Congress of the United States
Washington, DC 20515

March 8, 2021

Liz Richter
Acting Administrator
Centers for Medicare and Medicaid Services
U.S. Department of Health and Human Services
7500 Security Blvd.
Baltimore, MD 21244

Dear Acting Administrator Richter,

We write to respectfully request the Centers for Medicare and Medicaid Services (CMS) take administrative action to protect older Americans in long-term care facilities by restoring Obama-era regulations, as outlined in legislation we recently reintroduced. Such action would begin to address the ongoing tragic situation unfolding in our nation's long-term care facilities. Long-term care facilities have been at the epicenter of the COVID-19 public health emergency and, during the pandemic, over 172,000 elderly and at-risk individuals across the country in these facilities have lost their lives to COVID-19. While cases in nursing facilities make up only 5 percent of all U.S. cases, 35 percent of the COVID-19 deaths in the U.S. have been in nursing homes.[1]

While many nursing facilities were already struggling when COVID-19 hit, the country soon learned nursing facility residents were particularly vulnerable to COVID-19 and the existing gaps and deficiencies that had been left unaddressed for far too long soon became an insurmountable crisis. The previous Administration rolled back many of the protections and rights of nursing home residents prior the pandemic.[2] These short-sighted actions allowed long-standing issues to proliferate in nursing facilities, exacerbating the situation for our nation's seniors when COVID-19 began to spread.

We commend President Joe Biden and Vice President Kamala Harris for having a plan to protect residents and workers in long-term care facilities that includes many of the priorities in legislation we recently reintroduced, the Promoting Restoration of Emergency Preparedness and Advancing Response to Epidemics in Long-Term Care Act (PREPARE LTC Act).[3] The PREPARE Act would restore and codify critical regulations issued under President Barack Obama regarding infection control and emergency preparedness in Skilled Nursing Facilities (SNFs) and Nursing Facilities (NFs) and require CMS to publicly post infection control deficiencies and staffing information in aggregate. It would also codify reporting requirements developed for COVID-19 and broaden them to include any infectious disease outbreak. The PREPARE Act would also prohibit the Secretary from reducing survey frequency and from waiving the requirement to submit staffing data in SNFs and NFs. Finally, the Government Accountability Office would be required to issue a report analyzing infection control measures and staffing information within one year of the COVID-19 emergency.

We ask that CMS take administrative action to protect older Americans in long-term care facilities. By restoring regulations issued under President Obama regarding infection control and emergency preparedness, and subsequently issuing guidance to state survey agencies your agency would be taking a critical step in closing several gaps and inadequacies in long-term care facilities that exacerbated the impact of COVID-19 on one of our most vulnerable populations.

We stand ready to work with you to promote safety and quality care and to bring necessary oversight to long-term care facilities in order to protect residents and workers. Please let us know how we can be helpful. We have attached a copy of the PREPARE Act for your reference.

Sincerely,

Bill Pascrell, Jr.
Member of Congress

Robert Menendez
U.S. Senator

Mikie Sherrill
Member of Congress

[1] More Than One-Third of U.S. Coronavirus Deaths Are Linked to Nursing Homes: https://www.nytimes.com/interactive/2020/us/coronavirus-nursing-homes.html
[2] Trump Administration Is Relaxing Oversight of Nursing Homes: https://www.nytimes.com/2020/03/14/business/trump-administration-nursing-homes.html
[3] Biden-Harris Plan to Make Nursing Homes and Long-term Care Facilities Safe: https://joebiden.com/wp-content/uploads/2020/10/Nursing-Home-Policy.pdf