

111TH CONGRESS
1ST SESSION

S. 776

To assist in creating substantive culture change in long-term residential care by establishing a small house nursing home loan program to provide for the establishment, renovation, and construction of small house nursing homes.

IN THE SENATE OF THE UNITED STATES

APRIL 1, 2009

Mr. CASEY (for himself, Mr. WICKER, and Mr. MARTINEZ) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To assist in creating substantive culture change in long-term residential care by establishing a small house nursing home loan program to provide for the establishment, renovation, and construction of small house nursing homes.

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 “Promoting Small
5 House Nursing Homes Act”.

1 **SEC. 2. SMALL HOUSE NURSING HOME LOAN PROGRAM.**

2 (a) ESTABLISHMENT.—The Secretary of Health and
3 Human Services (in this section referred to as the “Sec-
4 retary”) shall establish a small house nursing home loan
5 program (in this section referred to as the “program”)
6 under which the Secretary makes grants to eligible lenders
7 in order for such eligible lenders to make direct loans to
8 eligible borrowers for the establishment, renovation, and
9 construction of small house nursing homes that meet the
10 requirements of this section.

11 (b) ELIGIBILITY.—

12 (1) PROGRAM GRANT ELIGIBILITY.—To be eligi-
13 ble to obtain a grant under the program, an eligible
14 lender shall—

15 (A) be a nonprofit, non-Federal lender;

16 (B) have a track record of lending to small
17 house nursing homes, low income populations,
18 or nursing homes that serve low income popu-
19 lations; and

20 (C) submit to the Secretary an application
21 in such form as the Secretary may reasonably
22 require.

23 (2) SMALL HOUSE ADVISORY PANEL.—

24 (A) IN GENERAL.—Not later than 90 days
25 after the date of enactment of this Act, the Sec-
26 retary shall establish an advisory panel (in this

1 section referred to as the “Small House Advi-
2 sory Panel”) to—

3 (i) evaluate applications for direct
4 loans under the program in conjunction
5 with eligible lenders; and

6 (ii) carry out other responsibilities de-
7 termined appropriate by the Secretary.

8 (B) MEMBERSHIP.—The Small House Ad-
9 visory Panel shall consist of not less than 5 and
10 not more than 7 individuals who have expertise
11 in the areas of person-centered long-term care
12 culture change, long-term care financing, con-
13 sumers, and direct care workers.

14 (3) EVALUATION OF ELIGIBLE BORROWER AP-
15 PPLICANTS.—

16 (A) ESTABLISHMENT OF EVALUATION
17 TOOL AND CRITERIA.—

18 (i) IN GENERAL.—The Secretary, in
19 collaboration with the Small House Advi-
20 sory Panel, shall establish an evaluation
21 tool and evaluation criteria with which to
22 prioritize eligible borrowers who submit to
23 an eligible lender an application for a di-
24 rect loan under the program.

1 (ii) EVALUATION TOOL.—The evalua-
 2 tion tool established under subparagraph
 3 (A) shall be based upon the model guide-
 4 line priorities under subsection (c)(5).

5 (iii) PRIORITIZATION OF ELIGIBLE
 6 BORROWERS.—Eligible borrowers shall be
 7 prioritized under the program in accord-
 8 ance with the extent to which they meet
 9 such model guideline priorities.

10 (B) EVALUATION OF APPLICATIONS AND
 11 RECOMMENDATIONS.—

12 (i) IN GENERAL.—Applications for a
 13 direct loan under the program shall be
 14 evaluated by the Secretary, in collaboration
 15 with the Small House Advisory Panel.

16 (ii) RECOMMENDATIONS.—The Sec-
 17 retary shall establish procedural guidelines
 18 under which any recommendations of the
 19 Secretary for making direct loans shall be
 20 provided to eligible lenders.

21 (4) LOAN ELIGIBILITY.—To be eligible for a di-
 22 rect loan from an eligible lender under the program,
 23 an eligible borrower shall be a private or public non-
 24 profit entity or a for-profit entity that—

1 (A) agrees to use the proceeds from such
2 direct loan to construct or renovate a small
3 house nursing home that—

4 (i) is designed to establish substantive
5 culture change; and

6 (ii) meets the model small house nurs-
7 ing home requirements and guidelines
8 under subsection (c);

9 (B) submits a detailed plan describing—

10 (i) the particular model or approach
11 to person-centered care that the small
12 house nursing home will implement; and

13 (ii) how the small house nursing home
14 will meet such model small house nursing
15 home requirements and guidelines;

16 (C) has been approved by a State or local
17 entity (in accordance with applicable State and
18 local law) to operate a skilled nursing facility
19 (as defined in section 1819(a) of the Social Se-
20 curity Act (42 U.S.C. 1395i-3(a)) or a nursing
21 facility (as defined in section 1919(a) of such
22 Act (42 U.S.C. 1396r(a)));

23 (D) with respect to the facility, ensures
24 that at least 30 percent of the residents of the
25 facility are Medicaid-funded individuals under

1 title XIX of the Social Security Act (42 U.S.C.
2 1396 et seq.), as determined in accordance with
3 guidelines to be issued by the Secretary that
4 take into consideration the number of days such
5 residents spend in the facility, and does not dis-
6 charge residents based on their ability to pay;

7 (E) complies with lending standards devel-
8 oped, in consultation with the Secretary, by a
9 task force of experts in long-term care financ-
10 ing, affordable housing with services develop-
11 ment, and nontraditional lending; and

12 (F) agrees to share financial and operating
13 data with researchers and Federal agencies des-
14 ignated by the Secretary.

15 (5) LOAN DISQUALIFICATION.—In no case may
16 an entity which has displayed a pattern of failing to
17 comply with State and Federal quality of care stand-
18 ards (as determined by the Secretary) or an entity
19 with a pattern of violating State and Federal labor
20 laws (as determined by the Secretary) be an eligible
21 borrower under the program.

22 (c) MODEL SMALL HOUSE NURSING HOME RE-
23 QUIREMENTS AND GUIDELINES.—

24 (1) IN GENERAL.—

1 (A) DEVELOPMENT.—Not later than 90
2 days after the date of enactment of this Act,
3 the Secretary shall develop model small house
4 nursing home guidelines that meet the require-
5 ments of this subsection.

6 (B) CONSISTENCY WITH REQUIREMENTS
7 APPLICABLE UNDER THE SOCIAL SECURITY
8 ACT.—The guidelines established under sub-
9 paragraph (A) shall be consistent with, and in
10 addition to, any requirements applicable to an
11 eligible borrower under sections 1819 and 1919
12 of the Social Security Act (42 U.S.C. 1395i–3;
13 1396r).

14 (2) PRACTICE RESEARCH AND IMPLEMENTA-
15 TION.—

16 (A) IN GENERAL.—Under the guidelines
17 under paragraph (1), a small house nursing
18 home that obtains proceeds from a direct loan
19 made under this section shall be based on meth-
20 ods and practices that have been tested through
21 pilot programs and other research carried out
22 at not less than 1 implementation site in the
23 United States for at least a 2-year period.

24 (B) IMPROVEMENTS IN QUALITY OF
25 LIFE.—Pilot programs and research referred to

1 in subparagraph (A) shall be designed to estab-
2 lish a clearly articulated, evidence-based ap-
3 proach to creating improvements in the quality
4 of life and care outcomes of residents of small
5 house nursing homes as well as providing for
6 improvements in the professional satisfaction
7 and career development of the staff of small
8 house nursing homes.

9 (C) RESEARCH REQUIREMENT.—Research
10 referred to in subparagraph (A) shall be con-
11 ducted by a researcher—

12 (i) who has expertise in long-term
13 care; and

14 (ii) who has no financial or profes-
15 sional interests in the success of the meth-
16 ods or practices involved.

17 (3) REQUIREMENTS OF SMALL HOUSE NURSING
18 HOMES.—Under the guidelines developed under
19 paragraph (1), a small house nursing home that ob-
20 tains proceeds from a direct loan made under this
21 section shall—

22 (A) establish a self-directed model of care
23 for residents that incorporates collaborative de-
24 cisionmaking by residents and nursing assist-
25 ants;

1 (B) provide for a universal worker ap-
2 proach to resident care (including care available
3 from a nursing assistant, personal care, social-
4 ization services, meal preparation services, and
5 laundry housekeeping services) that is orga-
6 nized to support and empower all staff to re-
7 spond to the needs and desires of residents;

8 (C) provide for consistent staff assign-
9 ments;

10 (D) consist of a physical environment de-
11 signed as a home, rather than an institution—

12 (i) that contains residential style de-
13 sign elements and materials throughout
14 the home that are similar to the residential
15 style design elements and materials in the
16 immediate surrounding community, includ-
17 ing residential style design elements in
18 areas that have mixed-zoning purposes,
19 and do not use commercial and institu-
20 tional elements and products (such as a
21 nurses' station, medication carts, hospital
22 or office type florescent lighting, acoustical
23 tile ceilings, institutional style railings and
24 corner guards, and room numbering and
25 labeling) unless mandated by authorities

1 with appropriate jurisdiction over the small
2 house nursing home;

3 (ii) which is designed to be a fully
4 independent and disabled accessible house,
5 apartment, or independent wing of an ex-
6 isting structure with not more than 25
7 residents in the house, apartment, or inde-
8 pendent wing;

9 (iii) that contains a full private bath-
10 room for each bedroom that, at a min-
11 imum, provides a toilet, sink, and acces-
12 sible shower;

13 (iv) which has a life-safety rating that
14 is sufficient to appropriately accommodate
15 individuals who cannot self-evacuate; and

16 (v) in which the percentage of resi-
17 dents of the small house nursing home who
18 are short stay rehabilitation residents does
19 not exceed 20 percent at any time unless
20 the small house nursing home is entirely
21 devoted to providing rehabilitation services,
22 except that a long-term resident returning
23 to a small house nursing home after an
24 acute episode and who is receiving rehabili-
25 tation services for which payment is made

1 under the Medicare program under title
2 XVIII of the Social Security Act shall not
3 be counted toward such 20 percent limita-
4 tion;

5 (E) provide for meals cooked in the small
6 house nursing home and not prepared in a cen-
7 tral kitchen and transported to the small house
8 nursing home; and

9 (F) provide for the training of staff in ac-
10 cordance with paragraph (4).

11 (4) TRAINING OF STAFF.—

12 (A) IN GENERAL.—Under the guidelines
13 under paragraph (1), a small house nursing
14 home that obtains proceeds from a direct loan
15 made under this section shall provide training
16 for all staff involved in the operations of the
17 small house nursing home concerning the phi-
18 losophy, operations, and skills required to im-
19 plement and maintain self-directed care, self-
20 managed work teams, a noninstitutional ap-
21 proach to life and care in long-term care, ap-
22 propriate safety and emergency skills, and other
23 elements required for the successful operation
24 of and outcomes in the small house nursing
25 home.

1 (B) COLLABORATION.—

2 (i) IN GENERAL.—Training under
3 subparagraph (A) shall be interdisciplinary
4 and collaborative.

5 (ii) COLLECTIVE BARGAINING.—

6 (I) IN GENERAL.—In the case
7 where staff involved in the operations
8 of the small house nursing home are
9 represented by a collective bargaining
10 organization, the organization shall be
11 provided an opportunity to fully par-
12 ticipate in the development of a pro-
13 gram for providing such training.

14 (II) PRIORITIZATION.—In the
15 case where there is an existing jointly
16 funded employer-labor training part-
17 nership, or where a training program
18 is funded through collective bar-
19 gaining, the small house nursing home
20 shall prioritize the utilization of or
21 collaboration with those existing train-
22 ing programs in meeting the require-
23 ments of this paragraph.

24 (C) AMOUNT.—Training under subpara-
25 graph (A) shall be not less than 120 hours for

1 each universal worker employed by the small
 2 house nursing home and not less than 60 hours
 3 for each leadership and clinical team member
 4 employed by such small house nursing home.
 5 Such training shall be in addition to any other
 6 State training requirements and shall be com-
 7 pleted for the majority of the staff prior to the
 8 initial start-up of the small house nursing
 9 home.

10 (5) MODEL GUIDELINE PRIORITIES FOR LOAN
 11 APPLICANTS.—An eligible borrower applying for a
 12 direct loan under this section shall be given priority
 13 in evaluation of loan applications in proportion to
 14 their compliance with 1 or more of the following
 15 model guidelines:

16 (A) RESIDENTIAL MODEL PRIORITIES.—

17 Priority in evaluation for loan eligibility shall be
 18 given to small house nursing home models
 19 that—

20 (i) have private, single occupancy bed-
 21 rooms that are shared only at the request
 22 of a resident to accommodate a spouse,
 23 partner, family member, or friend;

24 (ii) contain a living area where resi-
 25 dents and staff may socialize, dine, and

1 prepare food together that, at a minimum,
2 provides a living room seating area, a din-
3 ing area large enough for a single table
4 serving all residents and not less than 2
5 staff members, and an open full kitchen;

6 (iii) contain ample natural light in
7 each habitable space that is provided
8 through exterior windows and other means,
9 with window areas, exclusive of skylights
10 and clearstories, being a minimum of 10
11 percent of the area of the room; and

12 (iv) have built-in safety features to
13 allow all areas of the house to be accessible
14 to the residents during the majority of the
15 day and night.

16 (B) DIRECT CARE WORKER MODEL PRIOR-
17 ITIES.—Priority in evaluation for loan eligibility
18 shall be given to small house nursing home
19 model operators that have a legally binding col-
20 lective bargaining agreement and a signed
21 labor-management partnership agreement cov-
22 ering the planning and implementation of small
23 house nursing homes. Where employees are rep-
24 resented by a labor organization, a signed labor

1 management implementation agreement will be
2 required.

3 (d) LOAN PROVISIONS.—

4 (1) IN GENERAL.—Except as otherwise pro-
5 vided in this subsection, each direct loan made under
6 this section shall be subject to such terms, condi-
7 tions, and covenants relating to repayment of prin-
8 cipal, payment of interest, and other matters as may
9 be established by the eligible lender.

10 (2) MAXIMUM LOAN AMOUNT.—The Secretary,
11 in consultation with the Small House Advisory
12 Panel, shall determine the maximum amount of any
13 direct loan made under this section.

14 (3) RATE OF INTEREST.—A direct loan made
15 under this section shall bear interest at an annual
16 rate of not more than 3 percent, or as determined
17 by the Secretary.

18 (e) AUTHORIZATION OF APPROPRIATIONS.—There is
19 authorized to be appropriated to carry out this section,
20 \$50,000,000 for each of fiscal years 2010 through 2014.
21 Amounts appropriated under this subsection shall be avail-
22 able until expended.

23 (f) TERMINATION.—The program shall terminate,
24 and no loan may be made under this section, on or after

1 the date that is 25 years after the date on which amounts
2 are initially appropriated under subsection (e).

3 **SEC. 3. REPORT.**

4 Not later than 5 years after the date of enactment
5 of this Act, the Secretary of Health and Human Services
6 shall submit to the appropriate committees of Congress
7 a report on the small house nursing home loan program
8 established under section 2(a). Such report shall include
9 information on—

10 (1) the use of direct loans made under the pro-
11 gram to establish, renovate, and construct small
12 house nursing homes that meet the requirements of
13 section 2;

14 (2) the quality of health care, quality of life,
15 emotional well-being, ability to perform functions of
16 daily living, and other outcomes found for residents
17 of small house nursing homes, as compared to such
18 outcomes found for residents of traditional nursing
19 homes; and

20 (3) staff wages, retention, and absenteeism
21 rates, measures of staff satisfaction, and workload
22 and staffing levels for small house nursing homes, as
23 compared to traditional nursing homes.

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