



The National

CONSUMER VOICE

for Quality Long-Term Care

formerly NCCNHR

LEGISLATIVE UPDATE

September 30, 2021

Welcome!



- Webinar is being recorded
- Use the Q&A feature for questions
- Use the chat to make comments or respond to questions from speakers or other attendees
- Slides and recording will be available on the website

Speakers



- Lori Smetanka, Executive Director
- Robyn Grant, Director of Public Policy & Advocacy
- Sam Brooks, Manager of Program & Policy
- Jocelyn Bogdan, Program & Policy Specialist



NURSING HOME IMPROVEMENT AND ACCOUNTABILITY ACT

Text - H.R.5169 - 117th Congress: x

congress.gov/bill/117th-congress/house-bill/5169/text?r=2&s=1

Text available as: XML:HTML (114KB) | XML:HTML (new window) (99KB) | TXT (82KB) | PDF (318KB) (PDF provides a complete and accurate display of this text.)

Shown Here:
Introduced in House (09/03/2021)

117TH CONGRESS
1ST SESSION

H. R. 5169

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

SEPTEMBER 3, 2021

Mr. NEAL (for himself and Mr. PALLOTT) 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.

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

SECTION 1. SHORT TITLE.

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. 1395yyj(e)(6)(A)) is amended—

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

[Back to top](#)

H.R. 5169, introduced by
Chairman Neal, House
Ways & Means
Committee

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7/61 | 100% +

117TH CONGRESS
1ST SESSION

S. 2694

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 SENATE OF THE UNITED STATES

AUGUST 10, 2021

Mr. WYDEN (for himself, Mr. CASEY, Mr. BLUMENTHAL, Mr. BENNET, Mr. WHITEHOUSE, and Mr. BROWN) introduced the following bill; which was read twice and referred to the Committee on Finance

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.

S. 2694, introduced by
Chairman Wyden,
Senate Finance
Committee

What's in the Bill

- TITLE I—TRANSPARENCY AND ACCOUNTABILITY
- TITLE II — STAFFING IMPROVEMENTS
- TITLE III — BUILDING MODIFICATION AND STAFF INVESTMENT DEMONSTRATION PROGRAM

Transparency and Accountability

Facilities to be penalized for submitting inaccurate data, including resident assessment data

Audits of a representative sample of Medicare cost reports

Review of the survey and enforcement process

A ban on arbitration agreements

Expansion of the Special Focus Facilities Program to 5% of all certified facilities

Staffing Improvements

- **Minimum staffing standard ... down the road**

Bill becomes law



Within 3 years

First study, report with recommendations
(RNs; LPNs, CNAs “if practicable”)



Within 2 years

Regulations promulgated
(RNs; LPNs, CNAs “if practicable”)



Staffing Improvements

- **Minimum staffing standard: Cycle repeats every five years.**

Study, report with recommendations (all nursing staff)



Regulations updated (all nursing staff)

ALSO:

- **24-hour Registered Nurse**
- **Full-time Infection Preventionist**

Staffing Improvements

Enhanced Medicaid funding

- Support staffing (e.g. increase wages and benefits)
- Improve quality of care and quality of life (e.g. person-centered models of care)

Improved staffing data

- Inaccurate data would be subject to penalties
- Weekend staffing hours would be posted on Care Compare
- Staffing hours would only include time spent on direct care

Building Modification and Staff Investment Demonstration Project

Funding to
establish a
demonstration
project to invest in:



The physical infrastructure of facilities



Workforce standards



Integration of individual resident
preferences and resident input into the
lives of residents

BUDGET RECONCILIATION PROCESS

What is Reconciliation?

- Budgetary process allowing Senate to pass a bill with a simple majority. Cannot be filibustered
- Reconciliation may only affect spending, revenues, or debt limit.
 - Must have a budgetary effect
- Byrd Rule excludes “extraneous provisions”
 - Does not affect budget
 - Increases spending or cost saving “too little”
 - Affects Social Security benefit program
 - Is not within the designated committee’s jurisdiction

How does it work?

- Starts with the House and Senate agreeing on a budget resolution with specific reconciliation directives
 - Budget resolutions should be created each year to create a budget plan that sets out parameters for spending
- Reconciliation directives task congressional committees to create legislation that has budgetary effects
 - Increase or decrease spending/revenues by certain amounts over a period of time
 - Raises debt limits
- Committees then create legislative provisions (mark-up) which are reported to the House and Senate budgetary committees that create a bill
- Both bills in the House and Senate must be identical.
- Signed by president.

Nursing Home Reconciliation Provisions

- House Ways & Means Committee included four provisions in its mark-up drawn directly from the Nursing Home Improvement and Accountability Act of 2021”
 - Sec. 134301 Funding to Improve the Accuracy and Reliability of Certain Skilled Nursing Facility Data
 - Sec. 134302 Ensuring Accurate Information on Cost Reports
 - Sec. 134303 Survey Improvement
 - Sec. 134304 Nurse Staffing Requirements
- House Bill introduced on 9/28/2021
- Negotiations occurring now with House and Senate
- Not clear that these W&M provisions will make it into the Senate bill

Home and Community Based Services Provisions

- House Energy and Commerce Committee proposes appropriating \$190 billion for HCBS
- Provides grants to states to develop HCBS improvement plans
 - Focus on eligibility, delivery, workforce, services
- Provides increased federal match for states that adopt improvement plans
 - 7 % permanent increase in federal match
 - 80% for administrative costs
 - 2% for two years for states that promote self-direction
- Funding for technical assistance to states
- Creates quality measure and improvement program

Elder Justice Act Provisions

- Included in Ways & Means mark-up
- Increased funding (\$172.5 million over three years) for long-term care ombudsman programs
- \$1.6 billion over four years for long-term care workforce development.
 - Wage subsidies
 - Tuition reimbursement
 - Affordable childcare and transportation
 - Training
- \$1.4 billion for Adult Protective Services
- Grants and training for community-based organizations (AAAs) to address social isolation in elderly population (\$250 million)
- \$500 million for medical-legal partnerships



Additional Legislation

H.R. 3733 Essential Caregivers Act

Gives nursing home residents access to essential caregivers during any public health emergency

Every resident can select up to two essential caregivers who will follow all the same safety and infection protocol as staff

Essential caregivers who refuse to follow protocols will be denied entry

H.R. 598 Quality Care for Nursing Home Residents and Workers During COVID–19 and Beyond Act

Improves staffing

Creates protections for residents and workers

Increases quality of care

Improves worker safety

Strengthens infection control

Focuses on residents' rights

H.R.2812

Fairness in Nursing Home Arbitration Act

Prohibits long term-care facilities from mandatory, pre-dispute, binding arbitration agreements

WHAT HAPPENS NOW?

1st up – RECONCILIATION BILL

TELL CONGRESS

DON'T FORGET NURSING HOME RESIDENTS

At a minimum, include the provisions from the House bill:

- Funding to Improve the Accuracy and Reliability of Certain Skilled Nursing Facility Data
- Ensuring Accurate Information on Cost Reports
- Survey and Enforcement Improvements
- Nurse Staffing Requirements

Next couple weeks

After Reconciliation

ADDITIONAL FOCUSED ADVOCACY

- Nursing Home Improvement & Accountability Act
- Essential Caregiver Act
- Quality Care for Residents & Workers Act
- Fairness in Nursing Home Arbitration Act
- ...and others

Make Your Voices Heard!



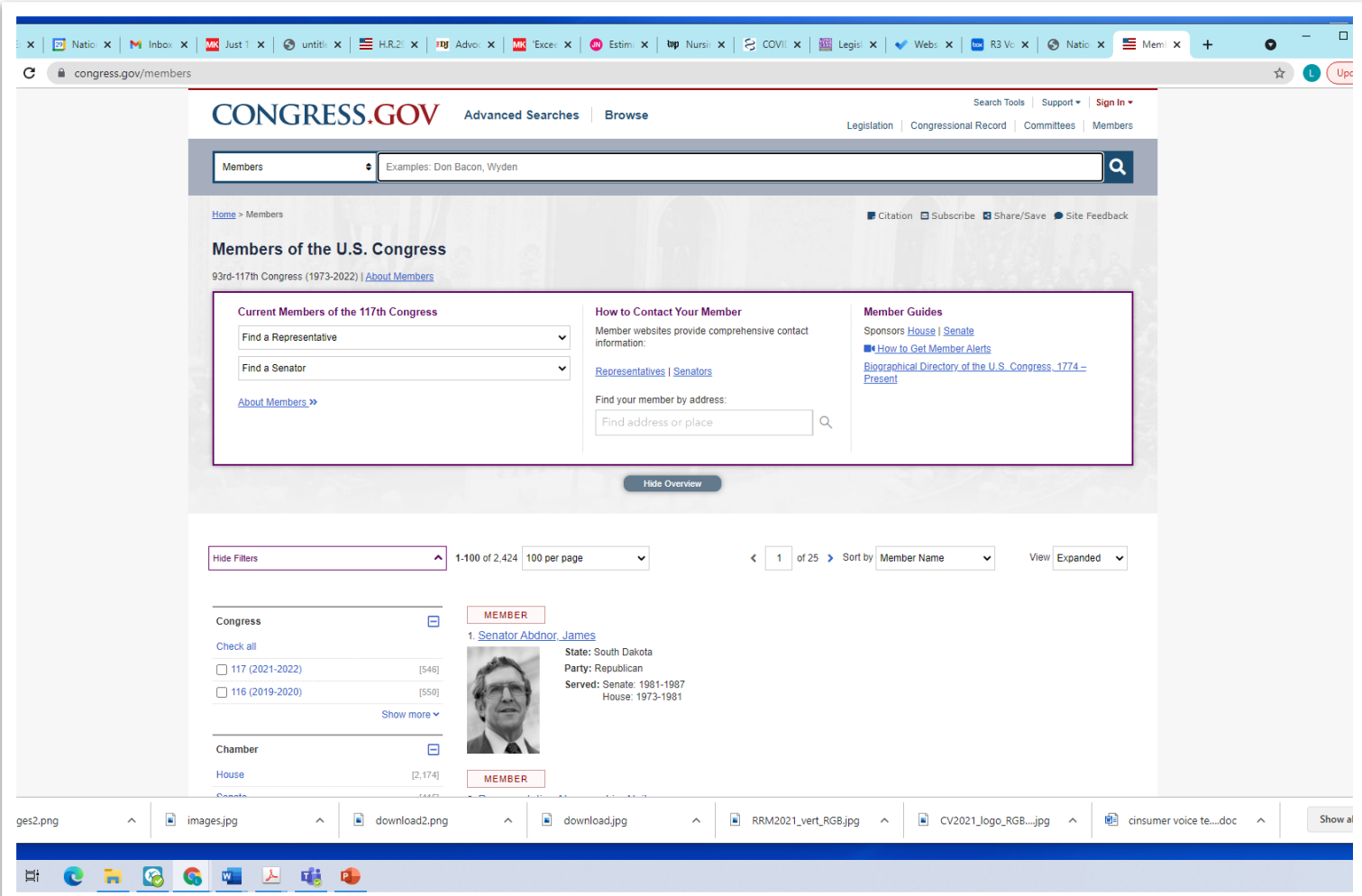
Contact Your Member of Congress

Call the Capitol Switchboard
202-224-3121

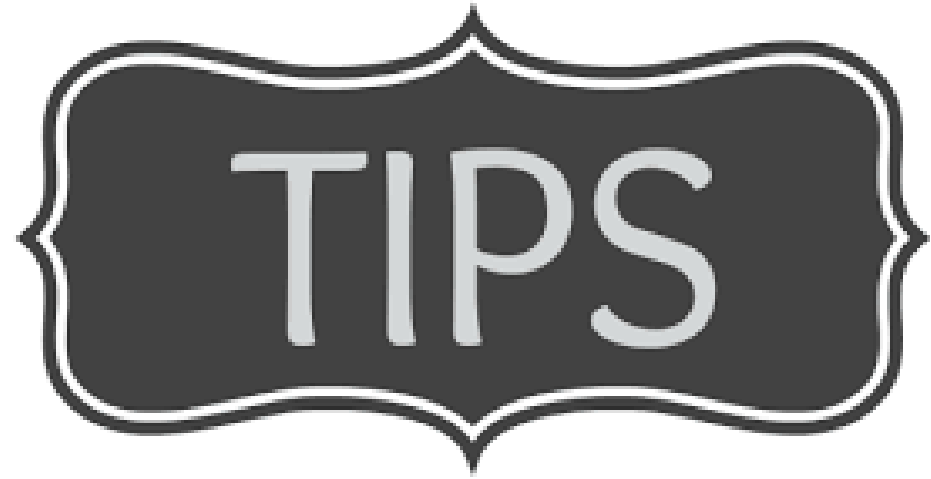
or

Go to

www.congress.gov/members



The screenshot shows the congress.gov/members website. The browser address bar displays "congress.gov/members". The page header includes "CONGRESS.GOV" and navigation links for "Advanced Searches" and "Browse". A search bar at the top contains "Members" and "Examples: Don Bacon, Wyden". Below the search bar, there are links for "Home > Members", "Citation", "Subscribe", "Share/Save", and "Site Feedback". The main heading is "Members of the U.S. Congress" with a sub-heading "93rd-117th Congress (1973-2022) | About Members". A purple box highlights the "Current Members of the 117th Congress" section, which includes dropdown menus for "Find a Representative" and "Find a Senator", and a "How to Contact Your Member" section with a "Find your member by address" search box. To the right, there are "Member Guides" for House and Senate. Below the purple box, there are "Hide Filters", "1-100 of 2,424", "100 per page", and pagination controls. A list of members is shown, with the first entry being "Senator Abdnor, James" from South Dakota, a Republican, who served in the Senate from 1981-1987 and the House from 1973-1981. The Windows taskbar at the bottom shows various application icons.



1 – Prepare your message

2 – Identify yourself as a constituent

3 – Share your message

4 – Be courteous

National Consumer Voice for Quality Long-Term Care

45TH ANNUAL CONFERENCE

**M➔OVING
F➔ORWARD
T➔OGETHER**

 VIRTUAL EVENT

NOVEMBER 3-5, 2021

www.theconsumervoice.org/2021-conference

October is Residents' Rights Month



www.theconsumervoice.org/2021-residents-rights-month

Q&A



The National
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for Quality Long-Term Care
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