

COMMITTEE PRINT

Budget Reconciliation Legislative Recommendations for Subtitle E Relating to Skilled Nursing Facilities

1 **PART 3—SKILLED NURSING FACILITIES**

2 **SEC. 134301. FUNDING TO IMPROVE THE ACCURACY AND**
3 **RELIABILITY OF CERTAIN SKILLED NURSING**
4 **FACILITY DATA.**

5 Section 1888 of the Social Security Act (42 U.S.C.
6 1395yy) is amended—

7 (1) in subsection (h)(12)—

8 (A) in subparagraph (A), by striking “and
9 the data submitted under subsection (e)(6)”
10 and inserting “, the data submitted under sub-
11 section (e)(6), and, during the period beginning
12 with fiscal year 2024 and ending with fiscal
13 year 2031, the resident assessment data de-
14 scribed in section 1819(b)(3) and the direct
15 care staffing information described in section
16 1128I(g)”; and

17 (B) in subparagraph (B)—

18 (i) by striking “FUNDING.—For pur-
19 poses” and inserting “FUNDING.—

20 “(i) FISCAL YEARS 2023 THROUGH
21 2025.—For purposes”; and

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

3 “(ii) FISCAL YEARS 2026 THROUGH
4 2031.—There is appropriated to the Sec-
5 retary, out of any monies in the Treasury
6 not otherwise appropriated, \$50,000,000
7 for the period of fiscal years 2026 through
8 2031 for purposes of carrying out this
9 paragraph.”; and

10 (2) in subsection (e)(6)(A)—

11 (A) in the header, by striking “FOR FAIL-
12 URE TO REPORT”; and

13 (B) in clause (i)—

14 (i) by striking “For fiscal years” and
15 inserting the following:

16 “(I) FAILURE TO REPORT.—For
17 fiscal years”; and

18 (ii) by adding at the end the following
19 new subclause:

20 “(II) REPORTING OF INAC-
21 CURATE INFORMATION.—For fiscal
22 years during the period beginning
23 with fiscal year 2025 and ending with
24 fiscal year 2031, in the case of a
25 skilled nursing facility that submits

1 data under this paragraph, measures
2 under subsection (h), resident assess-
3 ment data described in section
4 1819(b)(3), or direct care staffing in-
5 formation described in section
6 1128I(g) with respect to such fiscal
7 year that is inaccurate (as determined
8 by the Secretary through the valida-
9 tion process described in section
10 1888(h)(12) or otherwise), after de-
11 termining the percentage described in
12 paragraph (5)(B)(i), and after appli-
13 cation of clauses (ii) and (iii) of para-
14 graph (5)(B) and of subclause (I) if
15 this clause (if applicable), the Sec-
16 retary shall reduce such percentage
17 for payment rates during such fiscal
18 year by 2 percentage points.”.

19 **SEC. 134302. ENSURING ACCURATE INFORMATION ON COST**
20 **REPORTS.**

21 Section 1888(f) of the Social Security Act (42 U.S.C.
22 1395yy(f)) is amended by adding at the end the following
23 new paragraph:

24 “(5) AUDIT OF COST REPORTS.—There is ap-
25 propriated to the Secretary, out of any monies in the

1 Treasury not otherwise appropriated, \$250,000,000
2 for fiscal year 2023 to remain available until ex-
3 pended, for purposes of conducting an annual audit
4 (beginning with 2022 and ending with 2031) of cost
5 reports submitted under this title for a representa-
6 tive sample of skilled nursing facilities.”.

7 **SEC. 134303. SURVEY IMPROVEMENTS.**

8 Section 1819 of the Social Security Act (42 U.S.C.
9 1395i-3) is amended by adding at the end the following
10 new subsection:

11 “(1) SURVEY IMPROVEMENTS.—

12 “(1) IN GENERAL.—There is appropriated to
13 the Secretary, out of any monies in the Treasury not
14 otherwise appropriated, \$325,000,000, for the period
15 of fiscal years 2022 through 2031, for purposes of—

16 “(A) conducting reviews and identifying
17 plans under paragraph (2); and

18 “(B) providing training, tools, technical as-
19 sistance, and financial support in accordance
20 with paragraph (3).

21 “(2) REVIEW.—The Secretary shall conduct re-
22 views, during the period specified in paragraph (1),
23 of (and, as appropriate, identify plans to improve)
24 the following:

1 “(A) The extent to which surveys con-
2 ducted under subsection (g) and the enforce-
3 ment process under subsection (h) result in in-
4 creased compliance with requirements under
5 this section and subpart B of part 483 of title
6 42, Code of Federal Regulations, with respect
7 to skilled nursing facilities (in this subsection
8 referred to as ‘facilities’).

9 “(B) The timeliness and thoroughness of
10 State agency verification of deficiency correc-
11 tions at facilities.

12 “(C) The appropriateness of the scoping
13 and substantiation of cited deficiencies at facili-
14 ties.

15 “(D) The accuracy of the identification
16 and appropriateness of the scoping of life safe-
17 ty, infection control, and emergency prepared-
18 ness deficiencies at facilities.

19 “(E) The timeliness of State agency inves-
20 tigations of—

21 “(i) complaints at facilities; and

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

24 “(F) The consistency of facility reporting
25 of substantiated complaints to law enforcement.

1 “(G) The ability of the State agency to
2 sufficiently hire, train, and retain individuals
3 who conduct surveys.

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

8 “(3) SUPPORT.—Based on the review under
9 paragraph (1), the Secretary shall, during the period
10 specified in paragraph (1), provide training, tools,
11 technical assistance, and financial support to State
12 agencies that perform surveys of facilities for the
13 purpose of improving the surveys conducted under
14 subsection (g) and the enforcement process under
15 subsection (h) with respect to the areas reviewed
16 under paragraph (1).”.

17 **SEC. 134304. NURSE STAFFING REQUIREMENTS.**

18 Section 1819(d) of the Social Security Act (42 U.S.C.
19 1395i–3(d)) is amended—

20 (1) in paragraph (4)(A), by inserting “and any
21 regulations promulgated under paragraph (5)(C)”
22 after “section 1124”; and

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

25 “(5) NURSE STAFFING REQUIREMENTS.—

1 “(A) FUNDING.—There is appropriated to
2 the Secretary, out of any monies in the Treas-
3 ury not otherwise appropriated, \$50,000,000
4 for the period of fiscal years 2022 through
5 2031 for purposes of carrying out this para-
6 graph.

7 “(B) STUDY.—Not later than 3 years after
8 the date of the enactment of this paragraph,
9 and not less frequently than once every 5 years
10 thereafter, the Secretary shall, out of funds ap-
11 propriated under subparagraph (A), conduct a
12 study and submit to Congress a report on the
13 appropriateness of establishing minimum staff
14 to resident ratios for nursing staff for skilled
15 nursing facilities. Each such report shall in-
16 clude—

17 “(i) with respect to the first such re-
18 port, recommendations regarding appro-
19 priate minimum ratios of registered nurses
20 (and, if practicable, licensed practical
21 nurses (or licensed vocational nurses) and
22 certified nursing assistants) to residents at
23 such skilled nursing facilities; and

24 “(ii) with respect to each subsequent
25 such report, recommendations regarding

1 appropriate minimum ratios of registered
2 nurses, licensed practical nurses (or li-
3 censed vocational nurses), and certified
4 nursing assistants to residents at such
5 skilled nursing facilities.

6 “(C) PROMULGATION OF REGULATIONS.—

7 “(i) IN GENERAL.—Not later than 2
8 years after the Secretary first submits a
9 report under subparagraph (B), the Sec-
10 retary shall, out of funds appropriated
11 under subparagraph (A)—

12 “(I) specify through regulations,
13 consistent with such report, appro-
14 priate minimum ratios (if any) of reg-
15 istered nurses (and, if practicable, li-
16 censed practical nurses (or licensed
17 vocational nurses) and certified nurs-
18 ing assistants) to residents at skilled
19 nursing facilities; and

20 “(II) except as provided in clause
21 (ii), require such skilled nursing facili-
22 ties to comply with such ratios.

23 “(ii) EXCEPTION.—

24 “(I) IN GENERAL.—The Sec-
25 retary may waive the application of

1 clause (i)(II) with respect to a skilled
2 nursing facility if the Secretary finds
3 that—

4 “(aa) the facility is located
5 in a rural area and the supply of
6 skilled nursing facility services in
7 such area is not sufficient to
8 meet the needs of individuals re-
9 siding therein;

10 “(bb) the Secretary provides
11 notice of the waiver to the State
12 long-term care ombudsman (es-
13 tablished under section
14 307(a)(12) of the Older Ameri-
15 cans Act of 1965) and the pro-
16 tection and advocacy system in
17 the State for the mentally ill; and

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

1 “(II) RENEWAL.—Any waiver in
2 effect under this clause shall be sub-
3 ject to annual renewal.

4 “(iii) UPDATE.—Not later than 2
5 years after the submission of each subse-
6 quent report under subparagraph (B), the
7 Secretary shall, out of funds appropriated
8 under subparagraph (A) and consistent
9 with such report, update the regulations
10 described in clause (i)(I) to reflect appro-
11 priate minimum ratios (if any) of reg-
12 istered nurses, licensed practical nurses (or
13 licensed vocational nurses), and certified
14 nursing assistants to residents at skilled
15 nursing facilities.”.

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