



## **SEIU Is Working to Pass the Nursing Home Transparency and Improvement Act (S2641 Grassley-Kohl/ To be introduced soon in the House by Rep. Stark)**

SEIU believes passage of the Nursing Home Transparency and Improvement Act of 2008 is critically important to improve nursing home care by increasing transparency and accountability and improving enforcement.

### **Congress must know who owns and operates Medicare and Medicaid nursing homes and require accountability from owners.**

Several nursing home chains have been taken over by huge private equity buyout firms, which set up layered entities to run their nursing homes and often separate the real estate asset holdings from the operations. This makes it difficult to find out who owns and operates their facilities and allows some owners to avoid accountability for what happens in the facilities. The bill would:

- Require corporations to disclose their owners, operators, financiers, and other related parties.
- Provide for an annual independent audit of chains.
- Require purchasers to show they are financially able to operate a facility.

### **Congress should require better disclosure of how Medicare and Medicaid funds are spent.**

Nursing homes receive \$75 billion a year from Medicare and Medicaid, yet government studies show that nurse staffing levels are too low in most facilities and thus the quality of care is often poor. The bill would require better disclosure of how nursing homes use their funds by:

- Requiring them to report wage and benefit expenditures for licensed nurses and nurse aides in a separate category on the cost reports they file.
- Revising cost report formats to obtain information about direct care services delivered by staff -- RNs, LPNs, LVNs, and CNAs.
- Making the information available on request or on Nursing Home Compare.

### **CMS should collect and report accurate information about nurse staffing.**

Nurse staffing is the single most important indicator of nursing home quality. The government must collect accurate information about the number of licensed nurses and nurse aides in a facility, the hours of direct care residents receive on a daily basis, and the facility's ability to retain staff. The bill would:

- Require nursing homes to report data to the government electronically from their payroll records and contracts with temporary agencies.
- Specify the category of worker (RN, LPN, CNA) and the number of residents receiving care.
- Include information on turnover, tenure, and hours of care provided by each category of worker.
- This information would be reported on Nursing Home Compare.

### **The federal government should identify and sanction chains with a pattern of poor care.**

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Some nursing home chains have clear patterns of poor care, derived in part from corporate decisions to cut costs to increase profit. CMS and state agencies currently do not track these companies as a whole, making it difficult to determine whether a chain ought to receive licenses to expand their operations. The bill would:

- Develop a protocol for an independent monitoring program to oversee interstate and intrastate chains with records of chronic poor performance, including analyzing their financial performance, management structures, expenditures, and nurse staffing levels.
- Require corrective action by the chain, and collect civil monetary penalties and costs of the independent monitor from the chain.

**Civil monetary penalties should be more commensurate with the harm suffered by residents.**

The level of fines for nursing home deficiencies has not increased since the Nursing Home Reform Act was passed 20 years ago—so low in many cases that nursing homes brush them off as the cost of doing business. The bill increases civil monetary penalties for each day or each instance of noncompliance to:

- Up to \$100,000 in the case of the death of a resident.
- Between \$3,000 and \$25,000 when there is actual harm or immediate jeopardy to a resident.
- Up to \$3,000 for other violations.
- Penalties could be reduced by half for facilities that promptly reported and corrected a deficiency, unless it was a repeat deficiency or residents were harmed or in immediate jeopardy.

**Nursing homes should not be allowed to postpone paying fines while they appeal.**

Nursing homes appeal deficiencies where they are clearly responsible for shocking instances of neglect, yet current law does not require facilities to pay a fine until lengthy appeals are completed. The bill would require the fines be paid into an escrow account until appeals were resolved.