

116TH CONGRESS  
2D SESSION

# H. R. 8574

To amend titles XVIII and XIX of the Social Security Act to increase enforcement under Medicare and Medicaid for skilled nursing facilities and nursing facilities during the COVID–19 emergency period and other infectious disease outbreak periods, and for other purposes.

---

## IN THE HOUSE OF REPRESENTATIVES

OCTOBER 9, 2020

Ms. SHERRILL (for herself, Mr. PASCRELL, Mrs. WATSON COLEMAN, Mr. SIRES, Mr. BEYER, Mr. PAYNE, Mr. DOGGETT, Ms. SHALALA, Ms. JUDY CHU of California, and Mr. KILDEE) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, 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

---

## A BILL

To amend titles XVIII and XIX of the Social Security Act to increase enforcement under Medicare and Medicaid for skilled nursing facilities and nursing facilities during the COVID–19 emergency period and other infectious disease outbreak periods, 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 “Protecting Residents  
5 with Oversight, Transparency, and Enforcement for Com-

1 passionate Treatment in Long Term Care Facilities Act”  
2 or the “PROTECT Long Term Care Facilities Act”.

3 **SEC. 2. INCREASED ENFORCEMENT UNDER MEDICARE AND**  
4 **MEDICAID FOR SKILLED NURSING FACILI-**  
5 **TIES AND NURSING FACILITIES DURING THE**  
6 **COVID-19 EMERGENCY PERIOD AND OTHER**  
7 **INFECTIOUS DISEASE OUTBREAK PERIODS.**

8 (a) ADDITIONAL FUNDING TO STATE SURVEY AGEN-  
9 CIES.—

10 (1) APPROPRIATIONS.—Out of any funds in the  
11 Treasury not otherwise appropriated, there is appro-  
12 priated to the Secretary of Health and Human Serv-  
13 ices \$100,000,000 for fiscal year 2021 to be pro-  
14 vided, in addition to any funds otherwise made avail-  
15 able and in accordance with paragraph (2), to State  
16 survey and certification agencies (described in sub-  
17 section (f) of section 1128I of the Social Security  
18 Act (42 U.S.C. 1320a-7j)) for the following pur-  
19 poses:

20 (A) To complete surveys conducted pursu-  
21 ant to the amendments made by subsection (b)  
22 for facilities (as defined in subsection (a) of  
23 such section 1128I).

24 (B) To increase investigations and surveys  
25 performed pursuant to sections 1919(g)(4) of

1 such Act (42 U.S.C. 1396r(g)(2)) and  
2 1819(g)(4) of such Act (42 U.S.C. 1395i-  
3 3(g)(4)) based on criteria developed pursuant to  
4 paragraph (7)(B) of section 1819(h) of such  
5 Act, as added by subsection (b)(1)(C), and  
6 paragraph (10)(B) of section 1919(h) of such  
7 Act, as added by subsection (b)(2)(C).

8 (C) To purchase personal protective equip-  
9 ment for surveyors to conduct surveys and in-  
10 vestigations of facilities (as defined in sub-  
11 section (a) of such section 1128I) to ensure  
12 worker safety.

13 (D) To increase staffing levels at such  
14 State survey and certification agencies.

15 (2) ALLOCATION OF FUNDING.—The Secretary  
16 shall allocate funds appropriated under paragraph  
17 (1) based on the following prioritization:

18 (A) First to State survey and certification  
19 agencies (as described in subsection (f) of such  
20 section 1128I) serving populations with a high  
21 burden, as defined by the Secretary of Health  
22 and Human Services, of COVID–19.

23 (B) Second to such agencies preparing for,  
24 or working to mitigate, a COVID–19 surge or  
25 any similar infectious disease outbreak.

1           (C) Third to such agencies serving a high  
2           number, as defined by the Secretary, of low-in-  
3           come, uninsured, or under-insured populations,  
4           including medically underserved populations.

5           (D) Fourth to such agencies, as deter-  
6           mined by the Secretary, based on the size of  
7           their nursing home population.

8           (E) Fifth to any other such agencies.

9           (b) SPECIAL RULES DURING COVID–19 EMER-  
10          GENCY PERIOD AND OTHER INFECTIOUS DISEASE OUT-  
11          BREAK PERIODS.—

12           (1) MEDICARE.—

13           (A) IN GENERAL.—Section 1819(g)(2) of  
14           the Social Security Act (42 U.S.C. 1395i–  
15           3(g)(2)) is amended by adding at the end the  
16           following new subparagraph:

17           “(F) COVID–19 EMERGENCY PERIOD AND  
18           OTHER INFECTIOUS DISEASE OUTBREAK PERI-  
19           ODS.—

20           “(i) IN GENERAL.—Notwithstanding  
21           any other provision of this paragraph, dur-  
22           ing an infectious disease outbreak period  
23           (as defined in clause (ii)), with respect to  
24           a State, the following shall apply:

1           “(I) Each skilled nursing facility  
2 shall be subject to a standard survey  
3 under subparagraph (A) not later  
4 than 4 weeks after the beginning of  
5 such period and every 6 months after  
6 the date of the previous standard sur-  
7 vey conducted under such subpara-  
8 graph.

9           “(II) Follow-up surveys under  
10 this paragraph shall be conducted  
11 based on if the skilled nursing facility  
12 is found to be—

13                   “(aa) a facility with sub-  
14 standard quality of care;

15                   “(bb) a facility not in sub-  
16 stantial compliance;

17                   “(cc) a facility reporting less  
18 than three hours of direct care  
19 staff per resident per day;

20                   “(dd) a facility that has re-  
21 ported no registered nurses for  
22 four or more days in a quarter;  
23 or

1                   “(ee) a facility with an over-  
2                   all score of 2 or less stars on  
3                   nursing home compare.

4                   “(III) In the case of a skilled  
5                   nursing facility which is found under  
6                   a standard survey or extended survey  
7                   to be in substantial compliance, State  
8                   survey and certification agencies (de-  
9                   scribed in subsection (f) of section  
10                  1128I) shall have flexibility with re-  
11                  gards to the timing of conducting  
12                  such a follow-up standard survey.

13                  “(IV) A skilled nursing facility  
14                  which is found, under a standard sur-  
15                  vey or extended survey, to have pro-  
16                  vided substandard quality of care  
17                  shall be treated as being identified by  
18                  the Secretary as having substantially  
19                  failed to meet applicable requirement  
20                  of this Act for purposes of subsection  
21                  (f)(8).

22                  “(V) In the case of a skilled  
23                  nursing facility that is subject to an  
24                  extended survey under subparagraph  
25                  (B), such extended survey shall be

1 conducted as soon as practical after  
2 the standard survey for such facility,  
3 but not later than 4 weeks after the  
4 date of completion of such standard  
5 survey.

6 “(VI) A skilled nursing facility  
7 which is found, under a standard sur-  
8 vey or extended survey to have pro-  
9 vided substandard quality of care  
10 shall be surveyed at least once every 6  
11 months, thereafter until the infectious  
12 disease outbreak period ends.

13 “(VII) Surveys under this para-  
14 graph shall be conducted in a manner  
15 that prioritizes skilled nursing facili-  
16 ties located in towns (or counties, if  
17 municipal-level is not available) with  
18 higher infection rate, as identified by  
19 the Secretary, and facilities with pre-  
20 vious violations of requirements of  
21 this Act.

22 “(VIII) Any skilled nursing facil-  
23 ity reporting (as determined by the  
24 Centers for Medicare & Medicaid  
25 Services) fewer than three hours of di-

1           rect care staff time per resident per  
2           day, with 1/2 hour of registered nurse  
3           time included or any skilled nursing  
4           facility that has reported no registered  
5           nurse for four or more days.

6           “(ii) INFECTIOUS DISEASE OUTBREAK  
7           PERIOD DEFINED.—For purposes of this  
8           subparagraph, the term ‘infectious disease  
9           outbreak period’ means any of the fol-  
10          lowing periods:

11                   “(I) COVID–19 EMERGENCY PE-  
12                   RIOD.—The emergency period de-  
13                   scribed in section 1135(g)(1)(B).

14                   “(II) OTHER INFECTIOUS DIS-  
15                   EASE OUTBREAK PERIODS.—

16                           “(aa) The period beginning  
17                           on the date a nationwide emer-  
18                           gency related to a public health  
19                           emergency is declared pursuant  
20                           to the Stafford Act, a Major Dis-  
21                           aster Declaration, or the Na-  
22                           tional Emergencies Act and end-  
23                           ing on the date that is 6 months  
24                           after the date on which the dec-  
25                           laration pursuant to the Stafford



1 Act, a Major Disaster Declara-  
2 tion, or the National Emer-  
3 gencies Act, as applicable, ends,  
4 whichever is the latest.

5 “(bb) The period during  
6 which there exists a public health  
7 emergency related to an infec-  
8 tious disease outbreak declared  
9 by the Secretary pursuant to sec-  
10 tion 319 of the Public Health  
11 Service Act.

12 “(cc) With respect to a  
13 skilled nursing facility in a State  
14 with respect to which the Gov-  
15 ernor has declared an emergency  
16 or major disaster (as defined by  
17 the State) with respect to an in-  
18 fectious disease outbreak, the pe-  
19 riod for which such declaration is  
20 in effect with respect to such  
21 State.”.

22 (B) INTERNET PORTAL AND HOTLINE  
23 NUMBER.—Section 1819(e) of the Social Secu-  
24 rity Act (42 U.S.C. 1395i–3(e)) is amended by  
25 adding at the end the following new paragraph:

1           “(6) INTERNET PORTAL AND HOTLINE NUM-  
2           BER.—By not later than one year after the date of  
3           the enactment of this paragraph, the State shall  
4           have in place and maintain an Internet portal and  
5           hotline number (which may be such a portal or hot-  
6           line in existence before the date of the enactment of  
7           this paragraph) for staff of nursing facilities, resi-  
8           dents of such facilities, family of such residents, the  
9           State long-term care ombudsman (established under  
10          title III or VII of the Older Americans Act of 1965  
11          in accordance with section 712 of the Act), or the  
12          general public to report violations of requirements of  
13          this section by such facilities. The Secretary shall es-  
14          tablish a process under which each violation so re-  
15          ported shall be preliminarily investigated by a State  
16          survey and certification agency (described in sub-  
17          section (f) of section 1128I) and based on the re-  
18          sults of such preliminary investigation may be sub-  
19          ject to a subsequent more comprehensive investiga-  
20          tion by such agency, in coordination with the Sec-  
21          retary.”.

22                   (C) INCREASED PENALTIES.—Section  
23                   1819(h) of the Social Security Act (42 U.S.C.  
24                   1395i–3(h)) is amended by adding at the end  
25                   the following new paragraph:

1           “(7) SPECIAL RULES DURING COVID–19 EMER-  
2           GENCY PERIOD AND OTHER INFECTIOUS DISEASE  
3           OUTBREAK PERIODS.—

4           “(A) IN GENERAL.—Notwithstanding any  
5           other provision of this subsection, during an in-  
6           fectious disease outbreak period (as defined in  
7           subsection (g)(2)(F)(ii)), with respect to a  
8           State, the following shall apply:

9           “(i) In the cases of an outbreak spe-  
10          cific violation, a civil monetary penalty  
11          under paragraph (2)(B)(ii)(I) may not be  
12          waived or reduced by the Secretary.

13          “(ii) In the case of a repeat deficiency  
14          relating to any violation of a skilled nurs-  
15          ing facility during a 15-month period, any  
16          civil monetary penalty under paragraph  
17          (2)(B)(ii)(I), shall be doubled.

18          “(iii) In the case of a second outbreak  
19          specific violation of a skilled nursing facil-  
20          ity during such period, the facility shall be  
21          treated as being identified by the Secretary  
22          (or may be identified by the top State  
23          health official, in accordance with a proc-  
24          ess specified by the Secretary) as having  
25          substantially failed to meet applicable re-

1           requirement of this Act for purposes of sub-  
2           section (f)(8) for the remainder of such pe-  
3           riod.

4           “(B) OUTBREAK SPECIFIC VIOLATION.—  
5           For purposes of this paragraph, the Secretary,  
6           through the Centers for Medicare & Medicaid  
7           Services, shall develop the following:

8                   “(i) In the case of an infectious dis-  
9                   ease outbreak period with respect to  
10                  COVID–19, criteria for determining an  
11                  outbreak specific violation with respect to  
12                  COVID–19, including—

13                           “(I) criteria specified by the Cen-  
14                           ters for Disease Control and Preven-  
15                           tion relating to infection rates, mor-  
16                           tality rates, and hospitalization rates;  
17                           and

18                           “(II) criteria for staff shortages,  
19                           overcrowding (and ability to cohort),  
20                           and insufficient personal protective  
21                           equipment.

22                   “(ii) In the case of an infectious dis-  
23                   ease outbreak period other than with re-  
24                   spect to COVID–19, criteria for deter-

1           mining an outbreak specific violation spe-  
2           cific to such outbreak period.”.

3           (D) REPORTING.—Section 1819(d)(4) of  
4           the Social Security Act (42 U.S.C. 1395i-  
5           3(d)(4)) is amended by adding at the end the  
6           following new subparagraph:

7           “(C) COVID-19 AND INFECTIOUS DIS-  
8           EASE OUTBREAK REPORTING AND NOTIFICA-  
9           TION.—

10           “(i) IN GENERAL.—A skilled nursing  
11           facility must, with respect to an infectious  
12           disease outbreak period (as defined in sub-  
13           section (g)(2)(F)(ii))—

14           “(I) electronically submit, at a  
15           frequency specified by the Secretary,  
16           but no less than once weekly and in a  
17           standardized format specified by the  
18           Secretary, to the National Healthcare  
19           Safety Network of the Centers for  
20           Disease Control and Prevention infor-  
21           mation on—

22           “(aa) the number of sus-  
23           pected and confirmed cases  
24           among residents and staff of the  
25           facility, of—

1                   “(AA) in the case of  
2                   the period described in sub-  
3                   clause (I) of such section,  
4                   COVID–19 (including with  
5                   respect to residents of the  
6                   facility previously treated for  
7                   COVID–19); and

8                   “(BB) in the case of  
9                   the period described in sub-  
10                  clause (II) of such section,  
11                  the infectious disease that is  
12                  the reason for which such  
13                  period is declared (including  
14                  with respect to residents of  
15                  the facility previously treat-  
16                  ed for such infectious dis-  
17                  ease);

18                  “(bb) the number of deaths  
19                  (including residents who die out-  
20                  side the facility and deaths re-  
21                  lated to COVID–19 or the infec-  
22                  tious disease, as applicable)  
23                  among residents and staff of the  
24                  facility;

1           “(cc) the amount of personal  
2           protective equipment and hand  
3           hygiene supplies in the facility,  
4           including how many days supply;

5           “(dd) ventilator capacity  
6           and related supplies in the facil-  
7           ity;

8           “(ee) the number of resident  
9           beds at the facility and census;

10          “(ff) access to COVID–19  
11          or the infectious disease, as ap-  
12          plicable, testing available in the  
13          facility for residents of the facil-  
14          ity;

15          “(gg) any staffing shortages;  
16          and

17          “(hh) any other information  
18          specified by the Secretary; and

19          “(II) in the case of the occur-  
20          rence at the facility of either a single  
21          confirmed infection of COVID–19 or  
22          the infectious disease (as applicable)  
23          or of three or more residents or staff  
24          at the facility with new-onset of res-  
25          piratory symptoms occurring within

1 72 hours of each other, inform resi-  
2 dents of the facility, representatives of  
3 such residents, and families of the  
4 residents of such occurrence by not  
5 later than 5 p.m. on the calendar day  
6 following such occurrence.

7 “(ii) INFORMATION.—The information  
8 provided under clause (ii)(II) must—

9 “(I) not include personally identi-  
10 fiable information;

11 “(II) include information on miti-  
12 gating actions implemented to prevent  
13 or reduce the risk of transmission, in-  
14 cluding if normal operations of the fa-  
15 cility will be altered; and

16 “(III) include any cumulative up-  
17 dates for residents, representatives,  
18 and families at least weekly (or, in the  
19 case of a subsequent occurrence de-  
20 scribed in such clause (ii)(II), by not  
21 later than 5 p.m. on the calendar day  
22 following such subsequent occur-  
23 rence).

24 “(iii) CMS POSTING.—The informa-  
25 tion submitted under clause (ii)(I) shall be



1 publicly posted on a weekly basis by the  
2 Centers for Medicare & Medicaid Service  
3 to support protecting the health and safety  
4 of residents, personnel, and the general  
5 public.”.

6 (2) MEDICAID.—

7 (A) IN GENERAL.—Section 1919(g)(2) of  
8 the Social Security Act (42 U.S.C. 1396r(g)(2))  
9 is amended by adding at the end the following  
10 new subparagraph:

11 “(F) COVID–19 EMERGENCY PERIOD AND  
12 OTHER INFECTIOUS DISEASE OUTBREAK PERI-  
13 ODS.—

14 “(i) IN GENERAL.—Notwithstanding  
15 any other provision of this paragraph, dur-  
16 ing an infectious disease outbreak period  
17 (as defined in clause (ii)), with respect to  
18 a State, the following shall apply:

19 “(I) Each nursing facility shall  
20 be subject to a standard survey under  
21 subparagraph (A) not later than 4  
22 weeks after the beginning of such pe-  
23 riod and every 6 months after the  
24 date of the previous standard survey  
25 conducted under such subparagraph.

1           “(II) Follow-up surveys under  
2 this paragraph shall be conducted  
3 based on if the skilled nursing facility  
4 is found to be—

5                   “(aa) a facility with sub-  
6 standard quality of care;

7                   “(bb) a facility not in sub-  
8 stantial compliance;

9                   “(cc) a facility reporting less  
10 than three hours of direct care  
11 staff per resident per day;

12                   “(dd) a facility that has re-  
13 ported no registered nurses for  
14 four or more days in a quarter;  
15 or

16                   “(ee) a facility with an over-  
17 all score of 2 or less stars on  
18 nursing home compare.

19           “(III) In the case of a nursing  
20 facility which is found under a stand-  
21 ard survey or extended survey to be in  
22 substantial compliance, State survey  
23 and certification agencies (described  
24 in subsection (f) of section 1128I)  
25 shall have flexibility with regards to

1 the timing of conducting such a fol-  
2 low-up standard survey.

3 “(IV) A nursing facility which is  
4 found, under a standard survey or ex-  
5 tended survey, to have provided sub-  
6 standard quality of care shall be treat-  
7 ed as being identified by the Secretary  
8 as having substantially failed to meet  
9 applicable requirement of this Act for  
10 purposes of subsection (f)(10).

11 “(V) In the case of a nursing fa-  
12 cility that is subject to an extended  
13 survey under subparagraph (B), such  
14 extended survey shall be conducted as  
15 soon as practical after the standard  
16 survey for such facility, but not later  
17 than 4 weeks after the date of comple-  
18 tion of such standard survey.

19 “(VI) A nursing facility which is  
20 found, under a standard survey or ex-  
21 tended survey to have provided sub-  
22 standard quality of care shall be sur-  
23 veyed at least once every 6 months,  
24 thereafter until the infectious disease  
25 outbreak period ends.

1           “(VII) Surveys under this para-  
2           graph shall be conducted in a manner  
3           that prioritizes nursing facilities lo-  
4           cated in towns (or counties, if munic-  
5           ipal-level is not available) with higher  
6           infection rate, as identified by the  
7           Secretary, and facilities with previous  
8           violations of requirements of this Act.

9           “(VIII) Any skilled nursing facil-  
10          ity reporting (as determined by the  
11          Centers for Medicare & Medicaid  
12          Services) fewer than three hours of di-  
13          rect care staff time per resident per  
14          day, with 1/2 hour of registered nurse  
15          time included or any skilled nursing  
16          facility that has reported no registered  
17          nurse for four or more days.

18          “(ii) INFECTIOUS DISEASE OUTBREAK  
19          PERIOD DEFINED.—For purposes of this  
20          subparagraph, the term ‘infectious disease  
21          outbreak period’ means any of the fol-  
22          lowing periods:

23               “(I) COVID–19 EMERGENCY PE-  
24               RIOD.—The emergency period de-  
25               scribed in section 1135(g)(1)(B).

1                   “(II) OTHER INFECTIOUS DIS-  
2                   EASE OUTBREAK PERIODS.—

3                   “(aa) The period beginning  
4                   on the date a nationwide emer-  
5                   gency related to a public health  
6                   emergency is declared pursuant  
7                   to the Stafford Act, a Major Dis-  
8                   aster Declaration, or the Na-  
9                   tional Emergencies Act and end-  
10                  ing on the date that is 6 months  
11                  after the date on which the dec-  
12                  laration pursuant to the Stafford  
13                  Act, a Major Disaster Declara-  
14                  tion, or the National Emer-  
15                  gencies Act, as applicable, ends,  
16                  whichever is the latest.

17                  “(bb) The period during  
18                  which there exists a public health  
19                  emergency related to an infec-  
20                  tious disease outbreak declared  
21                  by the Secretary pursuant to sec-  
22                  tion 319 of the Public Health  
23                  Service Act.

24                  “(cc) With respect to a  
25                  nursing facility in a State with

1 respect to which the Governor  
2 has declared an emergency or  
3 major disaster (as defined by the  
4 State) with respect to an infec-  
5 tious disease outbreak, the period  
6 for which such declaration is in  
7 effect with respect to such  
8 State.”.

9 (B) INTERNET PORTAL AND HOTLINE  
10 NUMBER.—Section 1919(e) of the Social Secu-  
11 rity Act (42 U.S.C. 1396r(e)) is amended by  
12 adding at the end the following new paragraph:

13 “(9) INTERNET PORTAL AND HOTLINE NUM-  
14 BER.—By not later than one year after the date of  
15 the enactment of this paragraph, the State shall  
16 have in place and maintain an Internet portal and  
17 hotline number (which may be such a portal or hot-  
18 line in existence before the date of the enactment of  
19 this paragraph) for staff of nursing facilities, resi-  
20 dents of such facilities, family of such residents, the  
21 State long-term care ombudsman (established under  
22 title III or VII of the Older Americans Act of 1965  
23 in accordance with section 712 of the Act), or the  
24 general public to report violations of requirements of  
25 this section by such facilities. The Secretary shall es-

1        establish a process under which each violation so re-  
2        ported shall be preliminarily investigated by a State  
3        survey and certification agency (described in sub-  
4        section (f) of section 1128I) and based on the re-  
5        sults of such preliminary investigation may be sub-  
6        ject to a subsequent more comprehensive investiga-  
7        tion by such agency, in coordination with the Sec-  
8        retary.”.

9                    (C)    INCREASED    PENALTIES.—Section  
10                    1919(h) of the Social Security Act (42 U.S.C.  
11                    1396r(h)) is amended by adding at the end the  
12                    following new paragraph:

13                    “(10) SPECIAL RULES DURING COVID–19 EMER-  
14                    GENCY PERIOD AND OTHER INFECTIOUS DISEASE  
15                    OUTBREAK PERIODS.—

16                    “(A) IN GENERAL.—Notwithstanding any  
17                    other provision of this subsection, during an in-  
18                    fectionous disease outbreak period (as defined in  
19                    subsection (g)(2)(F)(ii)), with respect to a  
20                    State, the following shall apply:

21                    “(i) In the cases of an outbreak spe-  
22                    cific violation, a civil monetary penalty  
23                    under paragraph (3)(B)(ii)(I) may not be  
24                    waived or reduced by the Secretary.

1           “(ii) In the case of a repeat deficiency  
2 relating to any violation of a nursing facil-  
3 ity during a 15-month period, any civil  
4 monetary penalty under paragraph  
5 (3)(B)(ii)(I) shall be doubled.

6           “(iii) In the case of a second outbreak  
7 specific violation of a nursing facility dur-  
8 ing such period, the facility shall be treat-  
9 ed as being identified by the Secretary (or  
10 may be identified by the top State health  
11 official, in accordance with a process speci-  
12 fied by the Secretary) as having substan-  
13 tially failed to meet applicable requirement  
14 of this Act for purposes of subsection  
15 (f)(10) for the remainder of such period.

16           “(B) OUTBREAK SPECIFIC VIOLATION.—

17 For purposes of this paragraph, the Secretary,  
18 through the Centers for Medicare & Medicaid  
19 Services, shall develop the following:

20           “(i) In the case of an infectious dis-  
21 ease outbreak period with respect to  
22 COVID–19, criteria for determining an  
23 outbreak specific violation with respect to  
24 COVID–19, including—



1           “(I) Criteria specified by the  
2           Centers for Disease Control and Pre-  
3           vention relating to infection rates,  
4           mortality rates, and hospitalization  
5           rates.

6           “(II) Criteria for staff shortages,  
7           overcrowding (and ability to cohort),  
8           and insufficient personal protective  
9           equipment.

10          “(ii) In the case of an infectious dis-  
11          ease outbreak period other than with re-  
12          spect to COVID–19, criteria for deter-  
13          mining an outbreak specific violation spe-  
14          cific to such outbreak period.”.

15          (D) REPORTING.—Section 1919(d)(4) of  
16          the Social Security Act (42 U.S.C. 1396r(d)(4))  
17          is amended by adding at the end the following  
18          new subparagraph:

19                 “(C) COVID–19 AND INFECTIOUS DIS-  
20                 EASE OUTBREAK REPORTING AND NOTIFICA-  
21                 TION.—

22                         “(i) IN GENERAL.—A nursing facility  
23                         must, with respect to an infectious disease  
24                         outbreak period (as defined in subsection  
25                         (g)(2)(F)(ii))—

1           “(I) electronically submit, at a  
2 frequency specified by the Secretary,  
3 but no less than once weekly and in a  
4 standardized format specified by the  
5 Secretary, to the National Healthcare  
6 Safety Network of the Centers for  
7 Disease Control and Prevention infor-  
8 mation on—

9           “(aa) the number of sus-  
10 pected and confirmed cases  
11 among residents and staff of the  
12 facility, of—

13           “(AA) in the case of  
14 the period described in sub-  
15 clause (I) of such section,  
16 COVID–19 (including with  
17 respect to residents of the  
18 facility previously treated for  
19 COVID–19); and

20           “(BB) in the case of  
21 the period described in sub-  
22 clause (II) of such section,  
23 the infectious disease that is  
24 the reason for which such  
25 period is declared (including

1 with respect to residents of  
2 the facility previously treat-  
3 ed for such infectious dis-  
4 ease);

5 “(bb) the number of deaths  
6 (including residents who die out-  
7 side the facility and deaths re-  
8 lated to COVID–19 or the infec-  
9 tious disease, as applicable)  
10 among residents and staff of the  
11 facility;

12 “(cc) the amount of personal  
13 protective equipment and hand  
14 hygiene supplies in the facility,  
15 including how many days supply;

16 “(dd) ventilator capacity  
17 and related supplies in the facil-  
18 ity;

19 “(ee) the number of resident  
20 beds at the facility and census;

21 “(ff) access to COVID–19  
22 or the infectious disease, as ap-  
23 plicable, testing available in the  
24 facility for residents of the facil-  
25 ity;

1 “(gg) any staffing shortages;

2 and

3 “(hh) any other information

4 specified by the Secretary; and

5 “(II) in the case of the occur-

6 rence at the facility of either a single

7 confirmed infection of COVID–19 or

8 the infectious disease (as applicable)

9 or of three or more residents or staff

10 at the facility with new-onset of res-

11 piratory symptoms occurring within

12 72 hours of each other, inform resi-

13 dents of the facility, representatives of

14 such residents, and families of the

15 residents of such occurrence by not

16 later than 5 p.m. on the calendar day

17 following such occurrence.

18 “(ii) INFORMATION.—The information

19 provided under clause (ii)(II) must—

20 “(I) not include personally identi-

21 fiable information;

22 “(II) include information on miti-

23 gating actions implemented to prevent

24 or reduce the risk of transmission, in-

1 including if normal operations of the fa-  
2 cility will be altered; and

3 “(III) include any cumulative up-  
4 dates for residents, representatives,  
5 and families at least weekly (or, in the  
6 case of a subsequent occurrence de-  
7 scribed in such clause (ii)(II), by not  
8 later than 5 p.m. on the calendar day  
9 following such subsequent occur-  
10 rence).

11 “(iii) CMS POSTING.—The informa-  
12 tion submitted under clause (ii)(I) shall be  
13 publicly posted on a weekly basis by the  
14 Centers for Medicare & Medicaid Service  
15 to support protecting the health and safety  
16 of residents, personnel, and the general  
17 public”.

○