To improve care furnished and to support the workforce in skilled nursing facilities under the Medicare program and in nursing facilities under the Medicaid program, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTMBER 3, 2021

Mr. NEAL (for himself and Mr. PALLONE) 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

A BILL

To improve care furnished and to support the workforce in skilled nursing facilities under the Medicare program and in nursing facilities under the Medicaid program, and for other purposes.

1 Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

2 SECTION 1. SHORT TITLE.

3 This Act may be cited as the “Nursing Home Improvement and Accountability Act of 2021”.

TITLE I—TRANSPARENCY AND ACCOUNTABILITY

SEC. 101. IMPROVING THE ACCURACY AND RELIABILITY OF CERTAIN SKILLED NURSING FACILITY DATA.

(a) REDUCTION IN PAYMENTS FOR INACCURATE REPORTING.—Section 1888(e)(6)(A) of the Social Security Act (42 U.S.C. 1395yy(e)(6)(A)) is amended—

(1) in the header, by striking “FOR FAILURE TO REPORT”; and

(2) in clause (i)—

(A) by striking “For fiscal years” and inserting the following:

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

(B) by adding at the end the following new subclause:

“(II) REPORTING OF INACCURATE INFORMATION.—For fiscal years beginning with fiscal year 2025, in the case of a skilled nursing facility that submits data under this paragraph, measures under subsection (h), or resident assessment data described in section 1819(b)(3) with respect to such fiscal year that is inaccurate (as
determined by the Secretary through
the validation process described in
section 1888(h)(12) or otherwise),
after determining the percentage de-
dscribed in paragraph (5)(B)(i), and
after application of clauses (ii) and
(iii) of paragraph (5)(B) and of sub-
clause (I) if this clause (if applicable),
the Secretary shall reduce such per-
centage for payment rates during such
fiscal year by 2 percentage points.”.

(b) DATA AND MEASURES VALIDATION.—Section
1888(h)(12) of the Social Security Act (42 U.S.C.
1395yy(h)(12)) is amended—

(1) in subparagraph (A), by striking “and the
data submitted under subsection (e)(6)” and insert-
ing “, the data submitted under subsection (e)(6),
and, beginning with fiscal year 2024, the resident
assessment data described in section 1819(b)(3)”;

(2) in subparagraph (B), by striking “of
$5,000,000” and all that follows through the period
at the end and inserting the following: “of—

“(i) $5,000,000 for each of fiscal
years 2023 through 2025; and
“(ii) $50,000,000 for the period of fiscal years 2026 through 2035;

to the Centers for Medicare & Medicaid Services Program Management Account, to remain available until expended.”.

(c) Providing Authority To Collect Data On Additional Measures.—Section 1888(e)(6)(B)(i)(II) of the Social Security Act (42 U.S.C. 1395yy(e)(6)(B)(i)(II)) is amended by inserting “, and data on any other validated measure specified by the Secretary” after “under such subsection (d)(1)”.

SEC. 102. ENSURING ACCURATE INFORMATION ON COST REPORTS.

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

“(5) Audit of Cost Reports.—

“(A) In General.—Beginning in 2022, and annually thereafter, the Secretary shall conduct an audit of cost reports submitted under this title for a representative sample of skilled nursing facilities.

“(B) Funding.—The Secretary shall provide for the transfer, from the Federal Hospital Insurance Trust Fund under section 1817 to
the Centers for Medicare & Medicaid Services
Program Management Account, of
$250,000,000 for fiscal year 2023 for purposes
of carrying out this paragraph. Amounts trans-
ferred pursuant to the previous sentence shall
remain available until expended.

“(6) REVIEW OF RELATIONSHIP BETWEEN
COST REPORT DATA AND QUALITY.—

“(A) IN GENERAL.—Not later than 2 years
after the Secretary completes the first audit de-
scribed in paragraph (5), and not less fre-
quently than once every 2 years thereafter, the
Inspector General of the Department of Health
and Human Services shall conduct an analysis
of, and submit to Congress a report on, the re-
lationship between skilled nursing facility ex-
penditures for functional accounts described in
paragraph (3) and skilled nursing facility qual-
ity (as specified by the Inspector General).

“(B) FUNDING.—The Secretary shall pro-
vide for the transfer, from the Federal Hospital
Insurance Trust Fund under section 1817 to
the Inspector General of the Department of
Health and Human Services $25,000,000 for
fiscal year 2023 for purposes of carrying out
this paragraph. Amounts transferred pursuant to the previous sentence shall remain available until expended.”.

SEC. 103. REQUIRING A SURETY BOND FOR SKILLED NURSING FACILITIES.

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

(1) in paragraph (2), by striking “and” at the end; 

(2) in paragraph (3), by striking the period and inserting “; and”; and

(3) by adding at the end the following new paragraph:

“(4) provides the Secretary with a surety bond in a form specified by the Secretary and in an amount that is not less than the minimum of $500,000, unless the Secretary waives the provision of such surety bond due to such facility providing a comparable surety bond under State law.”.

(b) MEDICAID.—Section 1919(a) of the Social Security Act (42 U.S.C. 1396r(a)) is amended—

(1) in paragraph (2), by striking “and” at the end; 

(2) in paragraph (3), by striking the period and inserting “; and”; and
(3) by inserting after paragraph (3) the following new paragraph:

“(4) provides the Secretary with a surety bond in a form specified by the Secretary and in an amount that is not less than the minimum of $500,000, unless the Secretary waives the provision of such surety bond due to such facility providing a comparable surety bond under State law.”.

SEC. 104. SURVEY IMPROVEMENTS.

(a) IN GENERAL.—Section 1128I of the Social Security Act (42 U.S.C. 1320a–7j) is amended—

(1) in the section heading, by striking “ACCOUNTABILITY REQUIREMENTS FOR” and inserting “ADDITIONAL REQUIREMENTS WITH RESPECT TO”; and

(2) by adding at the end the following new subsection:

“(i) SURVEY IMPROVEMENTS.—

“(1) REVIEW.—The Secretary shall review (and, as appropriate, identify plans to improve) the following:

“(A) The extent to which surveys conducted under subsection (g) of sections 1819 and 1919 and the enforcement process under subsection (h) of sections 1819 and 1919 result
in increased compliance with requirements under sections 1819 and 1919 and subpart B of part 483 of title 42, Code of Federal Regulations, with respect to facilities.

“(B) The timeliness and thoroughness of State agency verification of deficiency corrections at facilities.

“(C) The appropriateness of the scoping and substantiation of cited deficiencies at facilities.

“(D) The accuracy of the identification and appropriateness of the scoping of life safety, infection control, and emergency preparedness deficiencies at facilities.

“(E) The timeliness of State agency investigations of—

“(i) complaints at facilities; and

“(ii) reported allegations of abuse, neglect, and exploitation at facilities.

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

“(G) The ability of the State agency to sufficiently hire, train, and retain individuals who conduct surveys.
“(H) Any other area related to surveys of facilities, or the individuals conducting such surveys, determined appropriate by the Secretary.

“(2) REPORT.—Not later than 3 years after the date of enactment of this subsection, the Secretary shall submit to Congress a report on the review conducted under paragraph (1), together with recommendations for such legislation and administrative action as the Secretary determines to be appropriate.

“(3) SUPPORT.—If determined appropriate by the Secretary, based on the review under paragraph (1), the Secretary shall provide training, tools, technical assistance, and financial support to State agencies that perform surveys of facilities for the purpose of improving the surveys conducted under subsection (g) and the enforcement process under subsection (h) with respect to the areas reviewed under paragraph (1).

“(4) FUNDING.—There is appropriated to the Secretary, out of any monies in the Treasury not otherwise appropriated, $570,000,000, to remain available until expended, for purposes of carrying out this subsection.”.
SEC. 105. PROHIBITING PRE-DISPUTE ARBITRATION AGREEMENTS.

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

“(7) PROHIBITION ON USE OF PRE-DISPUTE ARBITRATION AGREEMENTS.—

“(A) IN GENERAL.—A skilled nursing facility may not enter into a pre-dispute arbitration agreement with an individual applying to reside or residing in the facility (or a legal representative of such resident), and may not enter into an agreement for services with an entity or individual that enters into a pre-dispute arbitration agreement with an individual applying to reside or residing in the facility (or a legal representative of such resident).

“(B) NO VALIDITY OR ENFORCEMENT.—A skilled nursing facility shall not enforce a pre-dispute arbitration agreement against a resident or former resident of a skilled nursing facility (or a legal representative of such resident), without regard to whether the agreement was made prior to or after the effective date of this paragraph.
“(C) Definition of Pre-dispute Arbitration Agreement.—In this paragraph, the term ‘pre-dispute arbitration agreement’ means any agreement to arbitrate a potential dispute that, as of the date on which such agreement is entered into, has not yet arisen.

“(D) Judicial Review.—A determination as to whether and how this paragraph applies to a pre-dispute arbitration agreement shall be determined under Federal law by a court of competent jurisdiction, rather than an arbitrator, without regard to whether the party opposing arbitration challenges such agreement specifically or in conjunction with any other term of the contract containing such agreement.”.

(b) Medicaid.—

(1) Home and Community-Based Services and Home Health Care Services.—Section 1915 of the Social Security Act (42 U.S.C. 1396n) is amended by adding at the end the following new subsection:

“(l) Prohibiting Pre-dispute Arbitration Agreements.—
“(1) IN GENERAL.—For home and community-based services or home health care services provided under a waiver under this section, section 1902(a)(10)(D), or any other provision authorizing the provision of home and community-based services or home health care services under this title, the provider of such services (and any employee, agent, related entity, or affiliate of such provider) may not enter into a pre-dispute arbitration agreement with an individual receiving such services (or a legal representative of such individual). A provider of such services (and any employee, agent, related entity, or affiliate of such provider) shall not enforce a pre-dispute arbitration agreement against an individual receiving such services, or who formerly received such services (or a legal representative of such individual), without regard to whether such agreement was made prior to the effective date of this subsection.

“(2) DEFINITION OF PRE-DISPUTE ARBITRATION AGREEMENT.—In this subsection, the term ‘pre-dispute arbitration agreement’ means any agreement to arbitrate a potential dispute that, as of the date on which such agreement is entered into, has not yet arisen.
“(3) JUDICIAL REVIEW.—A determination as to whether and how this subsection applies to a pre-dispute arbitration agreement shall be determined under Federal law by a court of competent jurisdiction, rather than an arbitrator, without regard to whether the party opposing arbitration challenges such agreement specifically or in conjunction with any other term of the contract containing such agreement.”.

(2) NURSING FACILITIES.—Section 1919(c) of the Social Security Act (42 U.S.C. 1396r(c)) is amended by adding at the end the following new paragraph:

“(9) PROHIBITION ON USE OF PRE-DISPUTE ARBITRATION AGREEMENTS.—

“(A) IN GENERAL.—A nursing facility may not enter into a pre-dispute arbitration agreement with an individual applying to reside or residing in the facility (or a legal representative of such resident), and may not enter into an agreement for services with an entity or individual that enters into a pre-dispute arbitration agreement with an individual applying to reside or residing in the facility (or a legal representative of such resident).
“(B) No validity or enforcement.—A nursing facility shall not enforce a pre-dispute arbitration agreement against a resident or former resident of a nursing facility (or a legal representative of such resident), without regard to whether the agreement was made prior to or after the effective date of this paragraph.

“(C) Definition of pre-dispute arbitration agreement.—In this paragraph, the term ‘pre-dispute arbitration agreement’ means any agreement to arbitrate a potential dispute that, as of the date on which such agreement is entered into, has not yet arisen.

“(D) Judicial review.—A determination as to whether and how this paragraph applies to a pre-dispute arbitration agreement shall be determined under Federal law by a court of competent jurisdiction, rather than an arbitrator, without regard to whether the party opposing arbitration challenges such agreement specifically or in conjunction with any other term of the contract containing such agreement.”.
SEC. 106. IMPROVEMENTS TO THE SPECIAL FOCUS FACILITY PROGRAM.

(a) Appropriate Participation.—

(1) Medicare.—Section 1819(f)(8) of the Social Security Act (42 U.S.C. 1395i–3(f)(8)) is amended—

(A) in subparagraph (A), by striking “The Secretary” and inserting “Subject to the succeeding provisions of this subsection, the Secretary”; and

(B) by adding at the end the following new subparagraph:

“(C) Appropriate Participation.—Not later than October 1, 2022, the Secretary shall ensure that the number of facilities participating in the special focus facility program is not less than 5 percent of all skilled nursing facilities.”.

(2) Medicaid.—Section 1919(f)(10) of the Social Security Act (42 U.S.C. 1395r(f)(10)) is amended—

(A) in subparagraph (A), by striking “The Secretary” and inserting “Subject to the succeeding provisions of this subsection, the Secretary”; and
(B) by adding at the end the following new subparagraph:

“(C) APPROPRIATE PARTICIPATION.—Not later than October 1, 2022, the Secretary shall ensure that the number of facilities participating in the special focus facility program is not less than 5 percent of all nursing facilities.”.

(b) COMPLIANCE ASSISTANCE PROGRAMS.—

(1) MEDICARE.—Section 1819(f)(8) of the Social Security Act (42 U.S.C. 1395i–3(f)(8)), as amended by subsection (a)(1), is amended by adding at the end the following new subparagraph:

“(D) COMPLIANCE ASSISTANCE PROGRAMS.—

“(i) ON-SITE CONSULTATION AND EDUCATIONAL PROGRAMMING.—

“(I) IN GENERAL.—The Secretary shall establish on-site consultation and educational programming for skilled nursing facilities participating in the special focus facility program with respect to compliance with the applicable requirements under this Act.
“(II) ENTITY.—The on-site consultation and educational programming described in subclause (I) shall be carried out by quality improvement organizations under part B of title XI or other independent organizations of a similar type that do not have conflicts of interest and are deemed appropriate by the Secretary.

“(III) REQUIRED PARTICIPATION.—A skilled nursing facility participating in the special focus facility program shall participate in any consultations and educational programming described in subclause (I) conducted at the facility.

“(ii) CONSULTATION INDEPENDENT OF ENFORCEMENT.—

“(I) IN GENERAL.—Subject to subclause (II), on-site consultations and educational programming described in clause (i) shall be conducted independently of any enforcement activity.
“(II) EXCEPTION.—Subclause (I) shall not apply in the case where a triggering event at the skilled nursing facility is observed in the course of providing on-site consultations and educational programming described in clause (i). In establishing such on-site consultations and educational programming, the Secretary shall determine the triggering events for which the use of necessary enforcement actions is permitted notwithstanding the limitation under subclause (I). Such triggering events shall include events that are required to be reported under State and Federal law and a pattern of deficiencies or problems that the quality improvement organization or other organization has identified for correction but which are consistently not corrected.”

(2) MEDICAID.—Section 1919(f)(10) of the Social Security Act (42 U.S.C. 1395r(f)(10)), as amended by subsection (a)(2), is amended by adding at the end the following new subsection:
“(D) Compliance assistance programs.—

“(i) On-site consultation and educational programming.—

“(I) In general.—The Secretary shall establish on-site consultation and educational programming for nursing facilities participating in the special focus facility program with respect to compliance with the applicable requirements under this Act.

“(II) Entity.—The on-site consultation and educational programming described in subclause (I) shall be carried out by quality improvement organizations under part B of title XI or other independent organizations of a similar type that do not have conflicts of interest and are deemed appropriate by the Secretary.

“(III) Required participation.—A nursing facility participating in the special focus facility program shall participate in any consultations and educational program-
“(ii) Consultation independent of enforcement.—

“(I) IN GENERAL.—Subject to subclause (II), on-site consultations and educational programming described in clause (i) shall be conducted independently of any enforcement activity.

“(II) EXCEPTION.—Subclause (I) shall not apply in the case where a triggering event at the nursing facility is observed in the course of providing on-site consultations and educational programming described in clause (i). In establishing such on-site consultations and educational programming, the Secretary shall determine the triggering events for which the use of necessary enforcement actions is permitted notwithstanding the limitation under subclause (I). Such triggering events shall include events that are required to be reported under State and
Federal law and a pattern of deficiencies or problems that the quality improvement organization or other organization has identified for correction but which are consistently not corrected.”.

(e) Funding for the Special Focus Facility Program, including Compliance Assistance Programs.—Section 1819(f)(8) of the Social Security Act (42 U.S.C. 1395i–3(f)(8)), as amended by subsections (a)(1) and (b)(1), is amended by adding at the end the following new subparagraph:

“(E) For purposes of carrying out this paragraph and section 1919(f)(10), there is appropriated to the Secretary, out of any monies in the Treasury not otherwise appropriated, $14,800,000 for fiscal year 2022 and each subsequent fiscal year, to remain available until expended.”.

TITLE II—STAFFING IMPROVEMENTS

SEC. 201. NURSE STAFFING REQUIREMENTS.

(a) In General.—Title XI of the Social Security Act (42 U.S.C. 1301 et seq.) is amended by inserting after section 1128K the following new section:
“SEC. 1128L. NURSE STAFFING REQUIREMENTS FOR FACILITIES.

“(a) Study.—Not later than 3 years after the date of the enactment of this section, and not less frequently than once every 5 years thereafter, the Secretary shall conduct a study and submit to Congress a report on the appropriateness of establishing minimum staff to resident ratios for nursing staff for skilled nursing facilities (as defined in section 1819(a)) and nursing facilities (as defined in section 1919(a)). Each such report shall include—

“(1) with respect to the first such report, recommendations regarding appropriate minimum ratios of registered nurses (and, if practicable, licensed practical nurses (or licensed vocational nurses) and certified nursing assistants) to residents at such skilled nursing facilities and such nursing facilities; and

“(2) with respect to each subsequent such report, recommendations regarding appropriate minimum ratios of registered nurses, licensed practical nurses (or licensed vocational nurses), and certified nursing assistants to residents at such skilled nursing facilities and such nursing facilities.

“(b) PROMULGATION OF REGULATIONS.—
“(1) IN GENERAL.—Not later than 2 years after the Secretary first submits a report under subsection (a), the Secretary shall—

“(A) specify through regulations, consistent with such report, appropriate minimum ratios (if any) of registered nurses (and, if practicable, licensed practical nurses (or licensed vocational nurses) and certified nursing assistants) to residents at skilled nursing facilities and nursing facilities; and

“(B) subject to any waiver in effect under section 1819(b)(9)(B) or 1919(b)(9)(B), require such skilled nursing facilities and such nursing facilities to comply with such ratios.

“(2) UPDATE.—Not later than 2 years after the submission of each subsequent report under subsection (a), the Secretary shall, consistent with such report, update the regulations described in paragraph (1)(A) to reflect appropriate minimum ratios (if any) of registered nurses, licensed practical nurses (or licensed vocational nurses), and certified nursing assistants to residents at skilled nursing facilities and nursing facilities.

“(c) FUNDING.—The Secretary shall provide for the transfer, from the Federal Hospital Insurance Trust Fund
under section 1817 to the Centers for Medicare & Medicaid Services Program Management Account, of $50,000,000 for fiscal year 2022 for purposes of carrying out this section. Amounts transferred pursuant to the previous sentence shall remain available until expended.”.

(b) IMPOSITION OF REQUIREMENTS.—

(1) MEDICARE.—Section 1819(b) of the Social Security Act (42 U.S.C. 1395i–3(b)) is amended by adding at the end the following new paragraph:

“(9) NURSE STAFFING REQUIREMENT.—

“(A) IN GENERAL.—Subject to subparagraph (B), a skilled nursing facility shall comply with any minimum staffing ratios for registered nurses, licensed practical nurses (or licensed vocational nurses), or certified nurse assistants specified by the Secretary for such a facility in regulations promulgated under section 1128L(b) or, if greater, as specified by the State involved for such a facility.

“(B) WAIVER.—

“(i) IN GENERAL.—The Secretary may waive the application of subparagraph (A) with respect to a skilled nursing facility if the Secretary finds that—
“(I) the facility is located in a rural area and the supply of skilled nursing facility services in such area is not sufficient to meet the needs of individuals residing therein;

“(II) the Secretary provides notice of the waiver to the State long-term care ombudsman (established under section 307(a)(12) of the Older Americans Act of 1965) and the protection and advocacy system in the State for the mentally ill and the mentally retarded; and

“(III) the facility that is granted such a waiver notifies residents of the facility (or, where appropriate, the guardians or legal representatives of such residents) and members of their immediate families of the waiver.

“(ii) RENEWAL.—Any waiver in effect under this subparagraph shall be subject to annual renewal.”.

(2) MEDICAID.—Section 1919(b) of the Social Security Act (42 U.S.C. 1396r(b)) is amended by adding at the end the following new paragraph:
“(9) Nurse staffing requirement.—

“(A) In general.—Subject to subparagraph (B), a nursing facility shall comply with any minimum staffing ratios for registered nurses, licensed practical nurses (or licensed vocational nurses), or certified nurse assistants specified by the Secretary for such a facility in regulations promulgated under section 1128L(b) or, if greater, as specified by the State involved for such a facility.

“(B) Waiver.—

“(i) In general.—The Secretary may waive the application of subparagraph (A) with respect to a nursing facility if the Secretary finds that—

“(I) the facility is located in a rural area and the supply of nursing facility services in such area is not sufficient to meet the needs of individuals residing therein;

“(II) the Secretary provides notice of the waiver to the State long-term care ombudsman (established under section 307(a)(12) of the Older Americans Act of 1965) and the pro-
tection and advocacy system in the
State for the mentally ill and the
mentally retarded; and

“(III) the facility that is granted
such a waiver notifies residents of the
facility (or, where appropriate, the
guardians or legal representatives of
such residents) and members of their
immediate families of the waiver.

“(ii) RENEWAL.—Any waiver in effect
under this subparagraph shall be subject to
annual renewal.”.

SEC. 202. IMPROVING NURSING HOME COMPARE STAFFING
DATA.

(a) MEDICARE.—Section 1819(i)(1)(A)(i) of the So-
cial Security Act (42 U.S.C. 1395i–3(i)(1)(A)(i)) is
amended by inserting “(excluding, with respect to such
data provided on or after October 1, 2022, any hours
spent on administrative duties by licensed nurse staff)
and, beginning October 1, 2022, data on the hours of care
provided per resident per weekend day” after “per resi-
dent per day”.

(b) MEDICAID.—Section 1919(i)(1)(A)(i) of the So-
cial Security Act (42 U.S.C. 1396r(i)(1)(A)(i)) is amended
by inserting “(excluding, with respect to such data pro-
vided on or after October 1, 2022, any hours spent on administrative duties by licensed nurse staff) and, beginning October 1, 2022, data on the hours of care provided per resident per weekend day” after “per resident per day”.

SEC. 203. ENSURING THE SUBMISSION OF ACCURATE STAFFING DATA.

Section 1128I(g) of the Social Security Act (42 U.S.C. 1320a–7j(g)) is amended—

(1) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively, and adjusting the margins accordingly;

(2) in subparagraph (D), as so redesignated, by striking “paragraph (1)” and inserting “subparagraph (A)”;

(3) by moving the flush matter following subparagraph (D), as so redesignated, 2 ems to the right;

(4) by striking “Beginning not later than” and inserting the following:

“(1) IN GENERAL.—Beginning not later than”; and

(5) by adding at the end the following new paragraph:
“(2) Penalty for submission of inaccurate information.—Any facility that submits inaccurate information to the Secretary under paragraph (1) may be subject to a civil monetary penalty not to exceed $10,000 for each such submission. The provisions of section 1128A (other than subsections (a) and (b) of such section) shall apply to a civil money penalty under the preceding sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).”.

SEC. 204. REQUIRING 24-HOUR USE OF REGISTERED PROFESSIONAL NURSES.

(a) Medicare.—Section 1819(b)(4)(C)(i) of the Social Security Act (42 U.S.C. 1395i–3(b)(4)(C)(i)) is amended by striking “registered professional nurse” and all that follows through the period at the end and inserting the following: “registered professional nurse, with respect to such services furnished—

“(I) before October 1, 2023, at least 8 consecutive hours a day, 7 days a week; and

“(II) on or after such date, 24 hours a day, 7 days a week.”.

(b) Medicaid.—Section 1919(b)(4)(C)(i)(II) of the Social Security Act (42 U.S.C. 1396r(b)(4)(C)(i)(II)) is
amended by striking “registered professional nurse” and all that follows through the period at the end and inserting the following: “registered professional nurse, with respect to such services furnished—

“(aa) before October 1, 2023, at least 8 consecutive hours a day, 7 days a week; and

“(bb) on or after such date, 24 hours a day, 7 days a week.”.

SEC. 205. PROVISION OF INFECTION CONTROL SERVICES.

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

(1) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii) respectively, and moving such clauses 2 ems to the right;

(2) by striking “ENVIRONMENT.—A skilled” and inserting “ENVIRONMENT.—

“(A) IN GENERAL.—A skilled”;

(3) in subparagraph (A), as amended by paragraphs (1) and (2)—

(A) in clause (i), by striking “, and” at the end and inserting a semicolon;

(B) in clause (ii), by striking the period at the end and inserting “; and”; and
(C) by adding at the end the following new clause:

“(iii) provide, directly or under arrangements with others, for infection control services overseen by an infection preventionist for a minimum number of hours per week as determined appropriate by the Secretary (but, subject to subparagraph (B), not less than 40 hours per week).”; and

(4) by adding at the end the following new sub-paragraph:

“(B) REDUCTION IN REQUIRED NUMBER OF HOURS FOR INFECTION CONTROL SERVICES OVERSEEN BY AN INFECTION PREVENTIONIST.—

“(i) IN GENERAL.—The Secretary may grant a waiver to a skilled nursing facility under which the number of hours per week that infection control services overseen by an infection preventionist at the facility are required under subparagraph (A)(iii) are reduced if the Secretary finds that—

“(I) the facility—
“(aa) is located in a rural area and the supply of skilled nursing facility services in such area is not sufficient to meet the needs of individuals residing therein; or

“(bb) is of a size that necessitates a lower requirement;

“(II) the Secretary provides notice of the waiver to the State Long-Term Care Ombudsman (supported under title III or chapter 2 of subtitle A of title VII of the Older Americans Act of 1965) and the protection and advocacy system (as defined in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000) in the State; and

“(III) the facility that is granted the waiver notifies residents of the facility (or, where appropriate, the guardians or legal representatives of such residents) and members of their immediate families of the waiver.
“(ii) ANNUAL REVIEW.—A waiver under this subparagraph shall be subject to annual review by the Secretary.”.

(b) MEDICAID.—Section 1919(d)(3) of the Social Security Act (42 U.S.C. 1396r(d)(3)) is amended—

(1) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii) respectively, and moving such clauses 2 ems to the right;

(2) by striking “ENVIRONMENT.—A nursing facility” and inserting “ENVIRONMENT.—

“(A) IN GENERAL.—A nursing facility”; and

(3) in subparagraph (A), as amended by paragraphs (1) and (2)—

(A) in clause (i), by striking “, and” at the end and inserting a semicolon;

(B) in clause (ii), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following new clause:

“(iii) provide, directly or under arrangements with others, for infection control services overseen by an infection preventionist for a minimum number of hours per week as determined appropriate by the Secretary (but, subject to subpara-
graph (B), not less than 40 hours per week.”; and

(4) by adding at the end the following new sub-
paragraph:

“(B) REDUCTION IN REQUIRED NUMBER
OF HOURS FOR INFECTION CONTROL SERVICES
OVERSEEN BY AN INFECTION
PREVENTIONIST.—

“(i) IN GENERAL.—A State may
grant a waiver to a nursing facility under
which the number of hours per week that
infection control services overseen by an in-
fection preventionist at the facility are re-
quired under subparagraph (A)(iii) are re-
duced if—

“(I) the facility demonstrates to
the satisfaction of the State that the
facility has been unable, despite dili-
gent efforts (including offering wages
at the community prevailing rate for
nursing facilities), to recruit appro-
priate personnel;

“(II) the State determines that
the waiver will not endanger the
health or safety of individuals staying in the facility;

“(III) the State agency granting the waiver provides notice of the waiver to the State Long-Term Care Ombudsman (supported under title III or chapter 2 of subtitle A of title VII of the Older Americans Act of 1965) and the protection and advocacy system (as defined in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000); and

“(IV) the nursing facility that is granted the waiver by a State notifies residents of the facility (or, where appropriate, the guardians or legal representatives of such residents) and members of their immediate families of the waiver.

“(ii) Annual review.—A waiver under this subparagraph shall be subject to annual review by the State agency and to the review of the Secretary and subject to clause (iii) shall be accepted by the Secretary for purposes of this title to the same
extent as is the State’s certification of the facility. In granting or renewing a waiver, a State may require the facility to use other qualified, licensed personnel to meet the staffing requirements under subparagraph (A)(iii).

“(iii) ASSUMPTION OF WAIVER AUTHORITY BY SECRETARY.—If the Secretary determines that a State has shown a clear pattern and practice of allowing waivers in the absence of diligent efforts by facilities to meet the staffing requirements under subparagraph (A)(iii), the Secretary shall assume and exercise the authority of the State to grant waivers.”.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2022.

SEC. 206. ENHANCED FUNDING TO SUPPORT STAFFING AND QUALITY CARE IN NURSING FACILITIES.

(a) FMAP INCREASE.—

(1) IN GENERAL.—Notwithstanding subsection (b) or (ff) of section 1905 of the Social Security Act (42 U.S.C. 1396d), in the case of a State that meets the requirements described in subsection (c), the Federal medical assistance percentage determined
for the State under subsection (b) of section 1905
of such Act (or subsection (ff) of such section, if ap-
icable) and, if applicable, as increased under sub-
section (y), (z), (aa), or (ii) of such section or sec-
tion 6008 of the Families First Coronavirus Re-
sponse Act (Public Law 116–127), or any other pro-
vision of law, shall be increased by the applicable
number of percentage points specified in paragraph
(2) (but not to exceed 95 percent) with respect to
amounts expended by the State Medicaid program
for medical assistance for nursing facility services
provided for each calendar quarter that occurs dur-
ing the applicable period and for which the Secretary
determines that the State meets such requirements.
Any payment made to Puerto Rico, the Virgin Is-
lands, Guam, the Northern Mariana Islands, or
American Samoa for expenditures on medical assist-
ance that are subject to the Federal medical assist-
ance percentage increase specified under the first
sentence of this paragraph shall not be taken into
account for purposes of applying payment limits
under subsections (f) and (g) of section 1108 of the

(2) **Applicable Number of Percentage Points.**—For purposes of paragraph (1), the appli-
cable number of percentage points specified in this paragraph is—

(A) in the case of a calendar quarter that occurs within the 16-quarter period that begins on the 1st day of the applicable period, 3 percentage points;

(B) in the case of a calendar quarter that occurs within the 4-quarter period immediately succeeding such 16-quarter period, 2 percentage points; and

(C) in the case of a calendar quarter that occurs within the 4-quarter period immediately succeeding the 4-quarter period described in subparagraph (B), 1 percentage point.

(b) DEFINITIONS.—In this section:

(1) APPLICABLE PERIOD.—The term “applicable period” means the period that—

(A) begins on the 1st day of the 1st calendar quarter that begins on or after the date that is 1 year after the date of enactment of this section; and

(B) ends on the last day of the succeeding 24th calendar quarter.

(2) NURSING FACILITY STAFF.—The term “nursing facility staff” includes a registered nurse,
licensed practical nurse, licensed nursing assistant, certified nursing assistant, nursing assistant, and any other relevant staff, as determined by the Secretary, who provide care to Medicaid beneficiaries who are residents in a nursing facility.

(3) Medicaid beneficiary.—The term “Medicaid beneficiary” means an individual who is eligible for, and enrolled in, a State Medicaid program.

(4) Medicaid program.—The term “Medicaid program” means, with respect to a State, the State program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) (including any waiver or demonstration under such title or under section 1115 of such Act (42 U.S.C. 1315) relating to such title).

(5) Nursing facility.—The term “nursing facility”—

(A) has the meaning given such term in section 1919(a) of the Social Security Act (42 U.S.C. 1396r(a); and

(B) includes a skilled nursing facility, as defined in section 1819(a) of the Social Security Act (42 U.S.C. 1395i–3(a)), that is a participating provider in the Medicaid program of the State in which the facility is located or oth-
otherwise furnishes items or services for which medical assistance is available under the Medicaid program of the State in which the facility is located.

(6) Nursing Facility Services.—

(A) In general.—Subject to subparagraphs (B) and (C), the term “nursing facility services” has the meaning given such term under section 1905(f) of the Social Security Act (42 U.S.C. 1396d(f)).

(B) State Medicaid Program.—With respect to a State, such term includes those services (including any limitations on the provision of, or payment for, such services) that are specified as nursing facility services for purposes of the Medicaid program of the State in which the nursing facility furnishing such services is located.

(C) Individual Plan of Care.—Notwithstanding subparagraph (A) or (B), such term includes items or services that are specified in the individual plan of care for a resident of a nursing facility and are furnished to the resident in accordance with the requirements of such plan.
(7) Secretary.—The term “Secretary” means the Secretary of Health and Human Services.

(8) State.—The term “State” has the meaning given such term for purposes of title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

(e) Requirements.—As a condition for receipt of the increase under subsection (a) to the Federal medical assistance percentage determined for a State under subsection (b) of section 1905 of the Social Security Act (42 U.S.C. 1396d) for a calendar quarter, the State shall demonstrate to the satisfaction of the Secretary the following:

(1) Use of Additional Federal Funds.—The State agrees to—

(A) use the Federal funds attributable to the increase under subsection (a) only for the purposes specified in subsection (d); and

(B) not use such Federal funds to satisfy any State contribution required under the State Medicaid program.

(2) Plan for Staffing and Service Improvements and Reporting.—The State has a reasonable plan for achieving the purposes specified in subsection (d), including with respect to—

(A) carrying out the staffing and service improvements specified in subsection (e) to
strengthen nursing facility staff workforce and improve the quality and safety of care for Medicaid beneficiaries; and

(B) collecting and reporting the information required under subsection (f).

(3) SUPPLEMENT, NOT SUPPLANT.—The State agrees to use the Federal funds attributable to the increase under subsection (a) to supplement, and not supplant, the level of State funds expended as of October 1, 2021, for nursing facility services, including with respect to efforts to strengthen the nursing facility staff workforce and improve the quality and safety of care for Medicaid beneficiaries, under the State Medicaid program.

(4) REPORTING AND OVERSIGHT.—The State agrees to—

(A) annually report the information specified in subsection (f) to the Secretary in such form and manner as the Secretary shall require; and

(B) provide such data and information as is necessary for the evaluation required under subsection (g).

(d) USE OF FUNDS.—A State may use the Federal funds attributable to the increase under subsection (a)
only for expenditures eligible for payment under the State Medicaid program that are attributable to State efforts to achieve both of the following purposes:

(1) To expand and improve nursing facility staffing, including by increasing payments for nursing facility services to improve staff wages and benefits, support retention and recruitment, and reduce staff turnover, consistent with the improvements specified in paragraphs (1) and (2) of subsection (e).

(2) To support and improve the quality and safety of care provided to Medicaid beneficiaries in nursing facilities, including through efforts to expand the use of person-centered models of care, and incentives or payments related to the provision of care for Medicaid beneficiaries in private rooms.

(e) STAFFING AND SERVICE IMPROVEMENTS.—The staffing and service improvements specified in this subsection are the following:

(1) The State makes such changes to processes for determining payment rates for nursing facility services as are necessary to ensure that—

(A) such payment rates are reviewed and updated every 2 years during the applicable period to support the recruitment and retention of nursing facility staff, and reduce turnover in
such staff through a transparent process that involves meaningful input from stakeholders; and

(B) increases to such payment rates are, at a minimum, used to proportionally increase wages and benefits for nursing facility staff.

(2) The State updates, develops, and adopts training opportunities and resources for nursing facility staff, including training for providing person-centered care.

(3) The State improves and streamlines education and options counseling services for Medicaid beneficiaries, potential Medicaid beneficiaries, and family members of such beneficiaries and potential beneficiaries, with respect to eligibility and options for institutional and non-institutional long term care.

(f) ANNUALLY REPORTED INFORMATION.—The information required to be annually reported to the Secretary by a State with respect to such reporting periods as the Secretary shall specify is the following:

(1) The number of Medicaid beneficiaries who received during the reporting period or, as of the date of the report, are receiving, nursing facility
services in the State, disaggregated by race, ethnicity, gender, geography, age, and income.

(2) A description of how the State spent the Federal funds attributable to the increase under subsection (a) during the reporting period.

(3) Changes to payment rates for nursing facility services under the State Medicaid program during the reporting period.

(4) The staffing information and employee turnover and tenure information in nursing facilities in the State during the reporting period, based on submissions to the Payroll-Based Journal system of the Centers for Medicare & Medicaid Services under section 1128I(g) of the Social Security Act (42 U.S.C. 1320a–7j(g)).

(5) The wages and benefits provided to nursing facility staff in nursing facilities in the State during the reporting period.

(6) A description of the health status of, and quality of care provided to, Medicaid beneficiaries who are residents of nursing facilities in the State during the reporting period, in the manner determined by the Secretary.
(g) EVALUATION.—The Secretary shall engage an external contractor to conduct an independent evaluation of the impact of this section on—

(1) the quality and safety of care provided in nursing facilities to Medicaid beneficiaries who are residents of nursing facilities;

(2) the capacity of the nursing facility staff workforce to provide quality, safe care for Medicaid beneficiaries who are residents of nursing facilities; and

(3) the wages, benefits, and turnover of nursing facility staff.

(h) INTERIM AND FINAL REPORTS TO CONGRESS.—

(1) IN GENERAL.—The Secretary shall submit an interim report to Congress on the implementation of this section 4 years after the date of enactment of this section, and a final report on the implementation of this section 8 years after such date.

(2) REQUIRED INFORMATION.—

(A) INTERIM AND FINAL REPORTS.—The interim and final reports submitted under this subsection shall include the following information:

(i) The number of States that received an increase to the Federal medical assist-
ance percentage of the State under subsection (a) during the applicable period.

(ii) The State activities funded by the Federal funds attributable to the increase under subsection (a).

(B) FINAL REPORT.—The final report submitted under this section shall include, in addition to the information required under subparagraph (A), the results of the independent evaluation conducted pursuant to subsection (g).

TITLE III—BUILDING MODIFICATION AND STAFF INVESTMENT DEMONSTRATION PROGRAM

SEC. 301. ESTABLISHING A SKILLED NURSING FACILITY BUILDING MODIFICATION AND STAFF INVESTMENT DEMONSTRATION PROGRAM.

Part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.) is amended by inserting after section 1819 the following new section:

“SEC. 1819A. COMMUNITY-BASED LIVING MODIFICATIONS AND STAFF INVESTMENT DEMONSTRATION PROGRAM.

“(a) Establishment.—Not later than January 1, 2023, the Secretary shall establish a demonstration pro-
gram to test the impact of providing skilled nursing facili-
ties (as defined in section 1819(a)) selected by the Sec-
retary under subsection (b) funding to modify the built
environments of such facilities (or portions of such facili-
ties) and invest in individuals providing resident care in
such facilities (or in portions of such facilities) in order
to, with respect to residents of such facilities, improve
health outcomes relative to residents of facilities not so
selected.

“(b) Application and Selection of Facilities.—

“(1) Application.—

“(A) In general.—A skilled nursing fa-
cility shall only be eligible to receive funding
under the demonstration program established
under subsection (a) if such facility submits an
application at such time and in such manner as
specified by the Secretary that contains—

“(i) a description of modifications and
investments described in subsection (a)
that will be made by the facility using such
funds, including the estimated costs of
such modifications and investments;

“(ii) an agreement that such facility
(or, in the case such modifications and in-
vestments are to be made only with respect
to a portion of such facility, such portion
of such facility)—

“(I) will meet the requirements
described in subparagraph (B) not
later than the date that is 2 years
after such facility first receives funds
for such modifications and invest-
ments under such program; and

“(II) will continue to meet such
requirements for the 5-year period be-
ginning on the date that is 2 years
after such facilities first receives such
funds;

“(iii) an agreement that, in the case
such facility (or such portion of such facili-
ty, as applicable) fails to meet such re-
quirements in accordance with clause (ii),
such facility will—

“(I) repay such funds to the Sec-
retary in an amount determined ap-
propriate by the Secretary under sub-
section (d); and

“(II) notify each resident of such
facility (or each resident of such por-
tion of such facility, as applicable) of the failure of such facility or such portion, as applicable, to meet such requirements;

“(iv) an agreement that, if such facility is selected by the Secretary under paragraph (2), the facility will notify each resident of such facility (or each resident of such portion of such facility, as applicable), of such selection and include in such notification a description of the program established under subsection (a), including any modifications and investments to be made with respect to such facility (or with respect to such portion of such facility, as applicable); and

“(v) in the case such modifications and investments are to be made only with respect to a portion of such facility, an agreement that such facility will not discriminate in the selection of residents who may reside in such portion based on whether payment is being made to such facility with respect to such resident under
this title, a State plan (or waiver of such plan) under title XIX, or otherwise.

“(B) REQUIREMENTS.—For purposes of subparagraph (A), the requirements described in this subparagraph with respect to a skilled nursing facility (or a portion of such facility) are the following:

“(i) The facility (or portion) maintains beds for no less than 5 and no more than 14 residents.

“(ii) The facility (or portion) incorporates universal design (defined in section 3(19) of the Assistive Technology Act of 1998)) to ensure such facility (or portion) is accessible to all residents, regardless of age or disability, including by providing for the following:

“(I) Private rooms and bathrooms (unless such facility determines that the provision of private rooms and bathrooms at such facility would adversely affect the availability of skilled nursing facility services in the area in which such facility is located
and the Secretary concurs with such determination).

“(II) Shared space, including a central living area, as defined by the Secretary, with a communal dining table and accessible kitchen.

“(III) Accessible outdoor space, including a protected garden space for use by residents and their visitors.

“(iii) The facility (or portion) provides a clinical team that consists of a full-time registered professional nurse or licensed practical nurse (or licensed vocational nurse) who works in partnership with certified nursing assistants in a team-based, collaborative model.

“(iv) The facility (or portion) has a licensed practical nurse (or licensed vocational nurse) on site at all times.

“(v) The facility (or portion) facilitates a standing resident council run by residents, and a standing family council run by family members of residents, that meets such requirements as may be specified by the Secretary.
“(vi) The facility (or portion) solicits resident input on facility policies (or policies relating to such portion of such facility), including with respect to programs and scheduling, and, in the case of an incapacitated resident, solicits such input from an individual recognized by State law to act on behalf of such resident.

“(vii) In addition to the resident assessment under section 1819(b)(3), the facility (or portion) conducts an assessment of residents’ care preferences (or, in the case of an incapacitated resident, such preferences as expressed by an individual recognized by State law to act on behalf of such resident) not later than 14 days after the resident is admitted to such facility or portion of such facility (or, in the case of a resident residing at such facility at the time such facility receives funding under the program established under paragraph (1), not later than 14 days after the date of such receipt) to ensure care is person-directed.
“(viii) The facility (or portion) offers daily activities, such as art, music, educational activities, or other activities based on resident preferences.

“(C) TIMEFRAME.—The Secretary shall develop the application described in subparagraph (A) and begin accepting such applications not later than July 1, 2023. The Secretary shall accept such applications during the 2-year period beginning on the date such applications are first accepted.

“(2) SELECTION.—

“(A) IN GENERAL.—Not later than 2 years after the date the Secretary first accepts applications under paragraph (1), the Secretary shall select a number of skilled nursing facilities determined appropriate by the Secretary to receive funding under the program established under subsection (a).

“(B) PREFERENCE.—In selecting skilled nursing facilities under this paragraph, the Secretary shall—

“(i) give preference to facilities that—

“(I) are located in medically underserved areas (as defined in section
330(b)(3)(A) of the Public Health Service Act; and

“(II) house a majority of residents who are receiving medical assistance consisting of nursing facility services under a State plan (or waiver of such plan) under title XIX;

“(ii) give preference to facilities that demonstrate the greatest likelihood of meeting the requirements described in paragraph (1)(B) within 2 years of receiving funding under the program established under subsection (a);

“(iii) give preference to facilities that offer staff training beyond such training required under section 1819 (as determined through payroll based journal data); and

“(iv) so select such facilities in a manner that ensures geographic diversity, to the extent practicable.

“(c) FUNDS.—

“(1) IN GENERAL.—Subject to paragraph (3) and subsection (h), the Secretary shall provide funds to each skilled nursing facility selected under sub-
section (b)(2) in an amount equal to not more than
the costs specified by such facility pursuant to sub-
section (b)(1)(A)(i).

“(2) USE OF FUNDS.—

“(A) IN GENERAL.—Subject to subpara-
graph (B), funds provided under paragraph (1)
may only be used by a skilled nursing facility
for modifications and investments specified by
such facility pursuant to subsection
(b)(1)(A)(i).

“(B) EXCEPTION.—A skilled nursing facil-
ity may use funds provided under paragraph
(1) for modifications and investments described
in subsection (a) but not specified by such facil-
ity pursuant to subsection (b)(1)(A)(i) if—

“(i) such facility submits a request to
 the Secretary containing a description of
 such modifications and investments; and

“(ii) the Secretary determines that
 such modifications and investments will ass-
sist such facility (or a portion of such facil-
ity, as applicable) in complying with the
requirements specified in subsection
(b)(1)(B).
“(3) FORM OF PROVISION OF FUNDS.—The Secretary may provide funding under paragraph (1) in the form of a single upfront payment or in up to 3 installment payments, spaced out across the first 3 fiscal years beginning with the fiscal year in which the first such payment is made.

“(4) LIMITATION OF PROVISION OF FUNDING.—No skilled nursing facility may receive more than 3 percent of the total monies appropriated under paragraph (5).

“(5) APPROPRIATION.—In addition to any amounts otherwise available, there is appropriated to the Secretary, out of any monies in the Treasury not otherwise appropriated, $1,300,000,000, to remain available until expended, for purposes of providing funds to skilled nursing facilities under paragraph (1).

“(d) FAILURE TO MEET REQUIREMENTS.—

“(1) IN GENERAL.—Subject to paragraph (2), in the case of a facility (or a portion of such facility, as applicable) that fails to meet the requirements described in subsection (b)(1)(B) in accordance with the agreement described in subsection (b)(1)(A)(ii), the Secretary may recoup any funds provided to such facility under subsection (c)(1) in an amount
determined appropriate by the Secretary. In determining such amount, the Secretary shall take into account the extent of the compliance of such facility (or portion of such facility, as applicable) with such requirements.

“(2) EXCEPTION.—The Secretary may suspend any recoupment described in paragraph (1) with respect to a facility (or a portion of such facility, as applicable) described in such paragraph for a period of time determined appropriate by the Secretary if the Secretary finds that such facility (or such portion) will likely be in compliance with the requirements described in such paragraph within a reasonable time specified by the Secretary.

“(e) EVALUATION OF PROGRAM.—

“(1) IN GENERAL.—The Secretary shall evaluate each skilled nursing facility receiving funds under the program established under subsection (a) to assess whether, relative to similarly situated skilled nursing facilities not receiving funds under such program and residents of such facilities, modifications and investments described in subsection (a) made at skilled nursing facilities using such funds resulted in, with respect to residents of such facilities (or, in the case such modifications and invest-
ments are made only with respect to a portion of such facility, residents of such portion of such facility)—

“(A) a reduction in preventable hospitalizations;

“(B) a reduction in hospital readmissions;

“(C) a reduction in emergency room visits;

“(D) greater improvement in functional status;

“(E) an improvement in infection control;

“(F) a reduction in nursing staff turnover rates;

“(G) an increase in resident and family caregiver satisfaction;

“(H) other improvements in resident quality of life as may be specified by the Secretary;

“(I) a reduction in expenditures under this part (excluding funds provided under subsection (c)(1)); or

“(J) any other outcomes specified by the Secretary.

“(2) REPORTS TO CONGRESS.—Based on evaluations described in paragraph (1), the Secretary shall, not later than July 1, 2031, and again not later than July 1, 2035, submit to Congress a report
on such program. Each such report shall include an
analysis of the demonstration program’s effect on
the outcomes described in paragraph (1).

“(f) IMPLEMENTATION.—Chapter 35 of title 44,
United States Code, shall not apply to this section.

“(g) AUTHORITY TO EXPAND TO CERTAIN NURSING
FACILITIES.—The Secretary may, subject to subsection
(h), enter into agreements with States to include nursing
facilities (as defined in section 1919(a)) that are not
skilled nursing facilities (as defined in section 1819(a))
in the demonstration program established under sub-
section (a) and may modify the requirements of the pre-
vious provisions of this section as appropriate to be appli-
cable to such facilities.

“(h) FUNDING.—The Secretary shall provide for the
transfer, from the Federal Hospital Insurance Trust Fund
under 1817 to the Centers for Medicare & Medicaid Serv-
ices Program Management Account, of $30,000,000 for
fiscal year 2023 for purposes of carrying out this section
(other than for purposes of making payments under sub-
section (c)(1)). Amounts transferred pursuant to the pre-
vious sentence shall remain available until expended.”.