

**COMMITTEE ON WAYS AND MEANS**  
**U.S. HOUSE OF REPRESENTATIVES**  
**WASHINGTON, DC 20515**

October 30, 2020

Seema Verma  
Administrator  
Centers for Medicare & Medicaid Services  
7500 Security Boulevard  
Baltimore, MD 1244

Re: Reinstatement of nursing home staff training and oversight requirements

Dear Administrator Verma:

Approximately 40 percent of coronavirus (COVID-19) deaths have occurred in long-term care facilities – amounting to over 84,000 lives tragically lost since the beginning of the COVID-19 pandemic.<sup>1</sup> As the Centers for Medicare & Medicaid Services (CMS) begins reinstating nursing home safety, inspection, and reporting requirements that it initially waived at the beginning of the public health emergency, we implore you to reinstitute vital training and physician oversight requirements. As you are aware, many infection control, neglect, and safety concerns cited during annual inspections can be attributed to staffing. Facilities with higher staffing ratios and more highly trained staff have the best ratings and are more successful in preventing or containing COVID-19.<sup>2</sup> More specifically, to ensure the safety of residents, CMS should promptly reinstate the 75-hour training requirement for nurse aides and require any aides currently operating under the waiver to meet this requirement; reinstate the requirements that paid feeding assistants receive at least the minimum of eight hours of training; and reinstate the physician delegation requirements all intended to protect quality and safety of patient care in nursing homes.

In March, CMS waived the nurse aide training requirement, which requires a minimum of 75 hours of training (42 CFR § 483.152) within four months of employment and passage of the state's competency evaluation program. Some states have higher training requirements, but all must meet the federal minimum requirement of 75 hours. Immediately after CMS waived this requirement, a trade association announced a free eight-hour online training program and competency test.<sup>3</sup> This program has been widely publicized, and many states explicitly approved the program as meeting competency standards. An eight-hour course is insufficient to provide

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<sup>1</sup> <https://www.kff.org/coronavirus-covid-19/issue-brief/state-data-and-policy-actions-to-address-coronavirus/>

<sup>2</sup> <https://medicareadvocacy.org/studies-find-higher-nurse-staffing-levels-in-nursing-facilities-are-correlated-with-better-containment-of-covid-19/>

<sup>3</sup> <https://www.mcknights.com/news/cms-waives-nurse-aide-training-certification-requirements/>

the level of training necessary to protect nursing home residents and staff, who may be injured without proper training on care techniques, including lifts.

Though CMS rightfully reinstated in June the requirement in 42 CFR 483.70(q) that facilities report staffing through the Payroll Based Journal (PBJ) system, no revisions have been made to track or otherwise account for the workers who have not completed their full training requirements as a result of the Administration's 1135 waiver. CMS has no system to track how many workers are operating under the waiver, whether some facilities have a higher ratio of workers with less-than-complete training compared to other facilities, or the impact of the waiver on resident safety and quality of care. Given such opacity, we request that in addition to reinstating the nurse aide training requirement and applying it to all current and future workers, CMS require all facilities report how many currently employed workers have not met the 75-hour training requirement. The agency should make such information made publicly available on Nursing Home Compare and on the new Care Compare website.

Beyond nurse aide training, CMS used its 1135 waiver authority to modify the training requirements for paid feeding assistants in 42 CFR §§ 483.60(h)(1)(i) and 483.160(a) – reducing training from a minimum of eight hours to a minimum of one hour in length. Paid feeding assistants may help residents with non-complex feeding needs, boosting caloric intake and providing extra assistance in the dining room; one hour of training simply cannot be sufficient for any task that has such direct impact on the health of nursing homes residents.

Similarly, CMS waived requirements in § 483.30(e)(4) that prevent a physician from delegating a task to non-physician providers. Under the waiver, physicians can delegate tasks to other provider types, including, for example, nurse practitioners or physician assistants. At this juncture, there seems to be no good reason for this continued exemption from physician performance of these tasks, and we request that CMS reinstate this requirement immediately.

Residents deserve the best of care from highly trained and sufficiently numbered staff – and these requirements are also designed to provide workers with the skillset necessary to carry out the required tasks of the job. Individuals working in nursing homes too often are underpaid, overworked, and working in extremely hazardous conditions during the pandemic; they deserve all the tools available to succeed in these difficult settings. Reinstating these requirements is a critical step to mitigating the devastating impact COVID-19 has already had on nursing home residents and staff. Thank you for your timely attention to this important matter.

Sincerely,



Richard E. Neal  
Chairman



Lloyd Doggett

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Bill Pascrell, Jr.

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Brian Higgins

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Judy Chu

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Linda T. Sánchez

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Suzan DelBene

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Brendan F. Boyle