

117TH CONGRESS
2D SESSION

S. 4593

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.

IN THE SENATE OF THE UNITED STATES

JULY 21, 2022

Mr. KELLY (for himself and Ms. SINEMA) introduced the following bill; which was read twice and referred to the Committee on Finance

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 2022”.

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 tential 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 1.5 years after the date of the first meeting of the Advisory Council described in section 3(a), the Advisory

1 Council shall submit to the Secretary, the Com-
 2 mittee on Finance and the Special Committee on
 3 Aging of the Senate, and the Committee on Ways
 4 and Means and the Committee on Energy and Com-
 5 merce of the House of Representatives, a report con-
 6 taining any recommendations developed under sub-
 7 section (c)(1), together with recommendations for
 8 such legislation and administrative action as the Ad-
 9 visory Council determines 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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