

United States Senate

WASHINGTON, DC 20510

April 2, 2020

The Honorable Seema Verma
Administrator
Centers for Medicare & Medicaid Services
200 Independence Avenue, SW
Washington, DC 20201

Robert R. Redfield
Director
Centers for Disease Control and Prevention
1600 Clifton Road
Atlanta, GA 30329

Dear Administrator Verma and Director Redfield:

The novel coronavirus (COVID-19) poses an unprecedented threat to older Americans and people with disabilities who call a nursing facility home. No county, state or nursing home is immune from the virus. Even the highest quality nursing facilities can fall prey to COVID-19. As we work to track and mitigate the spread of this virus through critical investments and changes to policy, we are alarmed by reports that the Centers for Medicare & Medicaid Services (CMS) and Centers for Disease Control and Prevention (CDC) are maintaining a list of facilities that have had one or more cases of COVID-19, and yet, have declined to make this information public.¹ As our nation faces a crisis unlike we have ever experienced, we write to urge you to release this list of facilities immediately and request information on what you are doing to keep nursing home residents, their families and health professionals informed.

According to federal data released on March 23, 2020, more than 147 nursing facilities across the United States have had at least one resident with COVID-19.² On March 31, CDC reported that the number has climbed to over 400.³ It has been reported that the names of these facilities are not being made available to relevant health care providers or residents and their families

¹ Sacchetti, Maria, and Peter Whoriskey. "More than 140 Nursing Homes Have Reported Coronavirus Cases. Federal Officials Won't Say Which Ones." The Washington Post. WP Company, March 25, 2020.

<https://www.washingtonpost.com/us-policy/2020/03/25/nursing-homes-coronavirus-cases/>.

² Ibid.

³ Strickler, Laura. "Number of Long-Term Care Facilities with COVID-19 Cases Tops 400 Nationwide." NBCNews.com. NBCUniversal News Group, March 31, 2020. <https://www.nbcnews.com/health/health-care/number-long-term-care-facilities-covid-19-cases-tops-400-n1172516>.

unless the nursing home voluntarily discloses this information.⁴ While the privacy of individual residents must be protected, it is imperative that the names of the facilities with a positive COVID-19 case be made available to help prevent further spread of this terrible virus.

As you are aware, the outbreak of COVID-19 at the Life Care Center of Kirkland in Washington State has already claimed the lives of 37 Americans.⁵ Across the United States, nursing facility residents and their families are worried that they or their loved one could be next. In coordination with CDC, CMS has responded to the COVID-19 crisis in nursing homes by taking a number of steps, including issuing guidance immediately suspending nearly all routine nursing home inspections; prioritizing surveying to target infection control and respond to complaints of immediate harm unrelated to COVID-19; and significantly limiting visitors.⁶ While this guidance is responsive to the current emergency, it is silent on whether a facility that knows of an outbreak of COVID-19 is required to tell the community.

Information about COVID-19 diagnosis can be potentially life-saving for nursing home residents, first responders, local hospitals that might otherwise discharge patients to the nursing home and health professionals who work in nursing facilities and may be unaware of the need to take proper precautions to prevent the spread of the virus. Indeed, the spread of COVID-19 at the Life Care Center has resulted in several cases of COVID-19 outside of the facility and the quarantine of 28 local fire fighters.⁷ Many dedicated nursing facility workers and administrators are taking the required precautions to protect their residents by restricting visitors, taking temperatures of residents, and cleaning regularly, often putting themselves at risk.⁸ Nevertheless, timely information about how and where this virus is spreading is critical to successful mitigation of the virus's spread, direction of resources and access to support.

At a time when this information could be vital to the health and safety of Americans, it is imperative that the list of facilities with a COVID-19 case, among residents and staff, be made public and shared with relevant health care providers, authorities and Congress on a real-time

⁴ Sacchetti, and Whoriskey. "More than 140 Nursing Homes Have Reported Coronavirus Cases."

⁵ Swaine, Jon. "Washington Nursing Home with Deadly Coronavirus Cluster Failed to Flag Illnesses, Federal Inspectors Find." The Washington Post. WP Company, March 24, 2020.

https://www.washingtonpost.com/investigations/washington-nursing-home-with-deadly-coronavirus-cluster-failed-to-flag-illnesses-federal-inspectors-find/2020/03/23/bb4ca440-6d5a-11ea-aa80-c2470c6b2034_story.html.

⁶ Center for Medicare and Medicaid Services, *Center for Clinical Standards and Quality/Quality, Safety & Oversight Group*, (Maryland 2020), <https://www.cms.gov/files/document/3-13-2020-nursing-home-guidance-covid-19.pdf>

⁷ Koh, Elizabeth, Jon Kamp, and Dan Frosch. "One Nursing Home, 35 Coronavirus Deaths: Inside the Kirkland Disaster." The Wall Street Journal. Dow Jones & Company, March 23, 2020. <https://www.wsj.com/articles/one-nursing-home-35-coronavirus-deaths-inside-the-kirkland-disaster-11584982494>;

Greene, Jay, and Maria Sacchetti. "As Coronavirus Quietly Spread, a Nondescript Nursing Home Became the Deadliest Hot Spot in the U.S." The Washington Post. WP Company, March 7, 2020.

https://www.washingtonpost.com/national/as-coronavirus-quietly-spread-a-nondescript-nursing-home-became-the-deadliest-hot-spot-in-the-us/2020/03/06/5d788a26-5f47-11ea-9055-5fa12981bbbf_story.html.

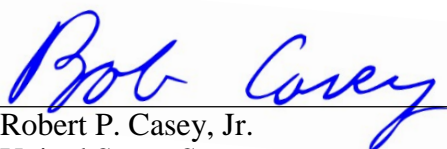
⁸ Center for Medicare and Medicaid Services, *Center for Clinical Standards and Quality/Quality, Safety & Oversight Group*, (Maryland 2020), <https://www.cms.gov/files/document/3-13-2020-nursing-home-guidance-covid-19.pdf>

basis. Importantly, CMS and CDC must convey this information in a manner that is easily accessible to nursing home residents, families and the community, and it should be accompanied by useful resources and information for affected individuals. We urge CMS and CDC to immediately release the names of nursing home facilities with cases of COVID-19 and request the following information about what the Administration is doing to ensure that residents, families, and health professionals have the information they need to remain safe and healthy.

- 1) Please provide a list of facilities that have had a resident or staff member with a positive COVID-19 test result. Please include the number of individuals in each facility who have/had COVID-19 and the dates of the positive results.
- 2) Please provide a list of individuals or entities who have access to the list of facilities where a COVID-19 case has been identified.
- 3) The Families First Coronavirus Response Act (P.L. 116-127) requires State Emergency Operations Centers to transmit aggregated COVID-19 testing and results data to the CDC. Is the CDC receiving such data from all states? How frequently do states transmit this data?
- 4) What steps does CMS and/or CDC take to inform public health officials, local hospitals, first responders, and other relevant entities of the locations where a COVID-19 positive case has been reported?
- 5) What steps does CMS and/or the CDC take to encourage states and local governments to inform local hospitals, first responders, and other relevant entities of the locations where a COVID-19 positive case has been reported?
- 6) What information are nursing facilities required to provide to CMS and/or CDC when an individual tests positive for COVID-19 in the facility?
- 7) What information are nursing facilities required to tell residents, their families and staff members when an individual tests positive for COVID-19 in the facility?
- 8) The Coronavirus Aid Relief and Economic Security Act (P.L. 116-136) provided CMS with \$100 million in increased funding for surveying and certification activities intended for nursing homes in locations with community spread of COVID-19. Please provide a detailed account of CMS' plans to utilize those funds, including how the agency plans to prioritize its activities as well as track and monitor trends.

We request this information, as well as a briefing as soon as possible, but in no event later than April 16, 2020. We stand ready to help nursing homes and the residents who call those facilities their home overcome this crisis.

Sincerely,



Robert P. Casey, Jr.
United States Senator



Ron Wyden
United States Senator