To establish a demonstration program to test the viability of community integrated small-house nursing care homes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 16, 2011

Mr. Casey (for himself, Mr. Enzi, Mr. Schumer, and Mr. Wicker) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To establish a demonstration program to test the viability of community integrated small-house nursing care homes.

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 “Community Integrated Nursing Care Homes Demonstration Program Act” or the “CINCH Demonstration Program Act”.

SECTION 2. DEFINITIONS.

In this Act:
(1) CINCH DEMONSTRATION PROGRAM.—The term “CINCH demonstration program” means the demonstration program conducted under this Act.

(2) MEDICAID.—The term “Medicaid” means the program for medical assistance established under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

(3) MEDICARE.—The term “Medicare” means the program for medical assistance established under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.).

(4) NURSING HOME.—The term “nursing home” means—

(A) a skilled nursing facility (as defined in section 1819(a) of the Social Security Act (42 U.S.C. 1395i–3(a))); or

(B) a nursing facility (as defined in section 1919(a) of the Social Security Act (42 U.S.C. 1396r(a))).

(5) RESEARCH-BASED.—The term “research-based” means research that—

(A) has been conducted by an objective researcher or research team that has—
(i) no financial or affiliated organizational interest in the success of the model; and

(ii) expertise in long-term care, with not less than 3 research articles relating to long-term care that have been published in leading peer-reviewed journals;

(B) has been conducted according to generally accepted research practices;

(C) has been published in a leading peer-reviewed journal on aging or long-term care; and

(D) indicates a measurable improvement in multiple aspects of quality of life and care.

(6) SECRETARY.—The term “Secretary” means the Secretary of Health and Human Services.

(7) RURAL AREA.—The term “rural area” means any area other than an urban or suburban area.

(8) SUBURBAN AREA.—The term “suburban area” means any urbanized area that is contiguous and adjacent to an urban area.

(9) URBAN AREA.—The term “urban area” means a city or town that has a population of greater than 50,000 inhabitants.
SEC. 3. SMALL-HOUSE NURSING CARE HOME REQUIREMENTS.

To be eligible to participate in the CINCH demonstration program as a small-house nursing care home, a nursing home shall—

(1) subject to section 4(f), have been certified by a Federal, State, or local entity (in accordance with applicable Federal, State, and local law) to operate a nursing home;

(2) operate in compliance with any direct care and certified nurse assistant staffing requirements under Federal, State, and local law;

(3) provide nursing home services, as required under State law and applicable licensing standards, that shall not be less comprehensive or high-acuity than services provided by the eligible operating entity within the immediate surrounding community;

(4) provide for meals cooked in the nursing home and not prepared in a central kitchen and transported to the home;

(5) provide for a universal worker approach to resident care (such as a certified nursing assistant who provides personal care, socialization services, meal preparation services, and laundry and housekeeping services);
(6) provide for direct care staffing at a rate that meets applicable Federal and State requirements or that is not less than 4 hours per resident per day, whichever is greater, with direct care staff (including certified nurse assistants) to be onsite, awake, and available within each small-house nursing care home at all times;

(7) provide for direct nursing care at a rate that meets applicable Federal and State requirements or that is not less than 1 hour per resident per day, whichever is greater, with a nursing staff that is awake and available at each location at all times and that meets or exceeds applicable Federal and State requirements for qualifications, services, and availability;

(8) provide for any other clinical, operational, management, or facility staff and services as required under applicable Federal and State requirements, with such staff to be available from centralized or distributed locations, including a director of nursing who shall be responsible for oversight of the nursing staff within a site;

(9) provide for consistent staff assignments and self-directed work teams of direct care staff;
(10) provide training for all staff involved in the operations of the nursing home (for not less than 120 hours for each universal worker and not less than 60 hours for each leadership and clinical team member, to be completed for the majority of the staff before they start to work in a small-house nursing care home) concerning the philosophy, operations, and skills required to implement and maintain self-directed care, self-managed work teams, a noninstitutional approach to life and care in long-term care, appropriate safety and emergency skills, cooking from scratch by the direct care staff and food handling and safety, and other elements required for successful operation of the small-house nursing care home;

(11) ensure that the percentage of residents in each small-house nursing care home who are short-stay rehabilitation residents does not exceed 20 percent at any time (unless the small-house nursing care home is entirely devoted to providing rehabilitation services), except that a long-term resident transferring back to a small-house nursing care home after an acute episode and who is receiving rehabilitation services for which payment is made
under Medicare shall not be counted toward such limitation;

(12) provide the technical assistance provider with Minimum Data Set (‘‘MDS’’) information and financial data in a timely manner on a monthly basis; and

(13) consist of a physical environment designed to look and feel like a home, rather than an institution, and that shall—

(A) be designed to serve as a fully independent, self-sufficient, and disabled accessible house or apartment that is similar to housing available within the immediate surrounding community, with not more than 10 residents within such house or apartment, and that shall only be connected to or share areas that would be generally shared between private homes (such as a driveway) or apartments (such as a lobby or laundry room);

(B) contain residential-style design elements and materials throughout the home that are similar to those in the immediate surrounding community and that do not use commercial and institutional elements and products (such as a nurses’ station, medication carts,
hospital or office-type fluorescent lighting, acous-
tical tile ceilings, institutional-style railings and
corner guards, and room numbering and label-
ing) unless mandated by authorities with appro-
priate jurisdiction over the nursing home;

(C) provide private, single occupancy bed-
rooms that—

(i) are shared only at the request of
a resident to accommodate a spouse, part-
tner, family member, or friend, and that
contains a full private bathroom that in-
cludes, at a minimum, a toilet, sink, and
accessible shower; and

(ii) are dually certified for occupancy
by a Medicaid or Medicare eligible indi-
vidual;

(D) contain a living area where residents
and staff may socialize, dine, and prepare food
together that provides, at a minimum, a living
room seating area, a dining area large enough
for a single table serving all residents and not
less than 2 staff members, and a full kitchen
that is open to the living and dining areas;

(E) contain ample natural light in each
habitable space that is provided through exte-
rior windows and other means, with window
areas, exclusive of skylights and clerestories,
being a minimum of 10 percent of the area of
the room;

(F) have a life-safety rating that is suffi-
cient to meet State and local standards for
nursing facilities, including such provisions of
such edition (as specified by the Secretary in
regulation) of the Life Safety Code of the Na-
tional Fire Protection Association as are appli-
cable to nursing homes, appropriately accommo-
date individuals who cannot evacuate the small-
house nursing care home without assistance,
and satisfy applicable requirements under the
Americans with Disabilities Act of 1990 (42
U.S.C. 12101 et seq.); and

(G) contain built-in safety features to allow
all areas of the small-house nursing care home
to be accessible to residents during the majority
of the day and night.

SEC. 4. ESTABLISHMENT OF COMMUNITY INTEGRATED
NURSING CARE HOMES DEMONSTRATION
PROGRAM.

(a) IN GENERAL.—The Secretary shall establish the
CINCH demonstration program to test the viability of
multiple small-house nursing care homes that are embed-
ded within residential neighborhoods and collectively cer-
tified to provide services through a single eligible oper-
ating entity in order to reduce administrative costs and
provide related cost savings to the Medicare and Medicaid
programs.

(b) DURATION AND SCOPE.—

(1) DURATION.—The Secretary shall conduct
the CINCH demonstration program for a period of
5 years.

(2) SCOPE.—The Secretary shall select not
more than 6 sites (as described in subsection (c)(2))
to participate in the CINCH demonstration pro-
gram, with each site to be operated by a different
eligible operating entity (as described under section
5(b)), with not less than 2 sites to be located in
rural areas.

(c) STRUCTURE OF DEMONSTRATION PROGRAM.—

(1) ELIGIBLE OPERATING ENTITY.—

(A) IN GENERAL.—Each site shall be oper-
ated by a single eligible operating entity under
the entity’s nursing home license and provider
certification, with such entity to be responsible
for management, administration, and oversight
of all small-house nursing care homes within the site.

(B) ENTITIES.—For purposes of this Act, an eligible operating entity shall be—

(i) a skilled nursing facility (as defined in section 1819(a) of the Social Security Act (42 U.S.C. 1395i–3(a)));

(ii) a nursing facility (as defined in section 1919(a) of the Social Security Act (42 U.S.C. 1396r(a))); or

(iii) an entity that has applied for certification pursuant to Federal, State, and local requirements for operation of a skilled nursing facility or nursing facility, provided that—

(I) the proposal submitted by the entity pursuant to section 5(b) includes a plan for certification that has been determined by the technical assistance provider to be feasible and likely to result in certification by the State; and

(II) the entity receives such certification not later than 24 months after selection by the technical assist-
ance provider (as described in section 5(b)).

(C) Relationship to Nursing Care Homes Within Site.—A facility that has been designated as the eligible operating entity—

(i) shall not be considered to be small-house nursing care home for purposes of site and location requirements under this section; and

(ii) shall not be subject to requirements for small-house nursing care homes under section 3.

(2) Site.—

(A) In General.—A site shall consist of—

(i) not less than 2 locations (as described in paragraph (3)); and

(ii) not less than a total of 4 small-house nursing care homes (as described in section 3) and not greater than a total of—

(I) in rural areas (or a site that encompasses a rural area), 12 small-house nursing care homes; or
(II) in urban or suburban areas, 24 small-house nursing care homes.

(B) Distances between Locations within a Site.—Distances between locations within a site may vary based upon market demand and availability, with maximum distances between locations to be established by the eligible operating entity based upon the ability of such entity to—

(i) deliver required services and supervision in a timely and appropriate manner; and

(ii) subject to subsection (f), meet all applicable statutory and regulatory requirements for operation of a nursing home.

(3) Location.—

(A) In General.—Each location shall consist of not greater than 2 small-house nursing care homes.

(B) Joining Parcels.—A location shall—

(i) consist of a single parcel of land or multiple adjoining parcels of land; and
(ii) be separate from any other location and operate on a non-adjoining parcel of land from such location.

(d) Continued Treatment as Single Provider.—The Secretary shall develop a process to allow a site, following the 5-year period for the CINCH demonstration program, to continue operation through a single operating entity and receive certification as a single provider for purposes of Medicare and Medicaid, including provisions to permit such continuation following a change in ownership of a participating small-house nursing care home.

(e) Priority for Certification of Compliance.—For purposes of certifying compliance of nursing homes with Federal participation requirements under Medicare and Medicaid, the Secretary shall give priority to the review and certification of any nursing homes participating in the CINCH demonstration program.

(f) Waiver Authority.—The Secretary may waive such requirements of titles XI, XVIII, and XIX of the Social Security Act as may be necessary to carry out the CINCH demonstration program and shall develop a process that permits sites to be certified and reimbursed under Medicare and Medicaid.
SEC. 5. SELECTION.

(a) Technical Assistance Provider.—

(1) In General.—Not later than 90 days after the date of enactment of this Act, the Secretary, through a request for proposal process, shall select a technical assistance provider that shall be responsible for—

(A) selecting, assisting, and evaluating the performance of eligible operating entities (as described under subsection (b)); and

(B) ensuring that small-house nursing care homes satisfy the requirements described in section 3.

(2) Minimum Requirements.—In selecting the technical assistance provider, the Secretary shall ensure that such organization—

(A) is a national not-for-profit organization that is in good standing;

(B) has a consistent, clearly articulated, and research-based model for operation of small-house nursing care homes;

(C) has not less than 10 years of experience in providing development, operation, regulatory, policy, and financial consulting services to clients or partners seeking to innovate the provision of long-term care;
(D) has demonstrated a successful process and record (for not less than 4 years) for selection and assistance of multiple organizations in implementation of a small-house nursing care home model, including development, operations, and staff training;

(E) has established curricula for training of leadership, clinical, and direct care staff;

(F) has demonstrated capacity, through its own resources and consultants, to—

(i) collect MDS information and financial data from eligible operating entities; and

(ii) benchmark and analyze such financial data on not less than a quarterly basis;

(G) has the ability to administer the CINCH demonstration program without additional funding from Federal, State, or local governmental sources;

(H) agrees to provide technical assistance services to eligible operating entities for a fee that is not greater than its usual and customary fee for such services; and
(I) agrees to maintain a provider network for small-house nursing care homes participating in the CINCH demonstration program for a fee that is not greater than its usual and customary fee for such services.

(3) PREFERENCES.—In selecting the technical assistance provider, the Secretary shall give preference to an organization that has demonstrated experience in related business activities, including community-based care models, health care financing, and demonstration programs.

(b) ELIGIBLE OPERATING ENTITY.—

(1) IN GENERAL.—Selection of eligible operating entities shall be determined by the technical assistance provider through a request for proposal process on a continual basis.

(2) MINIMUM REQUIREMENTS.—An eligible operating entity seeking to participate in the CINCH demonstration program shall be required to—

(A) commit to maintaining the small-house nursing care home requirements described under section 3 and permit the technical assistance provider to conduct periodic evaluations to ensure adherence to such requirements;
(B) maintain membership in a small-house
nursing care home provider network that is
maintained by the technical assistance provider;
and
(C) subject to paragraph (3)(B), ensure
that not less 30 percent of the total capacity
developed under the CINCH demonstration pro-
gram within the site, based on the annual aver-
age for such site, is provided to residents that
are receiving nursing home benefits under Med-
icaid, with any remaining capacity to be made
available to any individual seeking nursing
home services (including individuals eligible for
Medicare, privately insured individuals, or indi-
viduals paying for their own care).

(3) ADDITIONAL CONSIDERATIONS.—For pur-
poses of selecting eligible operating entities to par-
ticipate in the CINCH demonstration project, the
technical assistance provider shall take into consider-
ation—

(A) the level and extent of services that
will be provided to residents by each small-
house nursing care home within the site, includ-
ing whether such services are sufficient to re-
spond to the changing needs of residents as
they advance in age and thereby permit them to continue to reside in the home; and

(B) whether an entity commits to a percentage of total capacity within the site to residents that are receiving nursing home benefits under Medicaid that is higher than the minimum percentage of total capacity described in paragraph (2)(C).

SEC. 6. NO ADDITIONAL PAYMENT.

The technical assistance provider, as well as any eligible operating entities and participating small-house nursing care homes, shall not receive any additional payment or reimbursement under Medicare or Medicaid based upon their participation in the CINCH demonstration program.

SEC. 7. EVALUATION AND REPORT.

(a) In General.—Not later than 4 years after the date of enactment of this Act, the technical assistance provider shall evaluate the performance of each of the sites participating under the CINCH demonstration program and shall submit to the Secretary a report containing the results of such evaluation.

(b) Evaluation Requirements.—The evaluation described in subsection (a) shall include an analysis of—
(1) not less than 12 months of MDS information and financial data from at least 10 small-house nursing care homes; and

(2) results from focus groups or surveys regarding health outcomes for residents and program costs.

(c) Testing and Expansion Through the Center for Medicare and Medicaid Innovation.—Not later than 6 months after receiving the report submitted under subsection (a), the Secretary shall, through the Center for Medicare and Medicaid Innovation established under section 1115A of the Social Security Act (42 U.S.C. 1315A), perform an evaluation (as described in subsection (b)(4) of such section) of the CINCH demonstration program and, pursuant to the requirements under subsection (c) of such section, determine whether an expansion of the CINCH demonstration program is appropriate.