

116TH CONGRESS  
2D SESSION

# H. R. 6698

To amend titles XVIII and XIX of the Social Security Act to improve the quality of care in skilled nursing facilities under the Medicare program and nursing facilities under the Medicare program during the COVID–19 emergency period, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 5, 2020

Ms. SCHAKOWSKY (for herself, Ms. MATSUI, Ms. ROYBAL-ALLARD, Mrs. DINGELL, Ms. PRESSLEY, and Mr. DEUTCH) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend titles XVIII and XIX of the Social Security Act to improve the quality of care in skilled nursing facilities under the Medicare program and nursing facilities under the Medicare program during the COVID–19 emergency period, 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,*

1 **SECTION 1. SHORT TITLE.**

2       This Act may be cited as the “Quality Care for Nurs-  
3 ing Home Residents and Workers During COVID–19 Act  
4 of 2020”.

5 **SEC. 2. IMPROVING QUALITY OF CARE IN SKILLED NURS-**  
6 **ING FACILITIES AND NURSING FACILITIES**  
7 **DURING COVID–19 EMERGENCY PERIOD.**

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

11       “(k) ADDITIONAL REQUIREMENTS DURING CERTAIN  
12 PUBLIC HEALTH EMERGENCY.—

13               “(1) SKILLED NURSING FACILITIES.—

14                       “(A) IN GENERAL.—During the portion of  
15 the emergency period defined in paragraph  
16 (1)(B) of section 1135(g) beginning on or after  
17 the date of the enactment of this subsection, a  
18 skilled nursing facility shall comply with the  
19 quality of care requirements described in sub-  
20 paragraph (B), the worker safety requirements  
21 described in subparagraph (C), and the trans-  
22 parency requirements described in subpara-  
23 graph (D).

24                       “(B) QUALITY OF CARE REQUIREMENTS.—

25       The quality of care requirements described in  
26 this subparagraph are each of the following:

1 “(i) Employ, on a full-time basis, an  
2 infection preventionist who—

3 “(I) has primary professional  
4 training in nursing, medical tech-  
5 nology, microbiology, epidemiology, or  
6 other related field;

7 “(II) is qualified by education,  
8 training, experience or certification;  
9 and

10 “(III) has completed specialized  
11 training in infection prevention and  
12 control.

13 “(ii) In the case of a resident who  
14 elects to reside with a family member of  
15 such resident for any portion of the emer-  
16 gency period described in subparagraph  
17 (A), guarantee the right of such resident to  
18 resume residency in the facility at any time  
19 during the 180-day period immediately fol-  
20 lowing the end of such emergency period.

21 “(iii) Notwithstanding subparagraphs  
22 (A) and (B) of subsection (c)(2), permit a  
23 resident to remain in the facility and not  
24 discharge or transfer the resident from the  
25 facility unless—

1 “(I) the State survey agency ap-  
2 proves the discharge or transfer;

3 “(II) in the case of a transfer,  
4 the transfer is to a facility dedicated  
5 to the care of residents who have been  
6 diagnosed with COVID–19 if the resi-  
7 dent has been diagnosed with  
8 COVID–19, or a facility dedicated to  
9 the care of residents who have not  
10 been diagnosed with COVID–19 if the  
11 resident has not been diagnosed with  
12 COVID–19;

13 “(III) before effecting the dis-  
14 charge or transfer, the facility records  
15 the reasons in the resident’s clinical  
16 record;

17 “(IV) at least 72 hours in ad-  
18 vance of the discharge or transfer, the  
19 facility provides a notice of the dis-  
20 charge or transfer to the resident (or  
21 legal representative of the resident, if  
22 applicable), including the reasons  
23 therefor and the items described in  
24 clause (iii) of subsection (c)(2)(B);  
25 and

1                   “(V) the resident (or legal rep-  
2                   resentative of the resident, if applica-  
3                   ble) acknowledges receipt of the notice  
4                   described in subclause (IV) and pro-  
5                   vides written consent to the discharge  
6                   or transfer.

7                   “(iv) Test (on a weekly basis) each  
8                   resident for COVID–19, or, in the case  
9                   that the facility does not have a sufficient  
10                  number of testing kits for COVID–19,  
11                  screen each resident for symptoms of  
12                  COVID–19 and report (on a daily basis  
13                  until the facility has a sufficient number of  
14                  such testing kits) to the State survey agen-  
15                  cy that the facility does not have a suffi-  
16                  cient number of such testing kits and what  
17                  steps the facility is taking to procure a suf-  
18                  ficient number of such testing kits.

19                  “(v) Ensure there is an adequate  
20                  number of employees to assist residents in  
21                  communicating with family members and  
22                  friends through phone calls, e-mail, and  
23                  virtual communications on at least a week-  
24                  ly basis, without regard to whether a resi-  
25                  dent has been diagnosed with COVID–19.

1 “(C) WORKER SAFETY REQUIREMENTS.—

2 The worker safety requirements described in  
3 this subparagraph are each of the following:

4 “(i) In the case the facility is not oth-  
5 erwise subject to the Occupational Safety  
6 and Health Act of 1970 (or a State occu-  
7 pational safety and health plan that is ap-  
8 proved under section 18(c) of such Act),  
9 comply with the Bloodborne Pathogens  
10 standard under section 1910.1030 of title  
11 29, Code of Federal Regulations (or a suc-  
12 cessor regulation).

13 “(ii) In the case of a predicted short-  
14 age of personal protective equipment, re-  
15 port such predicted shortage to the State  
16 health department of the State in which  
17 the facility is located at least 24 hours in  
18 advance of when such predicted shortage is  
19 expected to occur.

20 “(iii) Educate each employee on the  
21 transmission of COVID–19.

22 “(iv) Notwithstanding any other pro-  
23 vision of law, provide at least two weeks of  
24 paid sick leave to each employee.

1           “(v) Before each employee’s shift, test  
2           the employee for COVID–19, or, in the  
3           case that the facility does not have a suffi-  
4           cient number of testing kits for COVID–  
5           19, screen each employee for symptoms of  
6           COVID–19 and report (on a daily basis  
7           until the facility has a sufficient number of  
8           such testing kits) to the State survey agen-  
9           cy that the facility does not have a suffi-  
10          cient number of such testing kits and what  
11          steps the facility is taking to procure a suf-  
12          ficient number of such testing kits.

13           “(D) TRANSPARENCY REQUIREMENTS.—  
14          The transparency requirements described in  
15          this subparagraph are each of the following:

16           “(i) Report (on a daily basis) to the  
17          State survey agency, the Centers for Medi-  
18          care & Medicaid Services, and the Centers  
19          for Disease Control and Prevention each of  
20          the following:

21           “(I) The number of confirmed  
22          and suspected cases COVID–19  
23          among residents and staff, including  
24          the age and race or ethnicity of such  
25          residents and staff.

1 “(II) The number of deaths re-  
2 lated to COVID–19 among residents  
3 and staff, including the age and race  
4 or ethnicity of such residents and  
5 staff.

6 “(III) The total number of  
7 deaths (without regard to whether a  
8 death is related to COVID–19) among  
9 residents and staff.

10 “(IV) The amount of personal  
11 protective equipment available and  
12 any projected need regarding such  
13 equipment.

14 “(V) Information on staffing lev-  
15 els that would otherwise be required  
16 to be submitted through the Payroll-  
17 Based Journal of the Centers for  
18 Medicare & Medicaid Services.

19 “(VI) The number of residents  
20 and staff who have been tested for  
21 COVID–19.

22 “(ii) In the case that a resident or  
23 employee is diagnosed with COVID–19 or  
24 dies as a result of COVID–19, notify all  
25 residents, legal representatives of residents,



1 and employees not later than 12 hours  
2 after such diagnosis is made or such death  
3 occurs.

4 “(iii) At any time three or more resi-  
5 dents or employees have newly onset  
6 COVID–19 symptoms, notify all residents,  
7 legal representatives of residents, and em-  
8 ployees not later than 72 hours after such  
9 three or more residents or employees are  
10 known to the facility.

11 “(iv) In the case that a resident or  
12 employee is suspected to have or is diag-  
13 nosed with COVID–19, post a notice of  
14 such suspicion or diagnosis at each en-  
15 trance of the facility for the remaining por-  
16 tion of the emergency period described in  
17 subparagraph (A).

18 “(v) For each day of the portion of  
19 the emergency period described in subpara-  
20 graph (A), post a notice at each entrance  
21 of the facility with the information re-  
22 quired under subsection (b)(8) for such  
23 day.

24 “(2) STATES AND FEDERAL GOVERNMENT.—

1           “(A) PUBLIC AVAILABILITY OF INFORMA-  
2           TION.—

3           “(i) IN GENERAL.—As soon as pos-  
4           sible, but not later than 24 hours after re-  
5           ceiving any information required under  
6           paragraph (1)(D)(i), the Administrator of  
7           the Centers for Medicare & Medicaid Serv-  
8           ices, in coordination with the Director of  
9           the Centers for Disease Control and Pre-  
10          vention, shall make such information pub-  
11          licly available on the Nursing Home Com-  
12          pare website of the Centers for Medicare &  
13          Medicaid Services and the COVIDView  
14          website of the Centers for Disease Control  
15          and Prevention.

16          “(ii) HIPAA COMPLIANT INFORMA-  
17          TION ONLY.—Information may only be  
18          made publicly available under clause (i) if  
19          the disclosure of such information would  
20          otherwise be permitted under the Federal  
21          regulations (concerning the privacy of indi-  
22          vidually identifiable health information)  
23          promulgated under section 264(c) of the  
24          Health Insurance Portability and Account-

1 ability Act of 1996 (42 U.S.C. 1320d-2  
2 note).

3 “(B) DESIGNATION OF COVID-19 FACILI-  
4 TIES.—For purposes of paragraph  
5 (1)(B)(iii)(II)—

6 “(i) the Administrator of the Centers  
7 for Medicare & Medicaid Services shall  
8 specify criteria (which shall include the  
9 provision of the services of a registered  
10 nurse on a 24-hours basis) for each State  
11 survey agency to carry out the designation  
12 requirement described in clause (ii) with  
13 respect to skilled nursing facilities; and

14 “(ii) each State survey agency shall  
15 designate a skilled nursing facility in the  
16 State as a facility dedicated to the care of  
17 residents who have been diagnosed with  
18 COVID-19 if such facility meets the cri-  
19 teria specified by the Administrator under  
20 clause (i).

21 “(C) REMOTE MONITORING AND SUR-  
22 VEYS.—A State survey agency shall—

23 “(i) remotely monitor all skilled nurs-  
24 ing facilities with at least one resident or

1 employee who has been diagnosed with  
2 COVID-19;

3 “(ii) in addition to surveys required  
4 under subsection (g), conduct a survey of  
5 a skilled nursing facility, in the same man-  
6 ner and subject to the same requirements  
7 applicable to standard surveys conducted  
8 under subsection (g), if the facility has a  
9 ratio of the number of deaths resulting  
10 from COVID-19 to the number of  
11 COVID-19 diagnoses that exceeds 5 per-  
12 cent, or the State survey agency receives a  
13 COVID-19 or staffing related immediate  
14 jeopardy complaint regarding the facility;  
15 and

16 “(iii) ensure that each survey team  
17 that conducts a survey under clause (ii)  
18 has adequate personal protective equip-  
19 ment while conducting such survey.

20 “(3) CIVIL MONEY PENALTIES.—The Secretary  
21 shall impose a civil money penalty against the opera-  
22 tors of a skilled nursing facility in an amount equal  
23 to \$10,000 per day for each violation of a require-  
24 ment described in subparagraph (B), (C), or (D) of  
25 paragraph (1) or the reporting of false information

1 under clause (i) of such subparagraph (D). The pro-  
2 visions of section 1128A (other than subsections (a)  
3 and (b)) shall apply to a civil money penalty under  
4 the previous sentence in the same manner as such  
5 provisions apply to a penalty or proceeding under  
6 section 1128A(a).”.

7 (b) MEDICAID.—Section 1919 of the Social Security  
8 Act (42 U.S.C. 1396r) is amended by adding at the end  
9 the following new subsection:

10 “(k) ADDITIONAL REQUIREMENTS DURING CERTAIN  
11 PUBLIC HEALTH EMERGENCY.—

12 “(1) NURSING FACILITIES.—

13 “(A) IN GENERAL.—During the portion of  
14 the emergency period defined in paragraph  
15 (1)(B) of section 1135(g) beginning on or after  
16 the date of the enactment of this subsection, a  
17 nursing facility shall comply with the quality of  
18 care requirements described in subparagraph  
19 (B), the worker safety requirements described  
20 in subparagraph (C), and the transparency re-  
21 quirements described in subparagraph (D).

22 “(B) QUALITY OF CARE REQUIREMENTS.—

23 The quality of care requirements described in  
24 this subparagraph are each of the following:

1 “(i) Employ, on a full-time basis, an  
2 infection preventionist who—

3 “(I) has primary professional  
4 training in nursing, medical tech-  
5 nology, microbiology, epidemiology, or  
6 other related field;

7 “(II) is qualified by education,  
8 training, experience or certification;  
9 and

10 “(III) has completed specialized  
11 training in infection prevention and  
12 control.

13 “(ii) In the case of a resident who  
14 elects to reside with a family member of  
15 such resident for any portion of the emer-  
16 gency period described in subparagraph  
17 (A), guarantee the right of such resident to  
18 resume residency in the facility at any time  
19 during the 180-day period immediately fol-  
20 lowing the end of such emergency period.

21 “(iii) Notwithstanding subparagraphs  
22 (A) and (B) of subsection (c)(2), permit a  
23 resident to remain in the facility and not  
24 discharge or transfer the resident from the  
25 facility unless—

1 “(I) the State survey agency ap-  
2 proves the discharge or transfer;

3 “(II) in the case of a transfer,  
4 the transfer is to a facility dedicated  
5 to the care of residents who have been  
6 diagnosed with COVID–19 if the resi-  
7 dent has been diagnosed with  
8 COVID–19, or a facility dedicated to  
9 the care of residents who have not  
10 been diagnosed with COVID–19 if the  
11 resident has not been diagnosed with  
12 COVID–19;

13 “(III) before effecting the dis-  
14 charge or transfer, the facility records  
15 the reasons in the resident’s clinical  
16 record;

17 “(IV) at least 72 hours in ad-  
18 vance of the discharge or transfer, the  
19 facility provides a notice of the dis-  
20 charge or transfer to the resident (or  
21 legal representative of the resident, if  
22 applicable), including the reasons  
23 therefor and the items described in  
24 clause (iii) of subsection (c)(2)(B);  
25 and

1           “(V) the resident (or legal rep-  
2           resentative of the resident, if applica-  
3           ble) acknowledges receipt of the notice  
4           described in subclause (IV) and pro-  
5           vides written consent to the discharge  
6           or transfer.

7           “(iv) Test (on a weekly basis) each  
8           resident for COVID–19, or, in the case  
9           that the facility does not have a sufficient  
10          number of testing kits for COVID–19,  
11          screen each resident for symptoms of  
12          COVID–19 and report (on a daily basis  
13          until the facility has a sufficient number of  
14          such testing kits) to the State survey agen-  
15          cy that the facility does not have a suffi-  
16          cient number of such testing kits and what  
17          steps the facility is taking to procure a suf-  
18          ficient number of such testing kits.

19          “(v) Ensure there is an adequate  
20          number of employees to assist residents in  
21          communicating with family members and  
22          friends through phone calls, e-mail, and  
23          virtual communications on at least a week-  
24          ly basis, without regard to whether a resi-  
25          dent has been diagnosed with COVID–19.



1           “(C) WORKER SAFETY REQUIREMENTS.—

2           The worker safety requirements described in  
3           this subparagraph are each of the following:

4                   “(i) In the case the facility is not oth-  
5                   erwise subject to the Occupational Safety  
6                   and Health Act of 1970 (or a State occu-  
7                   pational safety and health plan that is ap-  
8                   proved under section 18(c) of such Act),  
9                   comply with the Bloodborne Pathogens  
10                  standard under section 1910.1030 of title  
11                  29, Code of Federal Regulations (or a suc-  
12                  cessor regulation).

13                   “(ii) In the case of a predicted short-  
14                   age of personal protective equipment, re-  
15                   port such predicted shortage to the State  
16                   health department of the State in which  
17                   the facility is located at least 24 hours in  
18                   advance of when such predicted shortage is  
19                   expected to occur.

20                   “(iii) Educate each employee on the  
21                   transmission of COVID–19.

22                   “(iv) Notwithstanding any other pro-  
23                   vision of law, provide at least two weeks of  
24                   paid sick leave to each employee.

1           “(v) Before each employee’s shift, test  
2           the employee for COVID–19, or, in the  
3           case that the facility does not have a suffi-  
4           cient number of testing kits for COVID–  
5           19, screen each employee for symptoms of  
6           COVID–19 and report (on a daily basis  
7           until the facility has a sufficient number of  
8           such testing kits) to the State survey agen-  
9           cy that the facility does not have a suffi-  
10          cient number of such testing kits and what  
11          steps the facility is taking to procure a suf-  
12          ficient number of such testing kits.

13           “(D) TRANSPARENCY REQUIREMENTS.—  
14          The transparency requirements described in  
15          this subparagraph are each of the following:

16           “(i) Report (on a daily basis) to the  
17          State survey agency, the Centers for Medi-  
18          care & Medicaid Services, and the Centers  
19          for Disease Control and Prevention each of  
20          the following:

21           “(I) The number of confirmed  
22          and suspected cases COVID–19  
23          among residents and staff, including  
24          the age and race or ethnicity of such  
25          residents and staff.

1 “(II) The number of deaths re-  
2 lated to COVID–19 among residents  
3 and staff, including the age and race  
4 or ethnicity of such residents and  
5 staff.

6 “(III) The total number of  
7 deaths (without regard to whether a  
8 death is related to COVID–19) among  
9 residents and staff.

10 “(IV) The amount of personal  
11 protective equipment available and  
12 any projected need regarding such  
13 equipment.

14 “(V) Information on staffing lev-  
15 els that would otherwise be required  
16 to be submitted through the Payroll-  
17 Based Journal of the Centers for  
18 Medicare & Medicaid Services.

19 “(VI) The number of residents  
20 and staff who have been tested for  
21 COVID–19.

22 “(ii) In the case that a resident or  
23 employee is diagnosed with COVID–19 or  
24 dies as a result of COVID–19, notify all  
25 residents, legal representatives of residents,

1 and employees not later than 12 hours  
2 after such diagnosis is made or such death  
3 occurs.

4 “(iii) At any time three or more resi-  
5 dents or employees have newly onset  
6 COVID–19 symptoms, notify all residents,  
7 legal representatives of residents, and em-  
8 ployees not later than 72 hours after such  
9 three or more residents or employees are  
10 known to the facility.

11 “(iv) In the case that a resident or  
12 employee is suspected to have or is diag-  
13 nosed with COVID–19, post a notice of  
14 such suspicion or diagnosis at each en-  
15 trance of the facility for the remaining por-  
16 tion of the emergency period described in  
17 subparagraph (A).

18 “(v) For each day of the portion of  
19 the emergency period described in subpara-  
20 graph (A), post a notice at each entrance  
21 of the facility with the information re-  
22 quired under subsection (b)(8) for such  
23 day.

24 “(2) STATES AND FEDERAL GOVERNMENT.—

1           “(A) PUBLIC AVAILABILITY OF INFORMA-  
2           TION.—

3           “(i) IN GENERAL.—As soon as pos-  
4           sible, but not later than 24 hours after re-  
5           ceiving any information required under  
6           paragraph (1)(D)(i), the Administrator of  
7           the Centers for Medicare & Medicaid Serv-  
8           ices, in coordination with the Director of  
9           the Centers for Disease Control and Pre-  
10          vention, shall make such information pub-  
11          licly available on the Nursing Home Com-  
12          pare website of the Centers for Medicare &  
13          Medicaid Services and the COVIDView  
14          website of the Centers for Disease Control  
15          and Prevention.

16          “(ii) HIPAA COMPLIANT INFORMA-  
17          TION ONLY.—Information may only be  
18          made publicly available under clause (i) if  
19          the disclosure of such information would  
20          otherwise be permitted under the Federal  
21          regulations (concerning the privacy of indi-  
22          vidually identifiable health information)  
23          promulgated under section 264(c) of the  
24          Health Insurance Portability and Account-

1 ability Act of 1996 (42 U.S.C. 1320d-2  
2 note).

3 “(B) DESIGNATION OF COVID-19 FACILI-  
4 TIES.—For purposes of paragraph  
5 (1)(B)(iii)(II)—

6 “(i) the Administrator of the Centers  
7 for Medicare & Medicaid Services shall  
8 specify criteria (which shall include the  
9 provision of the services of a registered  
10 nurse on a 24-hours basis) for each State  
11 survey agency to carry out the designation  
12 requirement described in clause (ii) with  
13 respect to nursing facilities; and

14 “(ii) each State survey agency shall  
15 designate a nursing facility in the State as  
16 a facility dedicated to the care of residents  
17 who have been diagnosed with COVID-19  
18 if such facility meets the criteria specified  
19 by the Administrator under clause (i).

20 “(C) REMOTE MONITORING AND SUR-  
21 VEYS.—A State survey agency shall—

22 “(i) remotely monitor all nursing fa-  
23 cilities with at least one resident or em-  
24 ployee who has been diagnosed with  
25 COVID-19;

“(ii) in addition to surveys required under subsection (g), conduct a survey of a nursing facility, in the same manner and subject to the same requirements applicable to standard surveys conducted under subsection (g), if the facility has a ratio of the number of deaths resulting from COVID–19 to the number of COVID–19 diagnoses that exceeds 5 percent, or the State survey agency receives a COVID–19 or staffing related immediate jeopardy complaint regarding the facility; and

“(iii) ensure that each survey team that conducts a survey under clause (ii) has adequate personal protective equipment while conducting such survey.

“(3) CIVIL MONEY PENALTIES.—The Secretary shall impose a civil money penalty against the operators of a nursing facility in an amount equal to \$10,000 per day for each violation of a requirement described in subparagraph (B), (C), or (D) of paragraph (1) or the reporting of false information under clause (i) of such subparagraph (D). The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under the

1 previous sentence in the same manner as such provi-  
2 sions apply to a penalty or proceeding under section  
3 1128A(a).”.

4 **SEC. 3. FUNDING FOR STATE STRIKE TEAMS FOR RESI-**  
5 **DENT AND EMPLOYEE SAFETY IN SKILLED**  
6 **NURSING FACILITIES AND NURSING FACILI-**  
7 **TIES.**

8 (a) IN GENERAL.—Of the amounts made available  
9 under subsection (c), the Secretary of Health and Human  
10 Services (referred to in this section as the “Secretary”)  
11 shall allocate such amounts among the States, in a man-  
12 ner that takes into account the percentage of skilled nurs-  
13 ing facilities and nursing facilities in each State that have  
14 residents or employees who have been diagnosed with  
15 COVID–19, for purposes of establishing and implementing  
16 strike teams in accordance with subsection (b).

17 (b) USE OF FUNDS.—A State that receives funds  
18 under this section shall use such funds to establish and  
19 implement a strike team that will be deployed to a skilled  
20 nursing facility or nursing facility in the State, not later  
21 than 72 hours after three or more residents or employees  
22 of the facility are diagnosed with or suspected of having  
23 COVID–19, to assist the facility in separating residents  
24 and employees who have been exposed to COVID–19 from  
25 those residents and employees who have not been so ex-



1 posed, supervising testing for COVID–19, ensuring any  
2 applicable whistleblower protections are being enforced,  
3 and such other needs as determined necessary by the  
4 strike team. Such strike team shall include members of  
5 the National Guard, public health officials from State and  
6 local health departments, experts in geriatrics and long-  
7 term care medicine, representatives of residents or con-  
8 sumers, and representatives of workers.

9 (c) AUTHORIZATION OF APPROPRIATIONS.—For pur-  
10 poses of carrying out this section, there is authorized to  
11 be appropriated \$500,000,000.

12 (d) DEFINITIONS.—In this section:

13 (1) NURSING FACILITY.—The term “nursing  
14 facility” means a nursing facility under the Medicaid  
15 program under title XIX of the Social Security Act  
16 (42 U.S.C. 1396 et seq.)

17 (2) SKILLED NURSING FACILITY.—The term  
18 “skilled nursing facility” means a skilled nursing fa-  
19 cility under the Medicare program under title XVIII  
20 of the Social Security Act (42 U.S.C. 1395 et seq.).

1 **SEC. 4. REINSTITUTION OF REQUIREMENTS WAIVED FOR**  
2 **SKILLED NURSING FACILITIES AND NURSING**  
3 **FACILITIES DURING COVID-19 EMERGENCY**  
4 **PERIOD.**

5 (a) IN GENERAL.—With respect to requirements that  
6 the Administrator of the Centers for Medicare & Medicaid  
7 Services (referred to in this section as the “Adminis-  
8 trator”) waived for skilled nursing facilities and nursing  
9 facilities under section 1135 or 1812(f) of the Social Secu-  
10 rity Act (42 U.S.C. 1320b–5, 1395d(f)) for the period be-  
11 ginning on March 1, 2020, and ending on the last day  
12 of the emergency period defined in subsection (g)(1)(B)  
13 of such section 1135, the Administrator shall terminate  
14 the waiver of such requirements before the last day of such  
15 emergency period upon the determination that skilled  
16 nursing facilities and nursing facilities have the capacity  
17 to comply with such requirements and that such waiver  
18 is no longer necessary.

19 (b) PLAN FOR CONDUCTING WAIVED OR POSTPONED  
20 SURVEYS.—With respect to any survey under section  
21 1819(g) or 1919(g) of the Social Security Act (42 U.S.C.  
22 1395i–3(g), 1396r(g)) that is waived or postponed during  
23 the period beginning on March 1, 2020, and ending on  
24 the last day of the emergency period described in sub-  
25 section (a), the Administrator shall develop a plan for con-  
26 ducting such survey after such last day.

1       (c) TRAINING AND CERTIFICATION OF NURSE  
2 AIDES.—With respect to any nurse aide with respect to  
3 whom the Administrator waived the application of the re-  
4 quirements under section 483.35(d) of title 42, Code of  
5 Federal Regulations, for the period beginning on March  
6 1, 2020, and ending on the last day of the emergency pe-  
7 riod described in subsection (a), the Administrator shall  
8 prohibit the skilled nursing facility or nursing facility em-  
9 ploying such nurse aide from retaining such nurse aide  
10 after such last day unless such nurse aide satisfies applica-  
11 ble training and certification requirements under such sec-  
12 tion not later than 15 days after such last day.

13       (d) DEFINITIONS.—In this section:

14           (1) NURSING FACILITY.—The term “nursing  
15 facility” means a nursing facility under the Medicaid  
16 program under title XIX of the Social Security Act  
17 (42 U.S.C. 1396 et seq.)

18           (2) SKILLED NURSING FACILITY.—The term  
19 “skilled nursing facility” means a skilled nursing fa-  
20 cility under the Medicare program under title XVIII  
21 of the Social Security Act (42 U.S.C. 1395 et seq.).

1 **SEC. 5. GUIDANCE FOR CERTAIN RESIDENTIAL CARE FA-**  
2 **CILITIES DURING COVID-19 EMERGENCY PE-**  
3 **RIOD.**

4 Not later than 15 days after the date of the enact-  
5 ment of this Act, the Secretary of Health and Human  
6 Services (referred to in this section as the “Secretary”)  
7 shall issue guidance for long-term health care facilities,  
8 including assisted living facilities, other residential care fa-  
9 cilities, and such facilities that are temporary during the  
10 emergency period defined in section 1135(g)(1)(B) of the  
11 Social Security Act (42 U.S.C. 1320b–5(g)(1)(B)), that  
12 are not subject to oversight by the Centers for Medicare  
13 & Medicaid Services on providing access to virtual visita-  
14 tion during any portion of such emergency period in which  
15 in-person visitation is restricted and ensuring appropriate  
16 infection control and prevention and employee safety dur-  
17 ing such emergency period. Such guidance shall include—

18 (1) steps that health care facilities described in  
19 this subsection should take to provide residents with  
20 access to virtual visitation, including through the  
21 purchase or installation of devices purchased for the  
22 use or benefit of individual or multiple residents,  
23 that allows residents to communicate with their fam-  
24 ilies during such emergency period;

25 (2) options for such facilities in notifying resi-  
26 dents and resident representatives of such access to

1 virtual visitation and how the facility is addressing  
2 any operational issues related to such access to vir-  
3 tual visitation; and

4 (3) steps that health care facilities described in  
5 this subsection should take to provide residents and  
6 employees with appropriate infection control and  
7 prevention, based on requirements for skilled nurs-  
8 ing facilities under subsection (k) of section 1819 of  
9 the Social Security Act (42 U.S.C. 1395i-3), as  
10 added by section 2(a), and requirements for nursing  
11 facilities under subsection (k) of section 1919 of  
12 such Act (42 U.S.C. 1396r), as added by section  
13 2(b).

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