

118TH CONGRESS  
2D SESSION

# S. 5260

To amend title XIX of the Social Security Act to require the Secretary of Health and Human Services to make certain information available on a public website relating to intermediate care facilities for individuals with intellectual disabilities certified for participation under the Medicaid program, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

SEPTEMBER 25, 2024

Mr. KELLY introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend title XIX of the Social Security Act to require the Secretary of Health and Human Services to make certain information available on a public website relating to intermediate care facilities for individuals with intellectual disabilities certified for participation under the Medicaid program, 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 “Preventing Abuse and  
5 Neglect of Vulnerable Americans Act of 2024”.

1 **SEC. 2. REQUIRING THE SECRETARY OF HEALTH AND**  
2 **HUMAN SERVICES TO MAKE CERTAIN INFOR-**  
3 **MATION AVAILABLE ON A PUBLIC WEBSITE**  
4 **RELATING TO INTERMEDIATE CARE FACILI-**  
5 **TIES FOR INDIVIDUALS WITH INTELLECTUAL**  
6 **DISABILITIES CERTIFIED FOR PARTICIPA-**  
7 **TION UNDER THE MEDICAID PROGRAM.**

8 (a) IN GENERAL.—Section 1910 of the Social Secu-  
9 rity Act (42 U.S.C. 1396i) is amended by adding at the  
10 end the following new subsection:

11 “(c) Not later than 2 years after the date of the en-  
12 actment of this subsection, the Secretary shall, in order  
13 to increase transparency, include on the official internet  
14 website of the Federal Government for Medicaid bene-  
15 ficiaries, with respect to each intermediate care facility de-  
16 scribed in subsection (b) eligible to participate in the pro-  
17 gram established under this title, the following informa-  
18 tion in a manner that is posted in a prominent location,  
19 updated on a timely basis, easily accessible, readily under-  
20 standable to consumers of services for individuals with in-  
21 tellectual disabilities, and searchable:

22 “(1) Information regarding the performance of  
23 such facility, including—

24 “(A) results from the 3 most recent sur-  
25 veys conducted with respect to such facility  
26 under the State survey and certification proc-

1           ess, including any standard or condition-level  
2           deficiencies identified during such surveys and  
3           any administrative actions or citations taken as  
4           a result of such surveys;

5           “(B) any finding, with respect to any such  
6           deficiencies identified during such surveys, that  
7           such a deficiency immediately jeopardized the  
8           health or safety of residents of such facility;

9           “(C) the 3 most recent Form 2567 (or a  
10          successor form) State inspection reports and a  
11          description of how an individual may interpret  
12          such reports; and

13          “(D) any plan of correction or other re-  
14          sponse of such facility to such reports.

15          “(2) The standardized complaint form devel-  
16          oped under section 1128I(f), including explanatory  
17          material on what complaint forms are, how they are  
18          used, and how to file a complaint with the State sur-  
19          vey and certification program, the State long-term  
20          care ombudsman program, and the State Protection  
21          and Advocacy for Individuals with Developmental  
22          Disabilities program.

23          “(3) Summary information on the number of  
24          substantiated complaints, including the type and

1 level of citation and any immediate jeopardy cita-  
 2 tions.”.

3 (b) ESTABLISHMENT OF STANDARDIZED COMPLAINT  
 4 FORM.—Section 1128I of the Social Security Act (42  
 5 U.S.C. 1320a–7j) is amended by adding at the end the  
 6 following new subsection:

7 “(i) APPLICATION OF CERTAIN PROVISIONS TO IN-  
 8 TERMEDIATE CARE FACILITIES FOR INDIVIDUALS WITH  
 9 INTELLECTUAL DISABILITIES.—In applying subsection  
 10 (f), beginning 1 year after the date of the enactment of  
 11 this subsection, each reference to a ‘facility’ shall be  
 12 deemed to include an intermediate care facility described  
 13 in section 1905(d).”.

14 **SEC. 3. ADVISORY COUNCIL ON INTERMEDIATE CARE FA-**  
 15 **CILITIES FOR INDIVIDUALS WITH INTELLEC-**  
 16 **TUAL DISABILITIES.**

17 (a) ESTABLISHMENT.—Not later than 1 year after  
 18 the date of enactment of this Act, the Secretary of Health  
 19 and Human Services (in this section referred to as the  
 20 “Secretary”) shall establish the Advisory Council on Inter-  
 21 mediate Care Facilities for Individuals with Intellectual  
 22 Disabilities (in this section, referred to as the “Advisory  
 23 Council”).

24 (b) MEMBERSHIP.—

1           (1) IN GENERAL.—The Advisory Council shall  
2       consist of such members as appointed by the Sec-  
3       retary. In making such appointments, the Secretary  
4       shall ensure that the Advisory Council includes the  
5       following:

6           (A) Individuals with disabilities, including  
7       but not limited to individuals who have resided  
8       in an intermediate care facility for individuals  
9       with intellectual disabilities.

10          (B) Family members or guardians, exclud-  
11       ing cases where an employee of an intermediate  
12       care facility serves as the legal guardian, of in-  
13       dividuals with disabilities who reside in such a  
14       facility.

15          (C) Representatives of State agencies that  
16       support individuals with intellectual and devel-  
17       opmental disabilities.

18          (D) Representatives of intermediate care  
19       facility providers.

20          (E) Advocates for individuals with intellec-  
21       tual and developmental disabilities.

22          (F) Representatives of States, including  
23       State survey agencies.

24          (G) Representatives from health care qual-  
25       ity standards-setting organizations.

1 (H) Staff who provide direct care to indi-  
 2 viduals residing at such facilities.

3 (I) Representatives of workers at inter-  
 4 mediate care facilities.

5 (J) Representatives of State Protection  
 6 and Advocacy Systems.

7 (K) Representatives of the Centers for  
 8 Medicare & Medicaid Services.

9 (2) CHAIR.—The Chair of the Advisory Council  
 10 shall be appointed by the Secretary from among the  
 11 members selected under paragraph (1) and described  
 12 in subparagraphs (A) through (J) of such para-  
 13 graph.

14 (c) DUTIES.—

15 (1) IN GENERAL.—The Advisory Council shall  
 16 develop recommendations on steps that intermediate  
 17 care facilities for individuals with intellectual disabili-  
 18 ties, States, or the Federal Government may take to  
 19 prevent abuse, neglect, and exploitation, which may  
 20 include recommendations relating to the following:

21 (A) Improving staffing levels and staff  
 22 training.

23 (B) Creating pamphlets or other materials  
 24 to share with families to help them identify po-

1           tentia! warning signs of abuse, neglect, and ex-  
2           ploitation.

3           (C) Creating materials to share with fami-  
4           lies on the process of how to file a complaint  
5           when abuse, neglect, or exploitation is sus-  
6           pected.

7           (D) Addressing staff retention, workplace  
8           safety, and staff burnout.

9           (E) Improving the adequacy, efficiency,  
10          and coordination of preemployment background  
11          checks, and compliance with such checks, for  
12          individuals providing direct care to residents of  
13          such facilities, including with respect to State  
14          rap back systems and the National Background  
15          Check Program.

16          (2) CONSIDERATIONS.—In the development of  
17          recommendations under paragraph (1), the Advisory  
18          Council shall take into account data and practices  
19          related to intermediate care facilities for individuals  
20          with intellectual disabilities, which may include the  
21          following:

22               (A) Survey data related to abuse, neglect,  
23               and exploitation citations.

24               (B) Current programs being utilized by in-  
25               termediate care facilities for individuals with in-

tellectual disabilities related to abuse, neglect,  
and exploitation prevention.

(C) Current practices for providing transparency to consumers of intermediate care facility for individuals with intellectual disabilities services and their families when incidents occur.

(D) State requirements for providers of intermediate care facility for individuals with intellectual disabilities services related to abuse, neglect, and exploitation, including—

(i) reporting requirements;

(ii) data tracking; and

(iii) resolution of reports of abuse, neglect, or exploitation, including those reports that were not substantiated.

(3) AUTHORITY TO COLLECT INFORMATION AND REQUEST TECHNICAL ASSISTANCE.—The Advisory Council may secure directly from the Secretary upon request such information or technical assistance as the Advisory Council considers necessary to carry out this section.

(d) REPORT.—

(1) IN GENERAL.—Not later than 18 months after the date of the first meeting of the Advisory Council, the Advisory Council shall submit to the



1 Secretary, the Committee on Finance and the Spe-  
 2 cial Committee on Aging of the Senate, and the  
 3 Committee on Ways and Means and the Committee  
 4 on Energy and Commerce of the House of Rep-  
 5 resentatives, a report containing any recommenda-  
 6 tions developed under subsection (c)(1), together  
 7 with recommendations for such legislation and ad-  
 8 ministrative action as the Advisory Council deter-  
 9 mines appropriate.

10 (2) PUBLIC AVAILABILITY.—Upon receiving the  
 11 report described in paragraph (1), the Secretary  
 12 shall make such report public.

13 (e) TERMINATION.—The Advisory Council shall ter-  
 14minate upon the submission of the report to the Secretary  
 15 under subsection (d)(1).

16 **SEC. 4. PERMITTING MEDICARE AND MEDICAID PRO-**  
 17 **VIDERS TO ACCESS THE NATIONAL PRACTI-**  
 18 **TIONER DATA BANK TO CONDUCT EMPLOYEE**  
 19 **BACKGROUND CHECKS.**

20 Section 1921(b)(6) of the Social Security Act (42  
 21 U.S.C. 1396r-2(b)(6)) is amended—

22 (1) by striking “and other health care entities  
 23 (as defined in section 431 of the Health Care Qual-  
 24 ity Improvement Act of 1986)” and inserting “,  
 25 other health care entities (as defined in section 431

1 of the Health Care Quality Improvement Act of  
2 1986), providers of services (as defined in section  
3 1861(u)), suppliers (as defined in section 1861(d)),  
4 and providers of items or services under a State plan  
5 under this title (or a waiver of such a plan)”; and  
6 (2) by striking “such hospitals or other health  
7 care entities” and inserting “such hospitals, health  
8 care entities, providers, or suppliers”.

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