

United States Senate

WASHINGTON, DC 20510-6200

March 24, 2021

The Honorable Xavier Becerra
Secretary
U.S. Department of Health and Human Services
200 Independence Avenue S.W.
Washington, DC 20201

Dear Secretary Becerra:

We write to urge you to take immediate steps that provide the public and Congress with transparent information showing the rates of COVID-19 vaccinations in the nation's nursing homes. Providing the American people with transparency in nursing home vaccination rates is an area of bipartisan interest. In fact, this topic was raised repeatedly during a March 17th hearing before the Senate Finance Committee in which senators examined the impact COVID-19 has taken on residents and workers in our nation's nursing homes and long-term care facilities.¹

Residents and workers in long-term care facilities have accounted for roughly one-in-three of the nation's COVID-19 deaths over the last year, making them ground zero for the pandemic. In total, at least 175,000 residents and workers having died of COVID-19, including more than 130,000 people living and working in nursing homes that participate in the Medicaid and Medicare programs, which are subject to the Finance Committee's jurisdiction. We are encouraged by Federal data showing that more than 7.6 million vaccines have been administered in long-term care facilities,² which likely has contributed to the corresponding declines of COVID-19 deaths and infections in nursing homes since late December.³ However, we are also concerned that the continued absence of publicly available COVID-19 vaccination information at the facility level leaves residents, workers, and their families in the dark, makes it impossible to fully evaluate the effect of these vaccines, and hinders efforts to ensure equitable vaccine access for communities of color.

In response to questions from the committee, several witnesses urged the Federal government to collect and publish COVID-19 vaccine data from nursing homes.⁴ Dr. Tamara Konetzka, a

¹ A National Tragedy: COVID-19 in the Nation's Nursing Homes, Before the Senate Comm. On Finance, 117th Cong. (2021), at <https://www.finance.senate.gov/hearings/a-national-tragedy-covid-19-in-the-nations-nursing-homes>, [hereinafter "Nursing Home Hearing"].

² Centers for Disease Control and Prevention, *Federal Pharmacy Partnership for Long-Term Care Program* (accessed March 23, 2021), at <https://covid.cdc.gov/covid-data-tracker/#vaccinations-ltc>.

³ AARP, *Nursing Home COVID-19 Dashboard* (accessed March 23, 2021), at <https://www.aarp.org/ppi/issues/caregiving/info-2020/nursing-home-covid-dashboard.html>.

⁴ Nursing Home Hearing, e.g. David Gifford, American Health Care Association, and John Dicken, Government Accountability Office, in response to Senator Thune (at 2:45:30), and Denise Bottcher, AARP Louisiana, and Tamara Konetzka, University of Chicago, in response to Chairman Wyden (at 3:06:30).

public health professor who has studied the disparate toll COVID-19 has taken on people of color living in nursing homes, described how such information can help ensure equitable vaccine access: “In the short run, what we need is data on vaccination to make sure that we are reaching those communities—the communities of color—but also the nursing homes within them, and that we are getting people vaccinated in those areas.”⁵ Denise Bottcher, the state director of AARP Louisiana, similarly noted the need for timely public vaccination data to be made available and “broken down by age, race, and ethnicity ... [in addition to] information about the number and percentage of residents and staff who have been vaccinated should be available by facility and state.”⁶

Members of the Finance Committee have highlighted the need for transparent vaccine information since Emergency Use Authorizations were issued for the first COVID-19 vaccines late last year. Several of us called upon the Department of Health and Human Services (HHS) to begin collecting and publicizing facility-level COVID-19 vaccine information in a December 2020 letter sent to HHS, the Centers for Medicare & Medicaid Services (CMS), and the Centers for Disease Control & Prevention (CDC).⁷ While nursing homes are currently able to submit vaccination information to the CDC on a voluntary basis, they are not required to do so, which has resulted in limited participation by the industry. After subsequent staff briefings, it became clear that these agencies believe rulemaking is necessary to require nursing homes to submit vaccine data to the Federal government, a step we request that you expedite. Asked about additional data collection, a nursing home industry representative told the committee its association is “fully supportive of transparency.”⁸

Information provided to the Federal government by CVS and Walgreens through the Pharmacy Partnership for Long-Term Care Program (LTC Partnership) to date is also a timely and credible source of data that the public would benefit from having released.⁹ The CDC itself has used this data in its own analyses of vaccination administration among nursing home residents and workers.¹⁰ Releasing such information retrospectively appears likely to help researchers and policymakers analyze issues such as the speed and equity of vaccine distribution, and the vaccine’s role in reducing disease and death in nursing homes. In addition, until HHS requires nursing homes to disclose vaccination data, information from the LTC Partnership would provide stopgap information for consumers assessing the safety of a given nursing home when considering such care for themselves or their loved ones. If individuals and families review such information when determining the most appropriate facility for care, they will be able to better

⁵ Nursing Home Hearing, (testimony of Dr. Konetzka), at 3:09:27.

⁶ Nursing Home Hearing, (statement of Denise Bottcher),

<https://www.finance.senate.gov/imo/media/doc/AARP%20Denise%20Bottcher%20Written%20Testimony%20Nursing%20Homes%20COVID%20SFC%20031621.pdf>, at 4.

⁷ Letter from Senator Wyden and Senator Casey to The Honorable Alex Azar (December 21, 2020), at

<https://www.finance.senate.gov/download/122220-wyden-casey-vaccine-letter>.

⁸ Nursing Home Hearing (testimony of David Gifford), at 2:45:30.

⁹ U.S. Department of Health and Human Services, *Trump Administration Partners with CVS and Walgreens to Provide COVID-19 Vaccine to Protect Vulnerable Americans in Long-Term Care Facilities Nationwide*, press release (October 16, 2020), at <https://www.hhs.gov/about/news/2020/10/16/trump-administration-partners-cvs-walgreens-provide-covid-19-vaccine-protect-vulnerable-americans-long-term-care-facilities-nationwide.html>.

¹⁰ Centers for Disease Control and Prevention, *Early COVID-19 First-Dose Vaccination Coverage Among Residents and Staff Members of Skilled Nursing Facilities Participating in the Pharmacy Partnership for Long-Term Care Program — United States, December 2020–January 2021*, February 5, 2021 (70(5);178–182), at <https://www.cdc.gov/mmwr/volumes/70/wr/mm7005e2.htm>.

consider the risk of COVID-19 spreading within these facilities as a result of vaccinations that have been administered.

Making facility and LTC Partnership vaccination data publicly available for each nursing home is of particular importance given that vaccination rates among nursing home workers have lagged behind those of residents, the emergence of new strains of the coronavirus, and recent guidance CMS issued that has loosened visitation guidance for nursing homes.¹¹ As Dr. Konetzka testified, “many facilities face high staff and resident turnover,” which will “produce declining vaccination rates in many facilities over time without ongoing efforts.” She further warned that the long-term effectiveness of COVID-19 vaccinations, their ability to protect against emerging variants, and the efforts of state actions to loosen COVID-19 restrictions, remain unknown. Such concerns underscore the urgency of moving forward with the collection of COVID-19 vaccine information, and publishing these data as soon as possible.

We appreciated your assurance to the committee during the confirmation process that you plan to prioritize “transparency and data collection regarding the impacts of COVID-19 and vaccination,” and your observation that “good data is essential to good policy.”¹² We furthermore share your view that “making data-driven decisions will be critical to addressing racial and ethnic health disparities not just at the nation’s nursing homes but across the health care system.”¹³ Given our concerns and your commitment, we encourage you to take the following steps:

- Issue an interim final rule that requires nursing homes to report COVID-19 vaccination data directly to CDC through the National Health Care Safety Network (NHSN) for both residents and workers. This information should be published by CMS through the existing COVID-19 Nursing Home Dataset.
- Publicly release data, including information dating back to December 2020, that have been provided to the Federal government by CVS and Walgreens in regards to the LTC Partnership. HHS should also ensure that such data is being promptly shared with interested agencies throughout the Federal government.
- Direct CMS and CDC to release existing COVID-19 vaccination data that has been reported by nursing homes on a voluntary basis through the NHSN.
- Require COVID-19 vaccination data be included in Minimum Data Set reporting requirements and displayed on Care Compare – similar to flu and pneumonia vaccines.
- Leverage existing datasets and forms used by CMS in the operations of Medicare and Medicaid—including the Transformed Medicaid Statistical Information System—when collecting data on racial and ethnic health disparities in nursing homes. To the extent

¹¹ Centers for Medicare & Medicaid Services, “CMS Updates Nursing Home Guidance with Revised Visitation Recommendations,” press release (March 10, 2021), at <https://www.cms.gov/newsroom/fact-sheets/cms-updates-nursing-home-guidance-revised-visitation-recommendations>.

¹² *Hearing to Consider the Nomination of The Honorable Xavier Becerra, of California, to be Secretary of Health and Human Services, Before the Senate Comm. on Finance*, 117th Cong. (2021) (Responses To Questions For The Record To The Honorable Xavier Becerra), at 1.

¹³ *Supra*.

possible, HHS should use these and any other demographic data to assess and make public vaccination information by racial and ethnic group.

Thank you for your prompt attention to this important issue.

Sincerely,



Ron Wyden
Chairman
Senate Committee on Finance



Mike Crapo
Ranking Member
Senate Committee on Finance



Robert P. Casey, Jr.
Chairman
Special Committee on Aging



Tim Scott
Ranking Member
Special Committee on Aging

cc: Liz Richter, Acting Administrator, Centers for Medicare & Medicaid Services
Rochelle Walensky, MD, MPH, Director, Centers for Disease Control & Prevention