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

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
<table>
<thead>
<tr>
<th>Building Modification and Staff Investment Demonstration Project</th>
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<tbody>
<tr>
<td>Funding to establish a demonstration project to invest in:</td>
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<td>The physical infrastructure of facilities</td>
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<td>Workforce standards</td>
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<td>Integration of individual resident preferences and resident input into the lives of residents</td>
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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

• 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
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
Moving Forward Together
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 Consumer Voice for Quality Long-Term Care

www.theconsumervoice.org

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