than 3 years after the  
6 date of enactment of this subsection, the Secretary  
7 shall submit to Congress a report on the review con-  
8 ducted under paragraph (1), together with rec-  
9 ommendations for such legislation and administra-  
10 tive action as the Secretary determines to be appro-  
11 priate.

12           “(3) SUPPORT.—If determined appropriate by  
13 the Secretary, based on the review under paragraph  
14 (1), the Secretary shall provide training, tools, tech-  
15 nical assistance, and financial support to State agen-  
16 cies that perform surveys of facilities for the purpose  
17 of improving the surveys conducted under subsection  
18 (g) and the enforcement process under subsection  
19 (h) with respect to the areas reviewed under para-  
20 graph (1).

21           “(4) FUNDING.—There is appropriated to the  
22 Secretary, out of any monies in the Treasury not  
23 otherwise appropriated, \$570,000,000, to remain  
24 available until expended, for purposes of carrying  
25 out this subsection.”.

1 **SEC. 105. PROHIBITING PRE-DISPUTE ARBITRATION**  
2 **AGREEMENTS.**

3 (a) **MEDICARE.**—Section 1819(c) of the Social Secu-  
4 rity Act (42 U.S.C. 1395i–3(c)) is amended by adding at  
5 the end the following new paragraph:

6 “(7) **PROHIBITION ON USE OF PRE-DISPUTE**  
7 **ARBITRATION AGREEMENTS.**—

8 “(A) **IN GENERAL.**—A skilled nursing fa-  
9 cility may not enter into a pre-dispute arbitra-  
10 tion agreement with an individual applying to  
11 reside or residing in the facility (or a legal rep-  
12 resentative of such resident), and may not enter  
13 into an agreement for services with an entity or  
14 individual that enters into a pre-dispute arbitra-  
15 tion agreement with an individual applying to  
16 reside or residing in the facility (or a legal rep-  
17 resentative of such resident).

18 “(B) **NO VALIDITY OR ENFORCEMENT.**—A  
19 skilled nursing facility shall not enforce a pre-  
20 dispute arbitration agreement against a resi-  
21 dent or former resident of a skilled nursing fa-  
22 cility (or a legal representative of such resi-  
23 dent), without regard to whether the agreement  
24 was made prior to or after the effective date of  
25 this paragraph.

1           “(C) DEFINITION OF PRE-DISPUTE ARBI-  
2           TRATION AGREEMENT.—In this paragraph, the  
3           term ‘pre-dispute arbitration agreement’ means  
4           any agreement to arbitrate a potential dispute  
5           that, as of the date on which such agreement  
6           is entered into, has not yet arisen.

7           “(D) JUDICIAL REVIEW.—A determination  
8           as to whether and how this paragraph applies  
9           to a pre-dispute arbitration agreement shall be  
10          determined under Federal law by a court of  
11          competent jurisdiction, rather than an arbi-  
12          trator, without regard to whether the party op-  
13          posing arbitration challenges such agreement  
14          specifically or in conjunction with any other  
15          term of the contract containing such agree-  
16          ment.”.

17          (b) MEDICAID.—

18                 (1) HOME AND COMMUNITY-BASED SERVICES  
19                 AND HOME HEALTH CARE SERVICES.—Section 1915  
20                 of the Social Security Act (42 U.S.C. 1396n) is  
21                 amended by adding at the end the following new  
22                 subsection:

23                 “(1) PROHIBITING PRE-DISPUTE ARBITRATION  
24                 AGREEMENTS.—

1           “(1) IN GENERAL.—For home and community-  
2           based services or home health care services provided  
3           under a waiver under this section, section  
4           1902(a)(10)(D), or any other provision authorizing  
5           the provision of home and community-based services  
6           or home health care services under this title, the  
7           provider of such services (and any employee, agent,  
8           related entity, or affiliate of such provider) may not  
9           enter into a pre-dispute arbitration agreement with  
10          an individual receiving such services (or a legal rep-  
11          resentative of such individual). A provider of such  
12          services (and any employee, agent, related entity, or  
13          affiliate of such provider) shall not enforce a pre-dis-  
14          pute arbitration agreement against an individual re-  
15          ceiving such services, or who formerly received such  
16          services (or a legal representative of such indi-  
17          vidual), without regard to whether such agreement  
18          was made prior to the effective date of this sub-  
19          section.

20           “(2) DEFINITION OF PRE-DISPUTE ARBITRA-  
21          TION AGREEMENT.—In this subsection, the term  
22          ‘pre-dispute arbitration agreement’ means any  
23          agreement to arbitrate a potential dispute that, as of  
24          the date on which such agreement is entered into,  
25          has not yet arisen.

1           “(3) JUDICIAL REVIEW.—A determination as to  
2           whether and how this subsection applies to a pre-dis-  
3           pute arbitration agreement shall be determined  
4           under Federal law by a court of competent jurisdic-  
5           tion, rather than an arbitrator, without regard to  
6           whether the party opposing arbitration challenges  
7           such agreement specifically or in conjunction with  
8           any other term of the contract containing such  
9           agreement.”.

10           (2) NURSING FACILITIES.—Section 1919(c) of  
11           the Social Security Act (42 U.S.C. 1396r(c)) is  
12           amended by adding at the end the following new  
13           paragraph:

14           “(9) PROHIBITION ON USE OF PRE-DISPUTE  
15           ARBITRATION AGREEMENTS.—

16           “(A) IN GENERAL.—A nursing facility may  
17           not enter into a pre-dispute arbitration agree-  
18           ment with an individual applying to reside or  
19           residing in the facility (or a legal representative  
20           of such resident), and may not enter into an  
21           agreement for services with an entity or indi-  
22           vidual that enters into a pre-dispute arbitration  
23           agreement with an individual applying to reside  
24           or residing in the facility (or a legal representa-  
25           tive of such resident).

1           “(B) NO VALIDITY OR ENFORCEMENT.—A  
2 nursing facility shall not enforce a pre-dispute  
3 arbitration agreement against a resident or  
4 former resident of a nursing facility (or a legal  
5 representative of such resident), without regard  
6 to whether the agreement was made prior to or  
7 after the effective date of this paragraph.

8           “(C) DEFINITION OF PRE-DISPUTE ARBI-  
9 TRATION AGREEMENT.—In this paragraph, the  
10 term ‘pre-dispute arbitration agreement’ means  
11 any agreement to arbitrate a potential dispute  
12 that, as of the date on which such agreement  
13 is entered into, has not yet arisen.

14           “(D) JUDICIAL REVIEW.—A determination  
15 as to whether and how this paragraph applies  
16 to a pre-dispute arbitration agreement shall be  
17 determined under Federal law by a court of  
18 competent jurisdiction, rather than an arbi-  
19 trator, without regard to whether the party op-  
20 posing arbitration challenges such agreement  
21 specifically or in conjunction with any other  
22 term of the contract containing such agree-  
23 ment.”.

1 **SEC. 106. IMPROVEMENTS TO THE SPECIAL FOCUS FACIL-**  
2 **ITY PROGRAM.**

3 (a) APPROPRIATE PARTICIPATION.—

4 (1) MEDICARE.—Section 1819(f)(8) of the So-  
5 cial Security Act (42 U.S.C. 1395i–3(f)(8)) is  
6 amended—

7 (A) in subparagraph (A), by striking “The  
8 Secretary” and inserting “Subject to the suc-  
9 ceeding provisions of this subsection, the Sec-  
10 retary”; and

11 (B) by adding at the end the following new  
12 subparagraph:

13 “(C) APPROPRIATE PARTICIPATION.—Not  
14 later than October 1, 2022, the Secretary shall  
15 ensure that the number of facilities partici-  
16 pating in the special focus facility program is  
17 not less than 5 percent of all skilled nursing fa-  
18 cilities.”.

19 (2) MEDICAID.—Section 1919(f)(10) of the So-  
20 cial Security Act (42 U.S.C. 1395r(f)(10)) is amend-  
21 ed—

22 (A) in subparagraph (A), by striking “The  
23 Secretary” and inserting “Subject to the suc-  
24 ceeding provisions of this subsection, the Sec-  
25 retary”; and

1 (B) by adding at the end the following new  
2 subparagraph:

3 “(C) APPROPRIATE PARTICIPATION.—Not  
4 later than October 1, 2022, the Secretary shall  
5 ensure that the number of facilities partici-  
6 pating in the special focus facility program is  
7 not less than 5 percent of all nursing facili-  
8 ties.”.

9 (b) COMPLIANCE ASSISTANCE PROGRAMS.—

10 (1) MEDICARE.—Section 1819(f)(8) of the So-  
11 cial Security Act (42 U.S.C. 1395i–3(f)(8)), as  
12 amended by subsection (a)(1), is amended by adding  
13 at the end the following new subparagraph:

14 “(D) COMPLIANCE ASSISTANCE PRO-  
15 GRAMS.—

16 “(i) ON-SITE CONSULTATION AND  
17 EDUCATIONAL PROGRAMMING.—

18 “(I) IN GENERAL.—The Sec-  
19 retary shall establish on-site consulta-  
20 tion and educational programming for  
21 skilled nursing facilities participating  
22 in the special focus facility program  
23 with respect to compliance with the  
24 applicable requirements under this  
25 Act.



1                   “(II) ENTITY.—The on-site con-  
2                   sultation and educational program-  
3                   ming described in subclause (I) shall  
4                   be carried out by quality improvement  
5                   organizations under part B of title XI  
6                   or other independent organizations of  
7                   a similar type that do not have con-  
8                   flicts of interest and are deemed ap-  
9                   propriate by the Secretary.

10                   “(III) REQUIRED PARTICIPA-  
11                   TION.—A skilled nursing facility par-  
12                   ticipating in the special focus facility  
13                   program shall participate in any con-  
14                   sultations and educational program-  
15                   ming described in subclause (I) con-  
16                   ducted at the facility.

17                   “(ii) CONSULTATION INDEPENDENT  
18                   OF ENFORCEMENT.—

19                   “(I) IN GENERAL.—Subject to  
20                   subclause (II), on-site consultations  
21                   and educational programming de-  
22                   scribed in clause (i) shall be con-  
23                   ducted independently of any enforce-  
24                   ment activity.

1                   “(II) EXCEPTION.—Subclause (I)  
2                   shall not apply in the case where a  
3                   triggering event at the skilled nursing  
4                   facility is observed in the course of  
5                   providing on-site consultations and  
6                   educational programming described in  
7                   clause (i). In establishing such on-site  
8                   consultations and educational pro-  
9                   gramming, the Secretary shall deter-  
10                  mine the triggering events for which  
11                  the use of necessary enforcement ac-  
12                  tions is permitted notwithstanding the  
13                  limitation under subclause (I). Such  
14                  triggering events shall include events  
15                  that are required to be reported under  
16                  State and Federal law and a pattern  
17                  of deficiencies or problems that the  
18                  quality improvement organization or  
19                  other organization has identified for  
20                  correction but which are consistently  
21                  not corrected.”.

22                  (2) MEDICAID.—Section 1919(f)(10) of the So-  
23                  cial Security Act (42 U.S.C. 1395r(f)(10)), as  
24                  amended by subsection (a)(2), is amended by adding  
25                  at the end the following new subsection:

1                   “(D) COMPLIANCE ASSISTANCE PRO-  
2 GRAMS.—

3                   “(i) ON-SITE CONSULTATION AND  
4 EDUCATIONAL PROGRAMMING.—

5                   “(I) IN GENERAL.—The Sec-  
6 retary shall establish on-site consulta-  
7 tion and educational programming for  
8 nursing facilities participating in the  
9 special focus facility program with re-  
10 spect to compliance with the applica-  
11 ble requirements under this Act.

12                   “(II) ENTITY.—The on-site con-  
13 sultation and educational program-  
14 ming described in subclause (I) shall  
15 be carried out by quality improvement  
16 organizations under part B of title XI  
17 or other independent organizations of  
18 a similar type that do not have con-  
19 flicts of interest and are deemed ap-  
20 propriate by the Secretary.

21                   “(III) REQUIRED PARTICIPA-  
22 TION.—A nursing facility partici-  
23 pating in the special focus facility pro-  
24 gram shall participate in any con-  
25 sultations and educational program-

1                   ming described in subclause (I) con-  
2                   ducted at the facility.

3                   “(ii) CONSULTATION INDEPENDENT  
4                   OF ENFORCEMENT.—

5                   “(I) IN GENERAL.—Subject to  
6                   subclause (II), on-site consultations  
7                   and educational programming de-  
8                   scribed in clause (i) shall be con-  
9                   ducted independently of any enforce-  
10                  ment activity.

11                  “(II) EXCEPTION.—Subclause (I)  
12                  shall not apply in the case where a  
13                  triggering event at the nursing facility  
14                  is observed in the course of providing  
15                  on-site consultations and educational  
16                  programming described in clause (i).  
17                  In establishing such on-site consulta-  
18                  tions and educational programming,  
19                  the Secretary shall determine the trig-  
20                  gering events for which the use of  
21                  necessary enforcement actions is per-  
22                  mitted notwithstanding the limitation  
23                  under subclause (I). Such triggering  
24                  events shall include events that are re-  
25                  quired to be reported under State and

1 Federal law and a pattern of defi-  
2 ciencies or problems that the quality  
3 improvement organization or other or-  
4 ganization has identified for correc-  
5 tion but which are consistently not  
6 corrected.”.

7 (c) FUNDING FOR THE SPECIAL FOCUS FACILITY  
8 PROGRAM, INCLUDING COMPLIANCE ASSISTANCE PRO-  
9 GRAMS.—Section 1819(f)(8) of the Social Security Act (42  
10 U.S.C. 1395i–3(f)(8)), as amended by subsections (a)(1)  
11 and (b)(1), is amended by adding at the end the following  
12 new subparagraph:

13 “(E) For purposes of carrying out this  
14 paragraph and section 1919(f)(10), there is ap-  
15 propriated to the Secretary, out of any monies  
16 in the Treasury not otherwise appropriated,  
17 \$14,800,000 for fiscal year 2022 and each sub-  
18 sequent fiscal year, to remain available until ex-  
19 pended.”.

20 **TITLE II—STAFFING**  
21 **IMPROVEMENTS**

22 **SEC. 201. NURSE STAFFING REQUIREMENTS.**

23 (a) IN GENERAL.—Title XI of the Social Security Act  
24 (42 U.S.C. 1301 et seq.) is amended by inserting after  
25 section 1128K the following new section:

1 **“SEC. 1128L. NURSE STAFFING REQUIREMENTS FOR FA-**  
2 **CILITIES.**

3 “(a) STUDY.—Not later than 3 years after the date  
4 of the enactment of this section, and not less frequently  
5 than once every 5 years thereafter, the Secretary shall  
6 conduct a study and submit to Congress a report on the  
7 appropriateness of establishing minimum staff to resident  
8 ratios for nursing staff for skilled nursing facilities (as de-  
9 fined in section 1819(a)) and nursing facilities (as defined  
10 in section 1919(a)). Each such report shall include—

11 “(1) with respect to the first such report, rec-  
12 ommendations regarding appropriate minimum ra-  
13 tios of registered nurses (and, if practicable, licensed  
14 practical nurses (or licensed vocational nurses) and  
15 certified nursing assistants) to residents at such  
16 skilled nursing facilities and such nursing facilities;  
17 and

18 “(2) with respect to each subsequent such re-  
19 port, recommendations regarding appropriate min-  
20 imum ratios of registered nurses, licensed practical  
21 nurses (or licensed vocational nurses), and certified  
22 nursing assistants to residents at such skilled nurs-  
23 ing facilities and such nursing facilities.

24 “(b) PROMULGATION OF REGULATIONS.—

1           “(1) IN GENERAL.—Not later than 2 years  
2 after the Secretary first submits a report under sub-  
3 section (a), the Secretary shall—

4           “(A) specify through regulations, con-  
5 sistent with such report, appropriate minimum  
6 ratios (if any) of registered nurses (and, if  
7 practicable, licensed practical nurses (or li-  
8 censed vocational nurses) and certified nursing  
9 assistants) to residents at skilled nursing facili-  
10 ties and nursing facilities; and

11           “(B) subject to any waiver in effect under  
12 section 1819(b)(9)(B) or 1919(b)(9)(B), re-  
13 quire such skilled nursing facilities and such  
14 nursing facilities to comply with such ratios.

15           “(2) UPDATE.—Not later than 2 years after the  
16 submission of each subsequent report under sub-  
17 section (a), the Secretary shall, consistent with such  
18 report, update the regulations described in para-  
19 graph (1)(A) to reflect appropriate minimum ratios  
20 (if any) of registered nurses, licensed practical  
21 nurses (or licensed vocational nurses), and certified  
22 nursing assistants to residents at skilled nursing fa-  
23 cilities and nursing facilities.

24           “(c) FUNDING.—The Secretary shall provide for the  
25 transfer, from the Federal Hospital Insurance Trust Fund

1 under section 1817 to the Centers for Medicare & Med-  
2 icaid Services Program Management Account, of  
3 \$50,000,000 for fiscal year 2022 for purposes of carrying  
4 out this section. Amounts transferred pursuant to the pre-  
5 vious sentence shall remain available until expended.”.

6 (b) IMPOSITION OF REQUIREMENTS.—

7 (1) MEDICARE.—Section 1819(b) of the Social  
8 Security Act (42 U.S.C. 1395i–3(b)) is amended by  
9 adding at the end the following new paragraph:

10 “(9) NURSE STAFFING REQUIREMENT.—

11 “(A) IN GENERAL.—Subject to subpara-  
12 graph (B), a skilled nursing facility shall com-  
13 ply with any minimum staffing ratios for reg-  
14 istered nurses, licensed practical nurses (or li-  
15 censed vocational nurses), or certified nurse as-  
16 sistants specified by the Secretary for such a  
17 facility in regulations promulgated under sec-  
18 tion 1128L(b) or, if greater, as specified by the  
19 State involved for such a facility.

20 “(B) WAIVER.—

21 “(i) IN GENERAL.—The Secretary  
22 may waive the application of subparagraph  
23 (A) with respect to a skilled nursing facil-  
24 ity if the Secretary finds that—



1                   “(I) the facility is located in a  
2                   rural area and the supply of skilled  
3                   nursing facility services in such area  
4                   is not sufficient to meet the needs of  
5                   individuals residing therein;

6                   “(II) the Secretary provides no-  
7                   tice of the waiver to the State long-  
8                   term care ombudsman (established  
9                   under section 307(a)(12) of the Older  
10                  Americans Act of 1965) and the pro-  
11                  tection and advocacy system in the  
12                  State for the mentally ill and the  
13                  mentally retarded; and

14                  “(III) the facility that is granted  
15                  such a waiver notifies residents of the  
16                  facility (or, where appropriate, the  
17                  guardians or legal representatives of  
18                  such residents) and members of their  
19                  immediate families of the waiver.

20                  “(ii) RENEWAL.—Any waiver in effect  
21                  under this subparagraph shall be subject to  
22                  annual renewal.”.

23                  (2) MEDICAID.—Section 1919(b) of the Social  
24                  Security Act (42 U.S.C. 1396r(b)) is amended by  
25                  adding at the end the following new paragraph:

1           “(9) NURSE STAFFING REQUIREMENT.—

2                   “(A) IN GENERAL.—Subject to subpara-  
3 graph (B), a nursing facility shall comply with  
4 any minimum staffing ratios for registered  
5 nurses, licensed practical nurses (or licensed vo-  
6 cational nurses), or certified nurse assistants  
7 specified by the Secretary for such a facility in  
8 regulations promulgated under section  
9 1128L(b) or, if greater, as specified by the  
10 State involved for such a facility.

11                   “(B) WAIVER.—

12                           “(i) IN GENERAL.—The Secretary  
13 may waive the application of subparagraph  
14 (A) with respect to a nursing facility if the  
15 Secretary finds that—

16                                   “(I) the facility is located in a  
17 rural area and the supply of nursing  
18 facility services in such area is not  
19 sufficient to meet the needs of individ-  
20 uals residing therein;

21                                   “(II) the Secretary provides no-  
22 tice of the waiver to the State long-  
23 term care ombudsman (established  
24 under section 307(a)(12) of the Older  
25 Americans Act of 1965) and the pro-

1                   tection and advocacy system in the  
2                   State for the mentally ill and the  
3                   mentally retarded; and

4                   “(III) the facility that is granted  
5                   such a waiver notifies residents of the  
6                   facility (or, where appropriate, the  
7                   guardians or legal representatives of  
8                   such residents) and members of their  
9                   immediate families of the waiver.

10                  “(ii) RENEWAL.—Any waiver in effect  
11                  under this subparagraph shall be subject to  
12                  annual renewal.”.

13 **SEC. 202. IMPROVING NURSING HOME COMPARE STAFFING**  
14 **DATA.**

15                  (a) MEDICARE.—Section 1819(i)(1)(A)(i) of the So-  
16                  cial Security Act (42 U.S.C. 1395i–3(i)(1)(A)(i)) is  
17                  amended by inserting “(excluding, with respect to such  
18                  data provided on or after October 1, 2022, any hours  
19                  spent on administrative duties by licensed nurse staff)  
20                  and, beginning October 1, 2022, data on the hours of care  
21                  provided per resident per weekend day” after “per resi-  
22                  dent per day”.

23                  (b) MEDICAID.—Section 1919(i)(1)(A)(i) of the So-  
24                  cial Security Act (42 U.S.C. 1396r(i)(1)(A)(i)) is amended  
25                  by inserting “(excluding, with respect to such data pro-

1 vided on or after October 1, 2022, any hours spent on  
2 administrative duties by licensed nurse staff) and, begin-  
3 ning October 1, 2022, data on the hours of care provided  
4 per resident per weekend day” after “per resident per  
5 day”.

6 **SEC. 203. ENSURING THE SUBMISSION OF ACCURATE**  
7 **STAFFING DATA.**

8 Section 1128I(g) of the Social Security Act (42  
9 U.S.C. 1320a–7j(g)) is amended—

10 (1) by redesignating paragraphs (1) through  
11 (4) as subparagraphs (A) through (D), respectively,  
12 and adjusting the margins accordingly;

13 (2) in subparagraph (D), as so redesignated, by  
14 striking “paragraph (1)” and inserting “subpara-  
15 graph (A)”;

16 (3) by moving the flush matter following sub-  
17 paragraph (D), as so redesignated, 2 ems to the  
18 right;

19 (4) by striking “Beginning not later than” and  
20 inserting the following:

21 “(1) IN GENERAL.—Beginning not later than”;

22 and

23 (5) by adding at the end the following new  
24 paragraph:

1           “(2) PENALTY FOR SUBMISSION OF INAC-  
2           CURATE INFORMATION.—Any facility that submits  
3           inaccurate information to the Secretary under para-  
4           graph (1) may be subject to a civil monetary penalty  
5           not to exceed \$10,000 for each such submission. The  
6           provisions of section 1128A (other than subsections  
7           (a) and (b) of such section) shall apply to a civil  
8           money penalty under the preceding sentence in the  
9           same manner as such provisions apply to a penalty  
10          or proceeding under section 1128A(a).”.

11 **SEC. 204. REQUIRING 24-HOUR USE OF REGISTERED PRO-**  
12   **FESSIONAL NURSES.**

13          (a) MEDICARE.—Section 1819(b)(4)(C)(i) of the So-  
14          cial Security Act (42 U.S.C. 1395i–3(b)(4)(C)(i)) is  
15          amended by striking “registered professional nurse” and  
16          all that follows through the period at the end and inserting  
17          the following: “registered professional nurse, with respect  
18          to such services furnished—

19   “(I) before October 1, 2023, at  
20   least 8 consecutive hours a day, 7  
21   days a week; and

22   “(II) on or after such date, 24  
23   hours a day, 7 days a week.”.

24          (b) MEDICAID.—Section 1919(b)(4)(C)(i)(II) of the  
25          Social Security Act (42 U.S.C. 1396r(b)(4)(C)(i)(II)) is

1 amended by striking “registered professional nurse” and  
2 all that follows through the period at the end and inserting  
3 the following: “registered professional nurse, with respect  
4 to such services furnished—

5                                   “(aa) before October 1,  
6                                   2023, at least 8 consecutive  
7                                   hours a day, 7 days a week; and  
8                                   “(bb) on or after such date,  
9                                   24 hours a day, 7 days a week.”.

10 **SEC. 205. PROVISION OF INFECTION CONTROL SERVICES.**

11       (a) MEDICARE.—Section 1819(d)(3) of the Social Se-  
12 curity Act (42 U.S.C. 1395i–3(d)(3)) is amended—

13               (1) by redesignating subparagraphs (A) and  
14               (B) as clauses (i) and (ii) respectively, and moving  
15               such clauses 2 ems to the right;

16               (2) by striking “ENVIRONMENT.—A skilled”  
17               and inserting “ENVIRONMENT.—

18                               “(A) IN GENERAL.—A skilled”;

19               (3) in subparagraph (A), as amended by para-  
20               graphs (1) and (2)—

21                               (A) in clause (i), by striking “, and” at the  
22                               end and inserting a semicolon;

23                               (B) in clause (ii), by striking the period at  
24                               the end and inserting “; and”; and

1 (C) by adding at the end the following new  
2 clause:

3 “(iii) provide, directly or under ar-  
4 rangements with others, for infection con-  
5 trol services overseen by an infection  
6 preventionist for a minimum number of  
7 hours per week as determined appropriate  
8 by the Secretary (but, subject to subpara-  
9 graph (B), not less than 40 hours per  
10 week).”; and

11 (4) by adding at the end the following new sub-  
12 paragraph:

13 “(B) REDUCTION IN REQUIRED NUMBER  
14 OF HOURS FOR INFECTION CONTROL SERVICES  
15 OVERSEEN BY AN INFECTION  
16 PREVENTIONIST.—

17 “(i) IN GENERAL.—The Secretary  
18 may grant a waiver to a skilled nursing fa-  
19 cility under which the number of hours per  
20 week that infection control services over-  
21 seen by an infection preventionist at the  
22 facility are required under subparagraph  
23 (A)(iii) are reduced if the Secretary finds  
24 that—

25 “(I) the facility—

1                   “(aa) is located in a rural  
2                   area and the supply of skilled  
3                   nursing facility services in such  
4                   area is not sufficient to meet the  
5                   needs of individuals residing  
6                   therein; or

7                   “(bb) is of a size that neces-  
8                   sitates a lower requirement;

9                   “(II) the Secretary provides no-  
10                  tice of the waiver to the State Long-  
11                  Term Care Ombudsman (supported  
12                  under title III or chapter 2 of subtitle  
13                  A of title VII of the Older Americans  
14                  Act of 1965) and the protection and  
15                  advocacy system (as defined in section  
16                  102 of the Developmental Disabilities  
17                  Assistance and Bill of Rights Act of  
18                  2000) in the State; and

19                  “(III) the facility that is granted  
20                  the waiver notifies residents of the fa-  
21                  cility (or, where appropriate, the  
22                  guardians or legal representatives of  
23                  such residents) and members of their  
24                  immediate families of the waiver.



1                   “(ii) ANNUAL REVIEW.—A waiver  
2                   under this subparagraph shall be subject to  
3                   annual review by the Secretary.”.

4           (b) MEDICAID.—Section 1919(d)(3) of the Social Se-  
5           curity Act (42 U.S.C. 1396r(d)(3)) is amended—

6                   (1) by redesignating subparagraphs (A) and  
7                   (B) as clauses (i) and (ii) respectively, and moving  
8                   such clauses 2 ems to the right;

9                   (2) by striking “ENVIRONMENT.—A nursing fa-  
10                  cility” and inserting “ENVIRONMENT.—

11                   “(A) IN GENERAL.—A nursing facility”;

12                   (3) in subparagraph (A), as amended by para-  
13                  graphs (1) and (2)—

14                   (A) in clause (i), by striking “, and” at the  
15                  end and inserting a semicolon;

16                   (B) in clause (ii), by striking the period at  
17                  the end and inserting “; and”; and

18                   (C) by adding at the end the following new  
19                  clause:

20                   “(iii) provide, directly or under ar-  
21                  rangements with others, for infection con-  
22                  trol services overseen by an infection  
23                  preventionist for a minimum number of  
24                  hours per week as determined appropriate  
25                  by the Secretary (but, subject to subpara-

1 graph (B), not less than 40 hours per  
2 week.”; and

3 (4) by adding at the end the following new sub-  
4 paragraph:

5 “(B) REDUCTION IN REQUIRED NUMBER  
6 OF HOURS FOR INFECTION CONTROL SERVICES  
7 OVERSEEN BY AN INFECTION  
8 PREVENTIONIST.—

9 “(i) IN GENERAL.—A State may  
10 grant a waiver to a nursing facility under  
11 which the number of hours per week that  
12 infection control services overseen by an in-  
13 fection preventionist at the facility are re-  
14 quired under subparagraph (A)(iii) are re-  
15 duced if—

16 “(I) the facility demonstrates to  
17 the satisfaction of the State that the  
18 facility has been unable, despite dili-  
19 gent efforts (including offering wages  
20 at the community prevailing rate for  
21 nursing facilities), to recruit appro-  
22 priate personnel;

23 “(II) the State determines that  
24 the waiver will not endanger the

1 health or safety of individuals staying  
2 in the facility;

3 “(III) the State agency granting  
4 the waiver provides notice of the waiv-  
5 er to the State Long-Term Care Om-  
6 budsman (supported under title III or  
7 chapter 2 of subtitle A of title VII of  
8 the Older Americans Act of 1965) and  
9 the protection and advocacy system  
10 (as defined in section 102 of the De-  
11 velopmental Disabilities Assistance  
12 and Bill of Rights Act of 2000); and

13 “(IV) the nursing facility that is  
14 granted the waiver by a State notifies  
15 residents of the facility (or, where ap-  
16 propriate, the guardians or legal rep-  
17 resentatives of such residents) and  
18 members of their immediate families  
19 of the waiver.

20 “(ii) ANNUAL REVIEW.—A waiver  
21 under this subparagraph shall be subject to  
22 annual review by the State agency and to  
23 the review of the Secretary and subject to  
24 clause (iii) shall be accepted by the Sec-  
25 retary for purposes of this title to the same

1 extent as is the State’s certification of the  
2 facility. In granting or renewing a waiver,  
3 a State may require the facility to use  
4 other qualified, licensed personnel to meet  
5 the staffing requirements under subpara-  
6 graph (A)(iii).

7 “(iii) ASSUMPTION OF WAIVER AU-  
8 THORITY BY SECRETARY.—If the Secretary  
9 determines that a State has shown a clear  
10 pattern and practice of allowing waivers in  
11 the absence of diligent efforts by facilities  
12 to meet the staffing requirements under  
13 subparagraph (A)(iii), the Secretary shall  
14 assume and exercise the authority of the  
15 State to grant waivers.”.

16 (c) EFFECTIVE DATE.—The amendments made by  
17 this section shall take effect on October 1, 2022.

18 **SEC. 206. ENHANCED FUNDING TO SUPPORT STAFFING**  
19 **AND QUALITY CARE IN NURSING FACILITIES.**

20 (a) FMAP INCREASE.—

21 (1) IN GENERAL.—Notwithstanding subsection  
22 (b) or (ff) of section 1905 of the Social Security Act  
23 (42 U.S.C. 1396d), in the case of a State that meets  
24 the requirements described in subsection (c), the  
25 Federal medical assistance percentage determined

1 for the State under subsection (b) of section 1905  
2 of such Act (or subsection (ff) of such section, if ap-  
3 plicable) and, if applicable, as increased under sub-  
4 section (y), (z), (aa), or (ii) of such section or sec-  
5 tion 6008 of the Families First Coronavirus Re-  
6 sponse Act (Public Law 116–127), or any other pro-  
7 vision of law, shall be increased by the applicable  
8 number of percentage points specified in paragraph  
9 (2) (but not to exceed 95 percent) with respect to  
10 amounts expended by the State Medicaid program  
11 for medical assistance for nursing facility services  
12 provided for each calendar quarter that occurs dur-  
13 ing the applicable period and for which the Secretary  
14 determines that the State meets such requirements.  
15 Any payment made to Puerto Rico, the Virgin Is-  
16 lands, Guam, the Northern Mariana Islands, or  
17 American Samoa for expenditures on medical assist-  
18 ance that are subject to the Federal medical assist-  
19 ance percentage increase specified under the first  
20 sentence of this paragraph shall not be taken into  
21 account for purposes of applying payment limits  
22 under subsections (f) and (g) of section 1108 of the  
23 Social Security Act (42 U.S.C. 1308).

24 (2) APPLICABLE NUMBER OF PERCENTAGE  
25 POINTS.—For purposes of paragraph (1), the appli-

1 cable number of percentage points specified in this  
2 paragraph is—

3 (A) in the case of a calendar quarter that  
4 occurs within the 16-quarter period that begins  
5 on the 1st day of the applicable period, 3 per-  
6 centage points;

7 (B) in the case of a calendar quarter that  
8 occurs within the 4-quarter period immediately  
9 succeeding such 16-quarter period, 2 percentage  
10 points; and

11 (C) in the case of a calendar quarter that  
12 occurs within the 4-quarter period immediately  
13 succeeding the 4-quarter period described in  
14 subparagraph (B), 1 percentage point.

15 (b) DEFINITIONS.—In this section:

16 (1) APPLICABLE PERIOD.—The term “applica-  
17 ble period” means the period that—

18 (A) begins on the 1st day of the 1st cal-  
19 endar quarter that begins on or after the date  
20 that is 1 year after the date of enactment of  
21 this section; and

22 (B) ends on the last day of the succeeding  
23 24th calendar quarter.

24 (2) NURSING FACILITY STAFF.—The term  
25 “nursing facility staff” includes a registered nurse,

1 licensed practical nurse, licensed nursing assistant,  
2 certified nursing assistant, nursing assistant, and  
3 any other relevant staff, as determined by the Sec-  
4 retary, who provide care to Medicaid beneficiaries  
5 who are residents in a nursing facility.

6 (3) MEDICAID BENEFICIARY.—The term “Med-  
7 icaid beneficiary” means an individual who is eligible  
8 for, and enrolled in, a State Medicaid program.

9 (4) MEDICAID PROGRAM.—The term “Medicaid  
10 program” means, with respect to a State, the State  
11 program under title XIX of the Social Security Act  
12 (42 U.S.C. 1396 et seq.) (including any waiver or  
13 demonstration under such title or under section  
14 1115 of such Act (42 U.S.C. 1315) relating to such  
15 title).

16 (5) NURSING FACILITY.—The term “nursing  
17 facility”—

18 (A) has the meaning given such term in  
19 section 1919(a) of the Social Security Act (42  
20 U.S.C. 1396r(a)); and

21 (B) includes a skilled nursing facility, as  
22 defined in section 1819(a) of the Social Secu-  
23 rity Act (42 U.S.C. 1395i–3(a)), that is a par-  
24 ticipating provider in the Medicaid program of  
25 the State in which the facility is located or oth-

1           erwise furnishes items or services for which  
2           medical assistance is available under the Med-  
3           icaid program of the State in which the facility  
4           is located.

5           (6) NURSING FACILITY SERVICES.—

6                   (A) IN GENERAL.—Subject to subpara-  
7                   graphs (B) and (C), the term “nursing facility  
8                   services” has the meaning given such term  
9                   under section 1905(f) of the Social Security Act  
10                  (42 U.S.C. 1396d(f)).

11                   (B) STATE MEDICAID PROGRAM.—With re-  
12                   spect to a State, such term includes those serv-  
13                   ices (including any limitations on the provision  
14                   of, or payment for, such services) that are spec-  
15                   ified as nursing facility services for purposes of  
16                   the Medicaid program of the State in which the  
17                   nursing facility furnishing such services is lo-  
18                   cated.

19                   (C) INDIVIDUAL PLAN OF CARE.—Notwith-  
20                   standing subparagraph (A) or (B), such term  
21                   includes items or services that are specified in  
22                   the individual plan of care for a resident of a  
23                   nursing facility and are furnished to the resi-  
24                   dent in accordance with the requirements of  
25                   such plan.



1           (7) SECRETARY.—The term “Secretary” means  
2           the Secretary of Health and Human Services.

3           (8) STATE.—The term “State” has the mean-  
4           ing given such term for purposes of title XIX of the  
5           Social Security Act (42 U.S.C. 1396 et seq.).

6           (c) REQUIREMENTS.—As a condition for receipt of  
7           the increase under subsection (a) to the Federal medical  
8           assistance percentage determined for a State under sub-  
9           section (b) of section 1905 of the Social Security Act (42  
10          U.S.C. 1396d) for a calendar quarter, the State shall dem-  
11          onstrate to the satisfaction of the Secretary the following:

12           (1) USE OF ADDITIONAL FEDERAL FUNDS.—  
13          The State agrees to—

14                   (A) use the Federal funds attributable to  
15                   the increase under subsection (a) only for the  
16                   purposes specified in subsection (d); and

17                   (B) not use such Federal funds to satisfy  
18                   any State contribution required under the State  
19                   Medicaid program; and

20           (2) PLAN FOR STAFFING AND SERVICE IM-  
21          PROVEMENTS AND REPORTING.—The State has a  
22          reasonable plan for achieving the purposes specified  
23          in subsection (d), including with respect to—

24                   (A) carrying out the staffing and service  
25                   improvements specified in subsection (e) to

1           strengthen nursing facility staff workforce and  
2           improve the quality and safety of care for Med-  
3           icaid beneficiaries; and

4                   (B) collecting and reporting the informa-  
5           tion required under subsection (f).

6           (3) SUPPLEMENT, NOT SUPPLANT.—The State  
7           agrees to use the Federal funds attributable to the  
8           increase under subsection (a) to supplement, and not  
9           supplant, the level of State funds expended as of Oc-  
10          tober 1, 2021, for nursing facility services, including  
11          with respect to efforts to strengthen the nursing fa-  
12          cility staff workforce and improve the quality and  
13          safety of care for Medicaid beneficiaries, under the  
14          State Medicaid program.

15          (4) REPORTING AND OVERSIGHT.—The State  
16          agrees to—

17                   (A) annually report the information speci-  
18                  fied in subsection (f) to the Secretary in such  
19                  form and manner as the Secretary shall require;  
20                  and

21                   (B) provide such data and information as  
22                  is necessary for the evaluation required under  
23                  subsection (g).

24          (d) USE OF FUNDS.—A State may use the Federal  
25          funds attributable to the increase under subsection (a)

1 only for expenditures eligible for payment under the State  
2 Medicaid program that are attributable to State efforts  
3 to achieve both of the following purposes:

4 (1) To expand and improve nursing facility  
5 staffing, including by increasing payments for nurs-  
6 ing facility services to improve staff wages and bene-  
7 fits, support retention and recruitment, and reduce  
8 staff turnover, consistent with the improvements  
9 specified in paragraphs (1) and (2) of subsection (e).

10 (2) To support and improve the quality and  
11 safety of care provided to Medicaid beneficiaries in  
12 nursing facilities, including through efforts to ex-  
13 pand the use of person-centered models of care, and  
14 incentives or payments related to the provision of  
15 care for Medicaid beneficiaries in private rooms.

16 (e) STAFFING AND SERVICE IMPROVEMENTS.—The  
17 staffing and service improvements specified in this sub-  
18 section are the following:

19 (1) The State makes such changes to processes  
20 for determining payment rates for nursing facility  
21 services as are necessary to ensure that—

22 (A) such payment rates are reviewed and  
23 updated every 2 years during the applicable pe-  
24 riod to support the recruitment and retention of  
25 nursing facility staff, and reduce turnover in

1           such staff through a transparent process that  
2           involves meaningful input from stakeholders;  
3           and

4                   (B) increases to such payment rates are, at  
5           a minimum, used to proportionally increase  
6           wages and benefits for nursing facility staff.

7           (2) The State updates, develops, and adopts  
8           training opportunities and resources for nursing fa-  
9           cility staff, including training for providing person-  
10          centered care.

11          (3) The State improves and streamlines edu-  
12          cation and options counseling services for Medicaid  
13          beneficiaries, potential Medicaid beneficiaries, and  
14          family members of such beneficiaries and potential  
15          beneficiaries, with respect to eligibility and options  
16          for institutional and non-institutional long term  
17          care.

18          (f) ANNUALLY REPORTED INFORMATION.—The in-  
19          formation required to be annually reported to the Sec-  
20          retary by a State with respect to such reporting periods  
21          as the Secretary shall specify is the following:

22                  (1) The number of Medicaid beneficiaries who  
23                  received during the reporting period or, as of the  
24                  date of the report, are receiving, nursing facility

1 services in the State, disaggregated by race, eth-  
2 nicity, gender, geography, age, and income.

3 (2) A description of how the State spent the  
4 Federal funds attributable to the increase under  
5 subsection (a) during the reporting period.

6 (3) Changes to payment rates for nursing facil-  
7 ity services under the State Medicaid program dur-  
8 ing the reporting period.

9 (4) The staffing information and employee  
10 turnover and tenure information in nursing facilities  
11 in the State during the reporting period, based on  
12 submissions to the Payroll-Based Journal system of  
13 the Centers for Medicare & Medicaid Services under  
14 section 1128I(g) of the Social Security Act (42  
15 U.S.C. 1320a-7j(g)).

16 (5) The wages and benefits provided to nursing  
17 facility staff in nursing facilities in the State during  
18 the reporting period.

19 (6) A description of the health status of, and  
20 quality of care provided to, Medicaid beneficiaries  
21 who are residents of nursing facilities in the State  
22 during the reporting period, in the manner deter-  
23 mined by the Secretary.

1 (g) EVALUATION.—The Secretary shall engage an ex-  
2 ternal contractor to conduct an independent evaluation of  
3 the impact of this section on—

4 (1) the quality and safety of care provided in  
5 nursing facilities to Medicaid beneficiaries who are  
6 residents of nursing facilities;

7 (2) the capacity of the nursing facility staff  
8 workforce to provide quality, safe care for Medicaid  
9 beneficiaries who are residents of nursing facilities;  
10 and

11 (3) the wages, benefits, and turnover of nursing  
12 facility staff.

13 (h) INTERIM AND FINAL REPORTS TO CONGRESS.—

14 (1) IN GENERAL.—The Secretary shall submit  
15 an interim report to Congress on the implementation  
16 of this section 4 years after the date of enactment  
17 of this section, and a final report on the implemen-  
18 tation of this section 8 years after such date.

19 (2) REQUIRED INFORMATION.—

20 (A) INTERIM AND FINAL REPORTS.—The  
21 interim and final reports submitted under this  
22 subsection shall include the following informa-  
23 tion:

24 (i) The number of States that received  
25 an increase to the Federal medical assist-

1           ance percentage of the State under sub-  
2           section (a) during the applicable period.

3                   (ii) The State activities funded by the  
4           Federal funds attributable to the increase  
5           under subsection (a).

6                   (B) FINAL REPORT.—The final report sub-  
7           mitted under this section shall include, in addi-  
8           tion to the information required under subpara-  
9           graph (A), the results of the independent eval-  
10          uation conducted pursuant to subsection (g).

11 **TITLE III—BUILDING MODIFICA-**  
12 **TION AND STAFF INVEST-**  
13 **MENT DEMONSTRATION PRO-**  
14 **GRAM**

15 **SEC. 301. ESTABLISHING A SKILLED NURSING FACILITY**  
16 **BUILDING MODIFICATION AND STAFF IN-**  
17 **VESTMENT DEMONSTRATION PROGRAM.**

18           Part A of title XVIII of the Social Security Act (42  
19 U.S.C. 1395c et seq.) is amended by inserting after sec-  
20 tion 1819 the following new section:

21 **“SEC. 1819A. COMMUNITY-BASED LIVING MODIFICATIONS**  
22 **AND STAFF INVESTMENT DEMONSTRATION**  
23 **PROGRAM.**

24           “(a) ESTABLISHMENT.—Not later than January 1,  
25 2023, the Secretary shall establish a demonstration pro-

1 gram to test the impact of providing skilled nursing facili-  
2 ties (as defined in section 1819(a)) selected by the Sec-  
3 retary under subsection (b) funding to modify the built  
4 environments of such facilities (or portions of such facili-  
5 ties) and invest in individuals providing resident care in  
6 such facilities (or in portions of such facilities) in order  
7 to, with respect to residents of such facilities, improve  
8 health outcomes relative to residents of facilities not so  
9 selected.

10 “(b) APPLICATION AND SELECTION OF FACILI-  
11 TIES.—

12 “(1) APPLICATION.—

13 “(A) IN GENERAL.—A skilled nursing fa-  
14 cility shall only be eligible to receive funding  
15 under the demonstration program established  
16 under subsection (a) if such facility submits an  
17 application at such time and in such manner as  
18 specified by the Secretary that contains—

19 “(i) a description of modifications and  
20 investments described in subsection (a)  
21 that will be made by the facility using such  
22 funds, including the estimated costs of  
23 such modifications and investments;

24 “(ii) an agreement that such facility  
25 (or, in the case such modifications and in-



1 vestments are to be made only with respect  
2 to a portion of such facility, such portion  
3 of such facility)—

4 “(I) will meet the requirements  
5 described in subparagraph (B) not  
6 later than the date that is 2 years  
7 after such facility first receives funds  
8 for such modifications and invest-  
9 ments under such program; and

10 “(II) will continue to meet such  
11 requirements for the 5-year period be-  
12 ginning on the date that is 2 years  
13 after such facilities first receives such  
14 funds;

15 “(iii) an agreement that, in the case  
16 such facility (or such portion of such facil-  
17 ity, as applicable) fails to meet such re-  
18 quirements in accordance with clause (ii),  
19 such facility will—

20 “(I) repay such funds to the Sec-  
21 retary in an amount determined ap-  
22 propriate by the Secretary under sub-  
23 section (d); and

24 “(II) notify each resident of such  
25 facility (or each resident of such por-

1                   tion of such facility, as applicable) of  
2                   the failure of such facility or such  
3                   portion, as applicable, to meet such  
4                   requirements;

5                   “(iv) an agreement that, if such facil-  
6                   ity is selected by the Secretary under para-  
7                   graph (2), the facility will notify each resi-  
8                   dent of such facility (or each resident of  
9                   such portion of such facility, as applicable),  
10                  of such selection and include in such notifi-  
11                  cation a description of the program estab-  
12                  lished under subsection (a), including any  
13                  modifications and investments to be made  
14                  with respect to such facility (or with re-  
15                  spect to such portion of such facility, as  
16                  applicable); and

17                  “(v) in the case such modifications  
18                  and investments are to be made only with  
19                  respect to a portion of such facility, an  
20                  agreement that such facility will not dis-  
21                  criminate in the selection of residents who  
22                  may reside in such portion based on  
23                  whether payment is being made to such fa-  
24                  cility with respect to such resident under

1           this title, a State plan (or waiver of such  
2           plan) under title XIX, or otherwise.

3           “(B) REQUIREMENTS.—For purposes of  
4           subparagraph (A), the requirements described  
5           in this subparagraph with respect to a skilled  
6           nursing facility (or a portion of such facility)  
7           are the following:

8                   “(i) The facility (or portion) main-  
9                   tains beds for no less than 5 and no more  
10                   than 14 residents.

11                   “(ii) The facility (or portion) incor-  
12                   porates universal design (defined in section  
13                   3(19) of the Assistive Technology Act of  
14                   1998)) to ensure such facility (or portion)  
15                   is accessible to all residents, regardless of  
16                   age or disability, including by providing for  
17                   the following:

18                           “(I) Private rooms and bath-  
19                           rooms (unless such facility determines  
20                           that the provision of private rooms  
21                           and bathrooms at such facility would  
22                           adversely affect the availability of  
23                           skilled nursing facility services in the  
24                           area in which such facility is located

1 and the Secretary concurs with such  
2 determination).

3 “(II) Shared space, including a  
4 central living area, as defined by the  
5 Secretary, with a communal dining  
6 table and accessible kitchen.

7 “(III) Accessible outdoor space,  
8 including a protected garden space for  
9 use by residents and their visitors.

10 “(iii) The facility (or portion) provides  
11 a clinical team that consists of a full-time  
12 registered professional nurse or licensed  
13 practical nurse (or licensed vocational  
14 nurse) who works in partnership with cer-  
15 tified nursing assistants in a team-based,  
16 collaborative model.

17 “(iv) The facility (or portion) has a li-  
18 censed practical nurse (or licensed voca-  
19 tional nurse) on site at all times.

20 “(v) The facility (or portion) facili-  
21 tates a standing resident council run by  
22 residents, and a standing family council  
23 run by family members of residents, that  
24 meets such requirements as may be speci-  
25 fied by the Secretary.

1           “(vi) The facility (or portion) solicits  
2           resident input on facility policies (or poli-  
3           cies relating to such portion of such facil-  
4           ity), including with respect to programs  
5           and scheduling, and, in the case of an in-  
6           capacitated resident, solicits such input  
7           from an individual recognized by State law  
8           to act on behalf of such resident.

9           “(vii) In addition to the resident as-  
10          sessment under section 1819(b)(3), the fa-  
11          cility (or portion) conducts an assessment  
12          of residents’ care preferences (or, in the  
13          case of an incapacitated resident, such  
14          preferences as expressed by an individual  
15          recognized by State law to act on behalf of  
16          such resident) not later than 14 days after  
17          the resident is admitted to such facility or  
18          portion of such facility (or, in the case of  
19          a resident residing at such facility at the  
20          time such facility receives funding under  
21          the program established under paragraph  
22          (1), not later than 14 days after the date  
23          of such receipt) to ensure care is person-  
24          directed.

1           “(viii) The facility (or portion) offers  
2           daily activities, such as art, music, edu-  
3           cational activities, or other activities based  
4           on resident preferences.

5           “(C) TIMEFRAME.—The Secretary shall  
6           develop the application described in subpara-  
7           graph (A) and begin accepting such applica-  
8           tions not later than July 1, 2023. The Sec-  
9           retary shall accept such applications during the  
10          2-year period beginning on the date such appli-  
11          cations are first accepted.

12          “(2) SELECTION.—

13           “(A) IN GENERAL.—Not later than 2 years  
14           after the date the Secretary first accepts appli-  
15           cations under paragraph (1), the Secretary  
16           shall select a number of skilled nursing facilities  
17           determined appropriate by the Secretary to re-  
18           ceive funding under the program established  
19           under subsection (a).

20           “(B) PREFERENCE.—In selecting skilled  
21           nursing facilities under this paragraph, the Sec-  
22           retary shall—

23           “(i) give preference to facilities that—  
24                   “(I) are located in medically un-  
25                   derserved areas (as defined in section

1 330(b)(3)(A) of the Public Health  
2 Service Act); and

3 “(II) house a majority of resi-  
4 dents who are receiving medical as-  
5 sistance consisting of nursing facility  
6 services under a State plan (or waiver  
7 of such plan) under title XIX;

8 “(ii) give preference to facilities that  
9 demonstrate the greatest likelihood of  
10 meeting the requirements described in  
11 paragraph (1)(B) within 2 years of receiv-  
12 ing funding under the program established  
13 under subsection (a);

14 “(iii) give preference to facilities that  
15 offer staff training beyond such training  
16 required under section 1819 (as deter-  
17 mined through payroll based journal data);  
18 and

19 “(iv) so select such facilities in a man-  
20 ner that ensures geographic diversity, to  
21 the extent practicable.

22 “(c) FUNDS.—

23 “(1) IN GENERAL.—Subject to paragraph (3)  
24 and subsection (h), the Secretary shall provide funds  
25 to each skilled nursing facility selected under sub-

1 section (b)(2) in an amount equal to not more than  
2 the costs specified by such facility pursuant to sub-  
3 section (b)(1)(A)(i).

4 “(2) USE OF FUNDS.—

5 “(A) IN GENERAL.—Subject to subpara-  
6 graph (B), funds provided under paragraph (1)  
7 may only be used by a skilled nursing facility  
8 for modifications and investments specified by  
9 such facility pursuant to subsection  
10 (b)(1)(A)(i).

11 “(B) EXCEPTION.—A skilled nursing facil-  
12 ity may use funds provided under paragraph  
13 (1) for modifications and investments described  
14 in subsection (a) but not specified by such facil-  
15 ity pursuant to subsection (b)(1)(A)(i) if—

16 “(i) such facility submits a request to  
17 the Secretary containing a description of  
18 such modifications and investments; and

19 “(ii) the Secretary determines that  
20 such modifications and investments will as-  
21 sist such facility (or a portion of such facil-  
22 ity, as applicable) in complying with the  
23 requirements specified in subsection  
24 (b)(1)(B).



1           “(3) FORM OF PROVISION OF FUNDS.—The  
2           Secretary may provide funding under paragraph (1)  
3           in the form of a single upfront payment or in up to  
4           3 installment payments, spaced out across the first  
5           3 fiscal years beginning with the fiscal year in which  
6           the first such payment is made.

7           “(4) LIMITATION OF PROVISION OF FUND-  
8           ING.—No skilled nursing facility may receive more  
9           than 3 percent of the total monies appropriated  
10          under paragraph (5).

11          “(5) APPROPRIATION.—In addition to any  
12          amounts otherwise available, there is appropriated to  
13          the Secretary, out of any monies in the Treasury not  
14          otherwise appropriated, \$1,300,000,000, to remain  
15          available until expended, for purposes of providing  
16          funds to skilled nursing facilities under paragraph  
17          (1).

18          “(d) FAILURE TO MEET REQUIREMENTS.—

19                 “(1) IN GENERAL.—Subject to paragraph (2),  
20                 in the case of a facility (or a portion of such facility,  
21                 as applicable) that fails to meet the requirements de-  
22                 scribed in subsection (b)(1)(B) in accordance with  
23                 the agreement described in subsection (b)(1)(A)(ii),  
24                 the Secretary may recoup any funds provided to  
25                 such facility under subsection (c)(1) in an amount

1       determined appropriate by the Secretary. In deter-  
2       mining such amount, the Secretary shall take into  
3       account the extent of the compliance of such facility  
4       (or portion of such facility, as applicable) with such  
5       requirements.

6           “(2) EXCEPTION.—The Secretary may suspend  
7       any recoupment described in paragraph (1) with re-  
8       spect to a facility (or a portion of such facility, as  
9       applicable) described in such paragraph for a period  
10      of time determined appropriate by the Secretary if  
11      the Secretary finds that such facility (or such por-  
12      tion) will likely be in compliance with the require-  
13      ments described in such paragraph within a reason-  
14      able time specified by the Secretary.

15      “(e) EVALUATION OF PROGRAM.—

16           “(1) IN GENERAL.—The Secretary shall evalu-  
17      ate each skilled nursing facility receiving funds  
18      under the program established under subsection (a)  
19      to assess whether, relative to similarly situated  
20      skilled nursing facilities not receiving funds under  
21      such program and residents of such facilities, modi-  
22      fications and investments described in subsection (a)  
23      made at skilled nursing facilities using such funds  
24      resulted in, with respect to residents of such facili-  
25      ties (or, in the case such modifications and invest-

1       ments are made only with respect to a portion of  
2       such facility, residents of such portion of such facil-  
3       ity)—

4               “(A) a reduction in preventable hos-  
5       pitalizations;

6               “(B) a reduction in hospital readmissions;

7               “(C) a reduction in emergency room visits;

8               “(D) greater improvement in functional  
9       status;

10              “(E) an improvement in infection control;

11              “(F) a reduction in nursing staff turnover  
12       rates;

13              “(G) an increase in resident and family  
14       caregiver satisfaction;

15              “(H) other improvements in resident qual-  
16       ity of life as may be specified by the Secretary;

17              “(I) a reduction in expenditures under this  
18       part (excluding funds provided under subsection  
19       (c)(1)); or

20              “(J) any other outcomes specified by the  
21       Secretary.

22              “(2) REPORTS TO CONGRESS.—Based on eval-  
23       uations described in paragraph (1), the Secretary  
24       shall, not later than July 1, 2031, and again not  
25       later than July 1, 2035, submit to Congress a report

1 on such program. Each such report shall include an  
2 analysis of the demonstration program's effect on  
3 the outcomes described in paragraph (1).

4 “(f) IMPLEMENTATION.—Chapter 35 of title 44,  
5 United States Code, shall not apply to this section.

6 “(g) AUTHORITY TO EXPAND TO CERTAIN NURSING  
7 FACILITIES.—The Secretary may, subject to subsection  
8 (h), enter into agreements with States to include nursing  
9 facilities (as defined in section 1919(a)) that are not  
10 skilled nursing facilities (as defined in section 1819(a))  
11 in the demonstration program established under sub-  
12 section (a) and may modify the requirements of the pre-  
13 vious provisions of this section as appropriate to be appli-  
14 cable to such facilities.

15 “(h) FUNDING.—The Secretary shall provide for the  
16 transfer, from the Federal Hospital Insurance Trust Fund  
17 under 1817 to the Centers for Medicare & Medicaid Serv-  
18 ices Program Management Account, of \$30,000,000 for  
19 fiscal year 2023 for purposes of carrying out this section  
20 (other than for purposes of making payments under sub-  
21 section (c)(1)). Amounts transferred pursuant to the pre-  
22 vious sentence shall remain available until expended.”.