

116TH CONGRESS
2D SESSION

H. R. 8574

To amend titles XVIII and XIX of the Social Security Act to increase enforcement under Medicare and Medicaid for skilled nursing facilities and nursing facilities during the COVID–19 emergency period and other infectious disease outbreak periods, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 9, 2020

Ms. SHERRILL (for herself, Mr. PASCRELL, Mrs. WATSON COLEMAN, Mr. SIRES, Mr. BEYER, Mr. PAYNE, Mr. DOGGETT, Ms. SHALALA, Ms. JUDY CHU of California, and Mr. KILDEE) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, 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 amend titles XVIII and XIX of the Social Security Act to increase enforcement under Medicare and Medicaid for skilled nursing facilities and nursing facilities during the COVID–19 emergency period and other infectious disease outbreak periods, 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 “Protecting Residents
5 with Oversight, Transparency, and Enforcement for Com-

1 passionate Treatment in Long Term Care Facilities Act”
 2 or the “PROTECT Long Term Care Facilities Act”.

3 **SEC. 2. INCREASED ENFORCEMENT UNDER MEDICARE AND**
 4 **MEDICAID FOR SKILLED NURSING FACILI-**
 5 **TIES AND NURSING FACILITIES DURING THE**
 6 **COVID-19 EMERGENCY PERIOD AND OTHER**
 7 **INFECTIOUS DISEASE OUTBREAK PERIODS.**

8 (a) ADDITIONAL FUNDING TO STATE SURVEY AGEN-
 9 CIES.—

10 (1) APPROPRIATIONS.—Out of any funds in the
 11 Treasury not otherwise appropriated, there is appro-
 12 priated to the Secretary of Health and Human Serv-
 13 ices \$100,000,000 for fiscal year 2021 to be pro-
 14 vided, in addition to any funds otherwise made avail-
 15 able and in accordance with paragraph (2), to State
 16 survey and certification agencies (described in sub-
 17 section (f) of section 1128I of the Social Security
 18 Act (42 U.S.C. 1320a–7j)) for the following pur-
 19 poses:

20 (A) To complete surveys conducted pursu-
 21 ant to the amendments made by subsection (b)
 22 for facilities (as defined in subsection (a) of
 23 such section 1128I).

24 (B) To increase investigations and surveys
 25 performed pursuant to sections 1919(g)(4) of

1 such Act (42 U.S.C. 1396r(g)(2)) and
2 1819(g)(4) of such Act (42 U.S.C. 1395i–
3 3(g)(4)) based on criteria developed pursuant to
4 paragraph (7)(B) of section 1819(h) of such
5 Act, as added by subsection (b)(1)(C), and
6 paragraph (10)(B) of section 1919(h) of such
7 Act, as added by subsection (b)(2)(C).

8 (C) To purchase personal protective equip-
9 ment for surveyors to conduct surveys and in-
10 vestigations of facilities (as defined in sub-
11 section (a) of such section 1128I) to ensure
12 worker safety.

13 (D) To increase staffing levels at such
14 State survey and certification agencies.

15 (2) ALLOCATION OF FUNDING.—The Secretary
16 shall allocate funds appropriated under paragraph
17 (1) based on the following prioritization:

18 (A) First to State survey and certification
19 agencies (as described in subsection (f) of such
20 section 1128I) serving populations with a high
21 burden, as defined by the Secretary of Health
22 and Human Services, of COVID–19.

23 (B) Second to such agencies preparing for,
24 or working to mitigate, a COVID–19 surge or
25 any similar infectious disease outbreak.

1 (C) Third to such agencies serving a high
 2 number, as defined by the Secretary, of low-in-
 3 come, uninsured, or under-insured populations,
 4 including medically underserved populations.

5 (D) Fourth to such agencies, as deter-
 6 mined by the Secretary, based on the size of
 7 their nursing home population.

8 (E) Fifth to any other such agencies.

9 (b) SPECIAL RULES DURING COVID-19 EMER-
 10 GENCY PERIOD AND OTHER INFECTIOUS DISEASE OUT-
 11 BREAK PERIODS.—

12 (1) MEDICARE.—

13 (A) IN GENERAL.—Section 1819(g)(2) of
 14 the Social Security Act (42 U.S.C. 1395i-
 15 3(g)(2)) is amended by adding at the end the
 16 following new subparagraph:

17 “(F) COVID-19 EMERGENCY PERIOD AND
 18 OTHER INFECTIOUS DISEASE OUTBREAK PERI-
 19 ODS.—

20 “(i) IN GENERAL.—Notwithstanding
 21 any other provision of this paragraph, dur-
 22 ing an infectious disease outbreak period
 23 (as defined in clause (ii)), with respect to
 24 a State, the following shall apply:

1 “(I) Each skilled nursing facility
2 shall be subject to a standard survey
3 under subparagraph (A) not later
4 than 4 weeks after the beginning of
5 such period and every 6 months after
6 the date of the previous standard sur-
7 vey conducted under such subpara-
8 graph.

9 “(II) Follow-up surveys under
10 this paragraph shall be conducted
11 based on if the skilled nursing facility
12 is found to be—

13 “(aa) a facility with sub-
14 standard quality of care;

15 “(bb) a facility not in sub-
16 stantial compliance;

17 “(cc) a facility reporting less
18 than three hours of direct care
19 staff per resident per day;

20 “(dd) a facility that has re-
21 ported no registered nurses for
22 four or more days in a quarter;
23 or

1 “(ee) a facility with an over-
2 all score of 2 or less stars on
3 nursing home compare.

4 “(III) In the case of a skilled
5 nursing facility which is found under
6 a standard survey or extended survey
7 to be in substantial compliance, State
8 survey and certification agencies (de-
9 scribed in subsection (f) of section
10 1128I) shall have flexibility with re-
11 gards to the timing of conducting
12 such a follow-up standard survey.

13 “(IV) A skilled nursing facility
14 which is found, under a standard sur-
15 vey or extended survey, to have pro-
16 vided substandard quality of care
17 shall be treated as being identified by
18 the Secretary as having substantially
19 failed to meet applicable requirement
20 of this Act for purposes of subsection
21 (f)(8).

22 “(V) In the case of a skilled
23 nursing facility that is subject to an
24 extended survey under subparagraph
25 (B), such extended survey shall be

1 conducted as soon as practical after
2 the standard survey for such facility,
3 but not later than 4 weeks after the
4 date of completion of such standard
5 survey.

6 “(VI) A skilled nursing facility
7 which is found, under a standard sur-
8 vey or extended survey to have pro-
9 vided substandard quality of care
10 shall be surveyed at least once every 6
11 months, thereafter until the infectious
12 disease outbreak period ends.

13 “(VII) Surveys under this para-
14 graph shall be conducted in a manner
15 that prioritizes skilled nursing facili-
16 ties located in towns (or counties, if
17 municipal-level is not available) with
18 higher infection rate, as identified by
19 the Secretary, and facilities with pre-
20 vious violations of requirements of
21 this Act.

22 “(VIII) Any skilled nursing facil-
23 ity reporting (as determined by the
24 Centers for Medicare & Medicaid
25 Services) fewer than three hours of di-

1 rect care staff time per resident per
2 day, with 1/2 hour of registered nurse
3 time included or any skilled nursing
4 facility that has reported no registered
5 nurse for four or more days.

6 “(ii) INFECTIOUS DISEASE OUTBREAK
7 PERIOD DEFINED.—For purposes of this
8 subparagraph, the term ‘infectious disease
9 outbreak period’ means any of the fol-
10 lowing periods:

11 “(I) COVID–19 EMERGENCY PE-
12 RIOD.—The emergency period de-
13 scribed in section 1135(g)(1)(B).

14 “(II) OTHER INFECTIOUS DIS-
15 EASE OUTBREAK PERIODS.—

16 “(aa) The period beginning
17 on the date a nationwide emer-
18 gency related to a public health
19 emergency is declared pursuant
20 to the Stafford Act, a Major Dis-
21 aster Declaration, or the Na-
22 tional Emergencies Act and end-
23 ing on the date that is 6 months
24 after the date on which the dec-
25 laration pursuant to the Stafford

1 Act, a Major Disaster Declara-
2 tion, or the National Emer-
3 gencies Act, as applicable, ends,
4 whichever is the latest.

5 “(bb) The period during
6 which there exists a public health
7 emergency related to an infec-
8 tious disease outbreak declared
9 by the Secretary pursuant to sec-
10 tion 319 of the Public Health
11 Service Act.

12 “(cc) With respect to a
13 skilled nursing facility in a State
14 with respect to which the Gov-
15 ernor has declared an emergency
16 or major disaster (as defined by
17 the State) with respect to an in-
18 fectionous disease outbreak, the pe-
19 riod for which such declaration is
20 in effect with respect to such
21 State.”.

22 (B) INTERNET PORTAL AND HOTLINE
23 NUMBER.—Section 1819(e) of the Social Secu-
24 rity Act (42 U.S.C. 1395i–3(e)) is amended by
25 adding at the end the following new paragraph:

1 “(6) INTERNET PORTAL AND HOTLINE NUM-
2 BER.—By not later than one year after the date of
3 the enactment of this paragraph, the State shall
4 have in place and maintain an Internet portal and
5 hotline number (which may be such a portal or hot-
6 line in existence before the date of the enactment of
7 this paragraph) for staff of nursing facilities, resi-
8 dents of such facilities, family of such residents, the
9 State long-term care ombudsman (established under
10 title III or VII of the Older Americans Act of 1965
11 in accordance with section 712 of the Act), or the
12 general public to report violations of requirements of
13 this section by such facilities. The Secretary shall es-
14 tablish a process under which each violation so re-
15 ported shall be preliminarily investigated by a State
16 survey and certification agency (described in sub-
17 section (f) of section 1128I) and based on the re-
18 sults of such preliminary investigation may be sub-
19 ject to a subsequent more comprehensive investiga-
20 tion by such agency, in coordination with the Sec-
21 retary.”.

22 (C) INCREASED PENALTIES.—Section
23 1819(h) of the Social Security Act (42 U.S.C.
24 1395i–3(h)) is amended by adding at the end
25 the following new paragraph:

1 “(7) SPECIAL RULES DURING COVID–19 EMER-
2 GENCY PERIOD AND OTHER INFECTIOUS DISEASE
3 OUTBREAK PERIODS.—

4 “(A) IN GENERAL.—Notwithstanding any
5 other provision of this subsection, during an in-
6 fectionous disease outbreak period (as defined in
7 subsection (g)(2)(F)(ii)), with respect to a
8 State, the following shall apply:

9 “(i) In the cases of an outbreak spe-
10 cific violation, a civil monetary penalty
11 under paragraph (2)(B)(ii)(I) may not be
12 waived or reduced by the Secretary.

13 “(ii) In the case of a repeat deficiency
14 relating to any violation of a skilled nurs-
15 ing facility during a 15-month period, any
16 civil monetary penalty under paragraph
17 (2)(B)(ii)(I), shall be doubled.

18 “(iii) In the case of a second outbreak
19 specific violation of a skilled nursing facil-
20 ity during such period, the facility shall be
21 treated as being identified by the Secretary
22 (or may be identified by the top State
23 health official, in accordance with a proc-
24 ess specified by the Secretary) as having
25 substantially failed to meet applicable re-

1 requirement of this Act for purposes of sub-
2 section (f)(8) for the remainder of such pe-
3 riod.

4 “(B) OUTBREAK SPECIFIC VIOLATION.—

5 For purposes of this paragraph, the Secretary,
6 through the Centers for Medicare & Medicaid
7 Services, shall develop the following:

8 “(i) In the case of an infectious dis-
9 ease outbreak period with respect to
10 COVID–19, criteria for determining an
11 outbreak specific violation with respect to
12 COVID–19, including—

13 “(I) criteria specified by the Cen-
14 ters for Disease Control and Preven-
15 tion relating to infection rates, mor-
16 tality rates, and hospitalization rates;
17 and

18 “(II) criteria for staff shortages,
19 overcrowding (and ability to cohort),
20 and insufficient personal protective
21 equipment.

22 “(ii) In the case of an infectious dis-
23 ease outbreak period other than with re-
24 spect to COVID–19, criteria for deter-

1 mining an outbreak specific violation spe-
2 cific to such outbreak period.”.

3 (D) REPORTING.—Section 1819(d)(4) of
4 the Social Security Act (42 U.S.C. 1395i-
5 3(d)(4)) is amended by adding at the end the
6 following new subparagraph:

7 “(C) COVID-19 AND INFECTIOUS DIS-
8 EASE OUTBREAK REPORTING AND NOTIFICA-
9 TION.—

10 “(i) IN GENERAL.—A skilled nursing
11 facility must, with respect to an infectious
12 disease outbreak period (as defined in sub-
13 section (g)(2)(F)(ii))—

14 “(I) electronically submit, at a
15 frequency specified by the Secretary,
16 but no less than once weekly and in a
17 standardized format specified by the
18 Secretary, to the National Healthcare
19 Safety Network of the Centers for
20 Disease Control and Prevention infor-
21 mation on—

22 “(aa) the number of sus-
23 pected and confirmed cases
24 among residents and staff of the
25 facility, of—

1 “(AA) in the case of
2 the period described in sub-
3 clause (I) of such section,
4 COVID–19 (including with
5 respect to residents of the
6 facility previously treated for
7 COVID–19); and

8 “(BB) in the case of
9 the period described in sub-
10 clause (II) of such section,
11 the infectious disease that is
12 the reason for which such
13 period is declared (including
14 with respect to residents of
15 the facility previously treat-
16 ed for such infectious dis-
17 ease);

18 “(bb) the number of deaths
19 (including residents who die out-
20 side the facility and deaths re-
21 lated to COVID–19 or the infec-
22 tious disease, as applicable)
23 among residents and staff of the
24 facility;

1 “(cc) the amount of personal
2 protective equipment and hand
3 hygiene supplies in the facility,
4 including how many days supply;

5 “(dd) ventilator capacity
6 and related supplies in the facil-
7 ity;

8 “(ee) the number of resident
9 beds at the facility and census;

10 “(ff) access to COVID–19
11 or the infectious disease, as ap-
12 plicable, testing available in the
13 facility for residents of the facil-
14 ity;

15 “(gg) any staffing shortages;
16 and

17 “(hh) any other information
18 specified by the Secretary; and

19 “(II) in the case of the occur-
20 rence at the facility of either a single
21 confirmed infection of COVID–19 or
22 the infectious disease (as applicable)
23 or of three or more residents or staff
24 at the facility with new-onset of res-
25 piratory symptoms occurring within

1 72 hours of each other, inform resi-
2 dents of the facility, representatives of
3 such residents, and families of the
4 residents of such occurrence by not
5 later than 5 p.m. on the calendar day
6 following such occurrence.

7 “(ii) INFORMATION.—The information
8 provided under clause (ii)(II) must—

9 “(I) not include personally identi-
10 fiable information;

11 “(II) include information on miti-
12 gating actions implemented to prevent
13 or reduce the risk of transmission, in-
14 cluding if normal operations of the fa-
15 cility will be altered; and

16 “(III) include any cumulative up-
17 dates for residents, representatives,
18 and families at least weekly (or, in the
19 case of a subsequent occurrence de-
20 scribed in such clause (ii)(II), by not
21 later than 5 p.m. on the calendar day
22 following such subsequent occur-
23 rence).

24 “(iii) CMS POSTING.—The informa-
25 tion submitted under clause (ii)(I) shall be

1 publicly posted on a weekly basis by the
2 Centers for Medicare & Medicaid Service
3 to support protecting the health and safety
4 of residents, personnel, and the general
5 public.”.

6 (2) MEDICAID.—

7 (A) IN GENERAL.—Section 1919(g)(2) of
8 the Social Security Act (42 U.S.C. 1396r(g)(2))
9 is amended by adding at the end the following
10 new subparagraph:

11 “(F) COVID–19 EMERGENCY PERIOD AND
12 OTHER INFECTIOUS DISEASE OUTBREAK PERI-
13 ODS.—

14 “(i) IN GENERAL.—Notwithstanding
15 any other provision of this paragraph, dur-
16 ing an infectious disease outbreak period
17 (as defined in clause (ii)), with respect to
18 a State, the following shall apply:

19 “(I) Each nursing facility shall
20 be subject to a standard survey under
21 subparagraph (A) not later than 4
22 weeks after the beginning of such pe-
23 riod and every 6 months after the
24 date of the previous standard survey
25 conducted under such subparagraph.

1 “(II) Follow-up surveys under
2 this paragraph shall be conducted
3 based on if the skilled nursing facility
4 is found to be—

5 “(aa) a facility with sub-
6 standard quality of care;

7 “(bb) a facility not in sub-
8 stantial compliance;

9 “(cc) a facility reporting less
10 than three hours of direct care
11 staff per resident per day;

12 “(dd) a facility that has re-
13 ported no registered nurses for
14 four or more days in a quarter;
15 or

16 “(ee) a facility with an over-
17 all score of 2 or less stars on
18 nursing home compare.

19 “(III) In the case of a nursing
20 facility which is found under a stand-
21 ard survey or extended survey to be in
22 substantial compliance, State survey
23 and certification agencies (described
24 in subsection (f) of section 1128I)
25 shall have flexibility with regards to

1 the timing of conducting such a fol-
2 low-up standard survey.

3 “(IV) A nursing facility which is
4 found, under a standard survey or ex-
5 tended survey, to have provided sub-
6 standard quality of care shall be treat-
7 ed as being identified by the Secretary
8 as having substantially failed to meet
9 applicable requirement of this Act for
10 purposes of subsection (f)(10).

11 “(V) In the case of a nursing fa-
12 cility that is subject to an extended
13 survey under subparagraph (B), such
14 extended survey shall be conducted as
15 soon as practical after the standard
16 survey for such facility, but not later
17 than 4 weeks after the date of comple-
18 tion of such standard survey.

19 “(VI) A nursing facility which is
20 found, under a standard survey or ex-
21 tended survey to have provided sub-
22 standard quality of care shall be sur-
23 veyed at least once every 6 months,
24 thereafter until the infectious disease
25 outbreak period ends.

1 “(VII) Surveys under this para-
2 graph shall be conducted in a manner
3 that prioritizes nursing facilities lo-
4 cated in towns (or counties, if munic-
5 ipal-level is not available) with higher
6 infection rate, as identified by the
7 Secretary, and facilities with previous
8 violations of requirements of this Act.

9 “(VIII) Any skilled nursing facil-
10 ity reporting (as determined by the
11 Centers for Medicare & Medicaid
12 Services) fewer than three hours of di-
13 rect care staff time per resident per
14 day, with 1/2 hour of registered nurse
15 time included or any skilled nursing
16 facility that has reported no registered
17 nurse for four or more days.

18 “(ii) INFECTIOUS DISEASE OUTBREAK
19 PERIOD DEFINED.—For purposes of this
20 subparagraph, the term ‘infectious disease
21 outbreak period’ means any of the fol-
22 lowing periods:

23 “(I) COVID–19 EMERGENCY PE-
24 RIOD.—The emergency period de-
25 scribed in section 1135(g)(1)(B).

“(II) OTHER INFECTIOUS DISEASE OUTBREAK PERIODS.—

“(aa) The period beginning on the date a nationwide emergency related to a public health emergency is declared pursuant to the Stafford Act, a Major Disaster Declaration, or the National Emergencies Act and ending on the date that is 6 months after the date on which the declaration pursuant to the Stafford Act, a Major Disaster Declaration, or the National Emergencies Act, as applicable, ends, whichever is the latest.

“(bb) The period during which there exists a public health emergency related to an infectious disease outbreak declared by the Secretary pursuant to section 319 of the Public Health Service Act.

“(cc) With respect to a nursing facility in a State with

1 respect to which the Governor
2 has declared an emergency or
3 major disaster (as defined by the
4 State) with respect to an infec-
5 tious disease outbreak, the period
6 for which such declaration is in
7 effect with respect to such
8 State.”.

9 (B) INTERNET PORTAL AND HOTLINE
10 NUMBER.—Section 1919(e) of the Social Secu-
11 rity Act (42 U.S.C. 1396r(e)) is amended by
12 adding at the end the following new paragraph:

13 “(9) INTERNET PORTAL AND HOTLINE NUM-
14 BER.—By not later than one year after the date of
15 the enactment of this paragraph, the State shall
16 have in place and maintain an Internet portal and
17 hotline number (which may be such a portal or hot-
18 line in existence before the date of the enactment of
19 this paragraph) for staff of nursing facilities, resi-
20 dents of such facilities, family of such residents, the
21 State long-term care ombudsman (established under
22 title III or VII of the Older Americans Act of 1965
23 in accordance with section 712 of the Act), or the
24 general public to report violations of requirements of
25 this section by such facilities. The Secretary shall es-

1 tablish a process under which each violation so re-
 2 ported shall be preliminarily investigated by a State
 3 survey and certification agency (described in sub-
 4 section (f) of section 1128I) and based on the re-
 5 sults of such preliminary investigation may be sub-
 6 ject to a subsequent more comprehensive investiga-
 7 tion by such agency, in coordination with the Sec-
 8 retary.”.

9 (C) INCREASED PENALTIES.—Section
 10 1919(h) of the Social Security Act (42 U.S.C.
 11 1396r(h)) is amended by adding at the end the
 12 following new paragraph:

13 “(10) SPECIAL RULES DURING COVID–19 EMER-
 14 GENCY PERIOD AND OTHER INFECTIOUS DISEASE
 15 OUTBREAK PERIODS.—

16 “(A) IN GENERAL.—Notwithstanding any
 17 other provision of this subsection, during an in-
 18 fectionous disease outbreak period (as defined in
 19 subsection (g)(2)(F)(ii)), with respect to a
 20 State, the following shall apply:

21 “(i) In the cases of an outbreak spe-
 22 cific violation, a civil monetary penalty
 23 under paragraph (3)(B)(ii)(I) may not be
 24 waived or reduced by the Secretary.

1 “(ii) In the case of a repeat deficiency
2 relating to any violation of a nursing facil-
3 ity during a 15-month period, any civil
4 monetary penalty under paragraph
5 (3)(B)(ii)(I) shall be doubled.

6 “(iii) In the case of a second outbreak
7 specific violation of a nursing facility dur-
8 ing such period, the facility shall be treat-
9 ed as being identified by the Secretary (or
10 may be identified by the top State health
11 official, in accordance with a process speci-
12 fied by the Secretary) as having substan-
13 tially failed to meet applicable requirement
14 of this Act for purposes of subsection
15 (f)(10) for the remainder of such period.

16 “(B) OUTBREAK SPECIFIC VIOLATION.—
17 For purposes of this paragraph, the Secretary,
18 through the Centers for Medicare & Medicaid
19 Services, shall develop the following:

20 “(i) In the case of an infectious dis-
21 ease outbreak period with respect to
22 COVID–19, criteria for determining an
23 outbreak specific violation with respect to
24 COVID–19, including—

1 “(I) Criteria specified by the
2 Centers for Disease Control and Pre-
3 vention relating to infection rates,
4 mortality rates, and hospitalization
5 rates.

6 “(II) Criteria for staff shortages,
7 overcrowding (and ability to cohort),
8 and insufficient personal protective
9 equipment.

10 “(ii) In the case of an infectious dis-
11 ease outbreak period other than with re-
12 spect to COVID–19, criteria for deter-
13 mining an outbreak specific violation spe-
14 cific to such outbreak period.”.

15 (D) REPORTING.—Section 1919(d)(4) of
16 the Social Security Act (42 U.S.C. 1396r(d)(4))
17 is amended by adding at the end the following
18 new subparagraph:

19 “(C) COVID–19 AND INFECTIOUS DIS-
20 EASE OUTBREAK REPORTING AND NOTIFICA-
21 TION.—

22 “(i) IN GENERAL.—A nursing facility
23 must, with respect to an infectious disease
24 outbreak period (as defined in subsection
25 (g)(2)(F)(ii))—

1 “(I) electronically submit, at a
2 frequency specified by the Secretary,
3 but no less than once weekly and in a
4 standardized format specified by the
5 Secretary, to the National Healthcare
6 Safety Network of the Centers for
7 Disease Control and Prevention infor-
8 mation on—

9 “(aa) the number of sus-
10 pected and confirmed cases
11 among residents and staff of the
12 facility, of—

13 “(AA) in the case of
14 the period described in sub-
15 clause (I) of such section,
16 COVID-19 (including with
17 respect to residents of the
18 facility previously treated for
19 COVID-19); and

20 “(BB) in the case of
21 the period described in sub-
22 clause (II) of such section,
23 the infectious disease that is
24 the reason for which such
25 period is declared (including

1 with respect to residents of
2 the facility previously treat-
3 ed for such infectious dis-
4 ease);

5 “(bb) the number of deaths
6 (including residents who die out-
7 side the facility and deaths re-
8 lated to COVID–19 or the infec-
9 tious disease, as applicable)
10 among residents and staff of the
11 facility;

12 “(cc) the amount of personal
13 protective equipment and hand
14 hygiene supplies in the facility,
15 including how many days supply;

16 “(dd) ventilator capacity
17 and related supplies in the facil-
18 ity;

19 “(ee) the number of resident
20 beds at the facility and census;

21 “(ff) access to COVID–19
22 or the infectious disease, as ap-
23 plicable, testing available in the
24 facility for residents of the facil-
25 ity;

1 “(gg) any staffing shortages;
2 and

3 “(hh) any other information
4 specified by the Secretary; and

5 “(II) in the case of the occur-
6 rence at the facility of either a single
7 confirmed infection of COVID–19 or
8 the infectious disease (as applicable)
9 or of three or more residents or staff
10 at the facility with new-onset of res-
11 piratory symptoms occurring within
12 72 hours of each other, inform resi-
13 dents of the facility, representatives of
14 such residents, and families of the
15 residents of such occurrence by not
16 later than 5 p.m. on the calendar day
17 following such occurrence.

18 “(ii) INFORMATION.—The information
19 provided under clause (ii)(II) must—

20 “(I) not include personally identi-
21 fiable information;

22 “(II) include information on miti-
23 gating actions implemented to prevent
24 or reduce the risk of transmission, in-

1 including if normal operations of the fa-
2 cility will be altered; and

3 “(III) include any cumulative up-
4 dates for residents, representatives,
5 and families at least weekly (or, in the
6 case of a subsequent occurrence de-
7 scribed in such clause (ii)(II), by not
8 later than 5 p.m. on the calendar day
9 following such subsequent occur-
10 rence).

11 “(iii) CMS POSTING.—The informa-
12 tion submitted under clause (ii)(I) shall be
13 publicly posted on a weekly basis by the
14 Centers for Medicare & Medicaid Service
15 to support protecting the health and safety
16 of residents, personnel, and the general
17 public”.

○