

BRIEFING ROOM

FACT SHEET: Protecting Seniors by Improving Safety and Quality of Care in the Nation's Nursing Homes

FEBRUARY 28, 2022 • STATEMENTS AND RELEASES

All people deserve to be treated with dignity and respect and to have access to quality medical care. The President is committed to ensuring that all Americans, including older Americans and people with disabilities, live in a society that is accessible, inclusive, and equitable. To accomplish that goal, the Administration continues to be committed to home- and community-based services and ensuring that in no case should a health care facility be causing a patient harm. The President believes we must improve the quality of our nursing homes so that seniors, people with disabilities, and others living in nursing homes get the reliable, high-quality care they deserve. That's why he is announcing a set of reforms—developed by and implemented through the Department of Health and Human Services (HHS)—that will improve the safety and quality of nursing home care, hold nursing homes accountable for the care they provide, and make the quality of care and facility ownership more transparent so that potential residents and their loved ones can make informed decisions about care.

To do this, the reforms the President is announcing will ensure that:

- every nursing home provides a sufficient number of staff who are adequately trained to provide high-quality care;
- poorly performing nursing homes are held accountable for improper and unsafe care and immediately improve their services or are cut off from taxpayer dollars; and
- the public has better information about nursing home conditions so that they can find the best available options.

The pandemic has highlighted the tragic impact of substandard conditions at nursing homes, which are home to many of our most at-risk community members. More than 1.4 million people live in over 15,500 Medicare- and Medicaid-certified nursing homes across the nation. In the past two years, more than 200,000 residents and staff in nursing homes have died from COVID-19—nearly a quarter of all COVID-19 deaths in the United States.

Despite the tens of billions of federal taxpayer dollars flowing to nursing homes each year, too many continue to provide poor, sub-standard care that leads to avoidable resident harm. In fact, failure to comply with Federal guidelines at nursing homes is widespread. The Government Accountability Office found that, from 2013 to 2017, 82% of all inspected nursing homes had an infection prevention and control deficiency, including a lack of regular handwashing, that was identified through Medicare and Medicaid surveys.

Without decisive action now, these unacceptable conditions may get worse. Private equity firms have been buying up struggling nursing homes, and research shows that private equity-owned nursing homes tend to have significantly worse outcomes for residents. Private equity firms' investment in nursing homes has ballooned from \$5 billion in 2000 to more than \$100 billion in 2018, with about 5% of all nursing homes now owned by private equity firms. Too often, the private equity model has put profits before people—a particularly dangerous model when it comes to the health and safety of vulnerable seniors and people with disabilities.

Recent research has found that resident outcomes are significantly worse at private equity-owned nursing homes:

- A recent study found that residents in nursing homes acquired by private equity were 11.1% more likely to have a preventable emergency department visit and 8.7% more likely to experience a preventable hospitalization, when compared to residents of for-profit nursing homes not associated with private equity.
- One working paper examining 18,000 nursing home facilities over a seventeen-year period found that private equity ownership increased excess mortality for residents by 10%, increased prescription of antipsychotic drugs for residents by 50%, decreased hours of frontline nursing staffing by 3%, and increased taxpayer spending per resident by 11%. That suggests an additional 20,150 lives lost as a result of private equity ownership.
- Another study found that private equity-backed nursing homes' COVID-19 infection rate and death rate were 30% and 40% above statewide averages, respectively.

Research also suggests that, **despite depriving residents of quality care, private equity-owned nursing homes actually led to an uptick in Medicare costs, too.**

Today, the Biden-Harris Administration is announcing new steps by Department of Health & Human Services (HHS) through its Centers for Medicare & Medicaid Services (CMS), to improve the quality and safety of nursing homes, to protect vulnerable residents and the health care heroes who care for them, and to crack down on bad actors. The Administration is committed to these urgent actions as first steps toward fulfilling a broader commitment to ensure taxpayer dollars go toward the safe, adequate, and respectful care

seniors and people with disabilities deserve—not to the pockets of predatory owners and operators who seek to maximize their profits at the expense of vulnerable residents' health and safety.

Ensuring Taxpayer Dollars Support Nursing Homes That Provide Safe, Adequate, and Dignified Care

CMS is launching four new initiatives to ensure that residents get the quality care they need—and that taxpayers pay for. These initiatives will help ensure adequate staffing, dignity and safety in their accommodations, and quality care.

- *Establish a Minimum Nursing Home Staffing Requirement.* The adequacy of a nursing home's staffing is the measure most closely linked to the quality of care residents receive. For example, a recent study of one state's nursing facilities found that increasing registered nurse staffing by just 20 minutes per resident day was associated with 22% fewer confirmed cases of COVID-19 and 26% fewer COVID-19 deaths. CMS intends to propose minimum standards for staffing adequacy that nursing homes must meet. CMS will conduct a new research study to determine the level and type of staffing needed to ensure safe and quality care and will issue proposed rules within one year. Establishing a minimum staffing level ensures that all nursing home residents are provided safe, quality care, and that workers have the support they need to provide high-quality care. Nursing homes will be held accountable if they fail to meet this standard.
- *Reduce Resident Room Crowding.* Most nursing home residents prefer to have private rooms to protect their privacy and dignity, but shared rooms with one or more other residents remain the default option. These multi-occupancy rooms increase residents' risk of contracting infectious diseases, including COVID-19. CMS will explore ways to accelerate phasing out rooms with three or more residents and to promote single-occupancy rooms.
- *Strengthen the Skilled Nursing Facility ("SNF") Value-Based Purchasing ("VBP") Program.* The SNF-VBP program awards incentive funding to facilities based on quality performance. CMS has begun to measure and publish staff turnover and weekend staffing levels, metrics which closely align with the quality of care provided in a nursing home. CMS intends to propose new payment changes based on staffing adequacy, the resident experience, as well as how well facilities retain staff.
- *Reinforce Safeguards against Unnecessary Medications and Treatments.* Thanks to CMS' National Partnership to Improve Dementia Care in Nursing Homes, the nation has seen a dramatic decrease in the use of antipsychotic drugs in nursing homes in recent years.

However, inappropriate diagnoses and prescribing still occur at too many nursing homes. CMS will launch a new effort to identify problematic diagnoses and refocus efforts to continue to bring down the inappropriate use of antipsychotic medications.

Enhancing Accountability and Oversight

Holding nursing homes accountable for their performance requires a robust compliance program—a program that has adequate funding to perform inspections and that imposes meaningful penalties when deficiencies are found. Federal taxpayer dollars should not flow to nursing homes that are unsafe.

- *Adequately Fund Inspection Activities.* For over seven years, funding to conduct health and safety inspections has remained flat while the number of complaints about nursing homes has surged. To protect residents and crack down on unsafe nursing homes, President Biden will call on Congress to provide almost \$500 million to CMS, a nearly 25% increase, to support health and safety inspections at nursing homes.
- *Beef up Scrutiny on More of the Poorest Performers.* CMS's Special Focus Facility (SFF) program identifies the poorest-performing nursing homes in the country for increased scrutiny in an effort to immediately improve the care they deliver. The SFF program currently requires more frequent compliance surveys for program participants, which must pass two consecutive inspections to "graduate" from the program. The SFF program will be overhauled to more quickly improve care for the affected residents, including changes that will make its requirements tougher and more impactful. CMS will also make changes that allow the program to scrutinize more facilities, by moving facilities through the program more quickly. Facilities that fail to improve will face increasingly larger enforcement actions, including termination from participation in Medicare and Medicaid, when appropriate.
- *Expand Financial Penalties and Other Enforcement Sanctions.* CMS will expand the instances in which it takes enforcement actions against poor-performing facilities based on desk reviews of data submissions, which will be performed in addition to on-site inspections. In July 2021, CMS rescinded a Trump Administration change that lowered penalty amounts on bad actor nursing homes for harmful deficiencies by imposing only a one-time fine, instead of more aggressive per-day fines that charge for each day a facility is out of compliance. CMS will now explore making such per-day penalties the default penalty for non-compliance. CMS will also use data, predictive analytics, and other information processing tools to improve enforcement. President Biden is also calling on

Congress to raise the dollar limit on per-instance financial penalties levied on poor-performing facilities, from \$21,000 to \$1,000,000.

- *Increase Accountability for Chain Owners of Substandard Facilities.* President Biden is calling on Congress to give CMS new authority to require minimum corporate competency to participate in Medicare and Medicaid programs, enabling CMS to prohibit an individual or entity from obtaining a Medicare or Medicaid provider agreement for a nursing home (new or existing) based on the Medicare compliance history of their other owned or operated facilities (previous or existing). He is further calling on Congress to expand CMS enforcement authority at the ownership level, enabling CMS to impose enforcement actions on the owners and operators of facilities even after they close a facility, as well as on owners or operators that provide persistent substandard and noncompliant care in some facilities, while still owning others.
- *Provide Technical Assistance to Nursing Homes to Help them Improve.* CMS currently contracts with Quality Improvement Organizations that help providers across the health care spectrum make meaningful quality of care improvements. CMS will ensure that improving nursing home care is a core mission for these organizations and will explore pathways to expand on-demand trainings and information sharing around best practices, while expanding individualized, evidence-based assistance related to issues exacerbated by the pandemic.

Increasing Transparency

For too long, corporate owners and operators have not been held to account for poor nursing home performance. CMS will improve the public transparency of facility ownership and safeguard nursing home residents.

- *Create a Database of Nursing Home Owners and Operators.* CMS will create a new database that will track and identify owners and operators across states to highlight previous problems with promoting resident health and safety. This registry will use information collected through provider enrollment and health and safety inspections to provide more information about prospective owners and operators to states. Giving the public a resource to better understand owners' and operators' previous violations will empower states to better protect the health and safety of residents.
- *Improve Transparency of Facility Ownership and Finances.* CMS will implement Affordable Care Act requirements regarding transparency in corporate ownership of nursing homes, including by collecting and publicly reporting more robust corporate

ownership and operating data. It will also make this information easier to find on the Nursing Home Care Compare website.

- *Enhance Nursing Home Care Compare:* CMS will implement a range of initiatives to improve Nursing Home Care Compare, the rating website designed to help families pick a facility for their loved ones. Under the Biden-Harris Administration's leadership, CMS has already published new measures on Care Compare, which allow users to consider nursing home staff turnover, weekend staffing levels, and other important factors in their decision-making process. When the new minimum staffing requirement comes online, Care Compare will also prominently display whether a facility is meeting these minimum staffing requirements. CMS will further improve Care Compare by improving the readability and usability of the information displayed—giving you and your family insight into how to interpret key metrics. Finally, CMS will ensure that ratings more closely reflect data that is verifiable, rather than self-reported, and will hold nursing homes accountable for providing inaccurate information. The President is calling on Congress to give CMS additional authority to validate data and take enforcement action against facilities that submit incorrect information.
- *Examine the Role of Private Equity.* As described above, private equity investors are playing a growing role in the nursing home sector, and published research increasingly indicates that facility ownership by investment groups leads to worse outcomes while costing taxpayers more—particularly as these owners have sought to cut expenses at the cost of patient health and safety, including during the COVID-19 pandemic. HHS and other federal agencies will examine the role of private equity, real estate investment trusts (REITs), and other investment ownership in the nursing home sector and inform the public when corporate entities are not serving their residents' best interests.

Creating Pathways to Good-paying Jobs with the Free and Fair Choice to Join a Union

- *Ensure Nurse Aide Training is Affordable.* Lowering financial barriers to nurse aide training and certification will strengthen and diversify the nursing home workforce. CMS will establish new requirements to ensure nurse aide trainees are notified about their potential entitlement to training reimbursement upon employment. CMS will further work with states to ensure reimbursement is being distributed and that free training opportunities are widely publicized.
- *Support State Efforts to Improve Staffing and Workforce Sustainability.* Strengthening the nursing home workforce requires adequate compensation as well as a realistic career ladder. CMS will develop a template to assist and encourage States requesting to tie

Medicaid payments to clinical staff wages and benefits, including additional pay for experience and specialization.

- *Launch National Nursing Career Pathways Campaign.* CMS, in collaboration with the Department of Labor, will work with external entities—including training intermediaries, registered apprenticeship programs, labor-management training programs, and labor unions—to conduct a robust nationwide campaign to recruit, train, retain, and transition workers into long-term care careers, with pathways into health-care careers like registered and licensed nurses.

Ensuring Pandemic and Emergency Preparedness in Nursing Homes

- *Continued COVID-19 Testing in Long-term Care Facilities.* Throughout the pandemic, the Biden-Harris Administration has provided approximately 3 million tests per week to all Medicare- and Medicaid-certified nursing homes and thousands more assisted living facilities, supporting outbreak testing and regular testing of staff. HHS will continue to support this key mitigation strategy for vulnerable residents and the staff that care for them.
- *Continued COVID-19 Vaccinations and Boosters in Long-term Care Facilities.* The Biden-Harris Administration has provided the full support of the federal government to states in ensuring that staff and residents across long-term care facilities have access to vaccinations and booster shots. Today, facilities are required to ensure staff are vaccinated and more than 87.1% of residents have received their primary series. CDC continues to offer all facilities the ability to be matched with a federal pharmacy partner to host an on-site vaccination clinic. CMS has reached out to thousands of these facilities directly to offer support, and the Agency for Healthcare Research and Quality has made a wide set of tools available. HHS will continue to promote access to these clinics and efforts to integrate vaccinations into routine services, incentivize vaccinations through provider quality payment programs, and continue to provide a full range of resources to continue to build confidence in the vaccine.
- *Strengthen Requirements for On-site Infection Preventionists.* CMS will clarify and increase the standards for nursing homes on the level of staffing facilities need for on-site infection prevention employees, undoing the Trump Administration's changes to these requirements to help improve resident health and safety.
- *Enhance Requirements for Pandemic and Emergency Preparedness.* Both the pandemic and the increase in natural disasters have demonstrated how critical proactive emergency preparedness is to keeping residents of nursing homes safe. CMS is examining and

considering changes to emergency preparedness requirements and is working to bolster the resiliency of the health care sector as part of an Administration-wide effort to be ready for the next pandemic and the next weather-related emergencies.

- *Integrate Pandemic Lessons into Nursing Home Requirements.* The pandemic has underscored the need for resident-centered updates to nursing homes' requirements of participation in Medicare and Medicaid. CMS will integrate new lessons on standards of care into nursing home requirements around fire safety, infection control, and other areas, using an equity lens.