

# JUSTICE IN AGING

FIGHTING SENIOR POVERTY THROUGH LAW

April 14, 2023

Chiquita Brooks-LaSure, Administrator  
Centers for Medicare & Medicaid Services  
Department of Health and Human Services  
Baltimore, Maryland 21244

Submitted electronically via [www.regulations.gov](http://www.regulations.gov)

Re: Medicare and Medicaid Programs; Disclosures of Ownership and Additional Disclosable Parties Information for Skilled Nursing Facilities and Nursing Facilities, 88 Fed. Reg. 9820 (February 15, 2023), CMS-6084-P

Dear Administrator Brooks-LaSure:

Justice in Aging submits the following comments in support of regulatory package CMS-6084-P, the proposed regulations to implement Section 6101 of the Affordable Care Act. Section 6101 has provided CMS with the authority to improve transparency in nursing facility ownership and, in turn, to improve the quality of nursing facility care.

Justice in Aging is a national non-profit organization that uses the power of law to fight senior poverty by securing access to affordable health care, economic security, and the courts for older adults with limited resources. Justice in Aging was founded in 1972 and, since that time, much of its work has focused on protecting the well-being of nursing facility residents. For example, Justice in Aging attorneys played a significant role in the enactment of the federal Nursing Home Reform Law in 1987, and have worked in the subsequent years to make real the Reform Law's promise of high-quality, resident-centered care.



## Importance of Transparency Regulation

The importance of the Section 6101 regulations is clear, as CMS explained at length in the discussion of the proposed regulations. CMS identified multiple reports finding significant deficiencies in resident care due in large part to increasingly complicated corporate structures, including for-profit facilities owned by private equity and other investment firms.<sup>1</sup> Consistent with these reports, President Biden has committed CMS to improve transparency in corporate facility ownership and to publicly report findings.<sup>2</sup>

Improvements are clearly needed. Care Compare, the medicare.gov site that provides information on nursing facilities, has many weaknesses. The Government Accountability Office (GAO) issued a report in January 2023, finding that while the ownership information submitted to Care Compare was timely, it failed to explain the terminology, did not identify patterns or common relationships among nursing facility owners or nursing facility chains, was difficult to use and navigate, failed to explain the value and purpose of the tool, and did not state the main strengths and weaknesses of the data presented, or the methodologies.<sup>3</sup> Weaknesses in Care Compare result in residents living in facilities that misuse their financial resources, by not providing enough funding for an adequate quality of care.

The complicated ownership structure of nursing facilities calls for greater transparency. Nursing facility ownership is significantly concentrated, with two-thirds of skilled nursing facilities belonging to a chain, and with less than two percent of those chains owning more than ten percent of all facilities.<sup>4</sup>

Also, corporate owners commonly take advantage of complicated corporate structures like related-party transactions, often executed by private equity firms, and Real Estate Investment Trusts. The end result is corporate owners funneling

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<sup>1</sup> 88 Fed. Reg. 9,820, 9,822 (2023).

<sup>2</sup> Fact Sheet, Biden-Harris Administration Announces New Steps to Improve Quality of Nursing Homes (Oct. 21, 2022), <https://www.whitehouse.gov/briefing-room/statements-releases/2022/10/21/fact-sheet-biden-harris-administration-announces-new-steps-to-improve-quality-of-nursing-homes>.  
<https://www.whitehouse.gov/briefing-room/presidential-actions/2021/07/09/executive-order-on-promoting-competition-in-the-american-economy/>

<sup>3</sup> GAO, Nursing Homes: CMS Should Make Information More Transparent for Consumers (Jan. 2023), <https://www.gao.gov/assets/gao-23-104813.pdf>.

<sup>4</sup> ASPE, Ownership of Skilled Nursing Facilities: An Analysis of Newly-Released Federal Data (Dec. 15, 2022), <https://aspe.hhs.gov/sites/default/files/documents/fd593ae970848e30aa5496c00ba43d5c/aspe-data-brief-ownership-snfs.pdf>.

billions of dollars away from resident care.<sup>5</sup> Related-party contracts by facility owners accounted for \$11 billion in 2015, more than a tenth of reported operating costs, with some owners receiving more than a quarter of their profits from related-party transactions.<sup>6</sup>

Financial gamesmanship diverts resources away from residents, resulting in harm to both residents and staff.<sup>7</sup> Facilities purchased by private equity firms report worse resident outcomes including greater rates of weight loss,<sup>8</sup> pressure ulcers,<sup>9</sup> infection rates,<sup>10</sup> and hospitalizations.<sup>11</sup> One study found private equity ownership to increase short-term mortality rates by ten percent, resulting in over 20,000 deaths over a twelve-year study.<sup>12</sup> Private equity ownership also was found to significantly reduce staff at all levels, and limiting residents' access to quality care.<sup>13</sup>

This letter contains Justice in Aging's suggested revisions and policy changes, in response to the proposed regulations. We first discuss proposed revisions. At the conclusion of the letter, we include the revisions as incorporated into the body of the regulations, so they can be viewed in context.

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<sup>5</sup> National Consumer Voice for Quality Long-Term Care, *Where Do the Billions of Dollars Go? A Look at Nursing Home Related Party Transactions* (2023), <https://theconsumervoice.org/uploads/files/issues/2023-Related-Party-Report.pdf>.

<sup>6</sup> Jordan Rau, *Care Suffers as More Nursing Homes Feed Money Into Corporate Webs*, N.Y. Times, Jan. 2, 2018, <https://www.nytimes.com/2018/01/02/business/nursing-homes-care-corporate.html>.

<sup>7</sup> Jordan Rau, *Nursing Home Owners Drained Cash While Residents Deteriorated, State Filings Suggest*, NPR, Jan. 31, 2023, <https://www.npr.org/sections/health-shots/2023/01/31/1139783599/new-york-nursing-home-owners-drained-cash>.

<sup>8</sup> Yasmin Radiei, *When Private Equity Takes Over a Nursing Home*, New Yorker, Aug. 25, 2022, <https://www.newyorker.com/news/dispatch/when-private-equity-takes-over-a-nursing-home>.

<sup>9</sup> Peter Whoriskey and Dan Keating, *Overdoses, Bedsores and Broken Bones: What Happened When a Private Equity Firm Sought Profits in Caring for Society's Most Vulnerable*, Wash. Post, Nov. 25, 2018, [https://www.washingtonpost.com/business/economy/opioid-overdoses-bedsores-and-broken-bones-what-happened-when-a-private-equity-firm-sought-profits-in-caring-for-societys-most-vulnerable/2018/11/25/09089a4a-ed14-11e8-baac-2a674e91502b\\_story.html](https://www.washingtonpost.com/business/economy/opioid-overdoses-bedsores-and-broken-bones-what-happened-when-a-private-equity-firm-sought-profits-in-caring-for-societys-most-vulnerable/2018/11/25/09089a4a-ed14-11e8-baac-2a674e91502b_story.html).

<sup>10</sup> Heather Tirado Gilligan, *Study: Higher Death Rates and Taxpayer Costs at Nursing Homes Owned by Private Equity*, Cal. Health Care Foundation, Apr. 12, 2021, <https://www.chcf.org/blog/higher-death-rates-costs-nursing-homes-private-equity/>.

<sup>11</sup> Robert Tyler Braun et al., *Association of Private Equity Investment in US Nursing Homes With the Quality and Cost of Care for Long-Stay Residents*, JAMA Health Forum, Nov. 19, 2021, <https://jamanetwork.com/journals/jama-health-forum/fullarticle/2786442>.

<sup>12</sup> Atul Gupta et al., *Does Private Equity Investment in Healthcare Benefit Patients? Evidence from Nursing Homes* (Feb. 2021), [https://www.nber.org/system/files/working\\_papers/w28474/w28474.pdf](https://www.nber.org/system/files/working_papers/w28474/w28474.pdf).

<sup>13</sup> Dylan Scott, *Private Equity Ownership Is Killing People at Nursing Homes*, Vox (Feb. 22, 2021), <https://www.vox.com/policy-and-politics/22295461/nursing-home-deaths-private-equity-firms>.

## Discussion of Suggested Revisions

### Requiring Additional Information, Based on Statutory Authorization

The relevant statutory language requires disclosure of the “identity of and information on” specified facility officials and “additional disclosable” persons or entities. 42 U.S.C. § 1320a-3(c)(2)(A)(ii) (emphasis added). We propose revisions to require disclosure of relevant supporting documents. This is both authorized by the statutory language, and extremely important from a practical perspective. To properly monitor and understand nursing facility ownership and operations, CMS must have access to the documents that establish the relevant relationships, rather than being forced to accept the say-so of facilities and their affiliated entities.

This issue is critical. The statutory language authorizes broad disclosure, and CMS should not tie its own hands by limiting disclosure simply to a facility’s representations.

Our proposed addition to sections 424.516 and 455.104 is as follows:

- (2) Copies of any documents that contribute to establishing
  - (i) The relationship between the facility and any person or entity specified in (1)(i) through (iii), or the relationship between any persons or entities specified in (1)(i) through (iii), including any documents establishing a financial obligation between the facility and any person or entity specified in (1)(i) through (iii), or between such persons and entities; or
  - (ii) The organizational structure and descriptions of relationships as set forth in (1)(iv).

### Requiring Visual Depiction of Organizational Structure

The proposed regulatory language in sections 424.516 and 455.104 requires “a description of each such additional disclosable party to the facility and to one another.” We recommend making this requirement more useful, both to CMS

and the states, by also requiring “a visual depiction of the organizational structure.”

### **Add Person or Entity with Ownership or Control Interest as Additional Disclosable Party.**

In our suggested revisions, we have added a person or entity with an “ownership or control interest” as an additional disclosable party in sections 424.502 and 455.101.

The concept of ownership is not adequately addressed in the current proposed regulations, which require disclosure only of

1. Certain individuals affiliated with the “facility;”
2. Persons or entities with operational, financial or managerial control;
3. Persons or entities that have an interest in the real property on which the facility is located; and
4. Persons or entities that provide certain services to the facility.

These four categories, however, do not adequately address ownership. And, of course, parties with an ownership interest are vital to any effective disclosure system. Much of the policy discussion around disclosure focuses on the difficulty of identifying who actually owns a nursing facility.

For that reason, we have added the concept of ownership to the persons or entities who must be disclosed. In our draft, we use the term “ownership or control interest” because that term is defined in section 420.201 as follows:

Person with an ownership or control interest means a person or corporation that —

- (1) Has an ownership interest totaling 5 percent or more in a disclosing entity;
- (2) Has an indirect ownership interest equal to 5 percent or more in a disclosing entity;
- (3) Has a combination of direct and indirect ownership interests equal to 5 percent or more in a disclosing entity;

- (4) Owns an interest of 5 percent or more in any mortgage, deed of trust, note, or other obligation secured by the disclosing entity if that interest equals at least 5 percent of the value of the property or assets of the disclosing entity;
- (5) Is an officer or director of a disclosing entity that is organized as a corporation; or
- (6) Is a partner in a disclosing entity that is organized as a partnership.

Since this concept already is utilized by CMS, it could be implemented relatively easily. Importantly, it represents a decision already made by CMS as how to determine when ownership interests become significant enough to require specific attention. It would, of course, be inefficient to flag a person or entity with a one-thousandth interest in a facility. But CMS already has come to the conclusion that a five percent interest is an appropriate threshold.

We note that section 420.206 already requires, in a provision that applies broadly to Medicare-certified providers, that a provider disclose information related to persons and entities with an ownership or control interest. Regardless, it would be beneficial to include this concept within 424.502 and 455.101, since these sections will require broad coordinated information regarding the “additional disclosable parties,” and CMS can specify that required information need only be disclosed once, even if disclosure of that information may be required by more than one regulatory section.

### **Add the Term “Any Level of” to Descriptions of Persons or Entities Deemed to Have Influence with Facility**

In sections 424.502 and 455.101, we have added the term “any level of” as follows:

- Exercises any level of operational, financial, or managerial control;
- [P]rovides any level of financial or cash management services; and
- Provides any level of management or administrative services, ~~management~~ or clinical consulting services, or accounting or financial services to the facility.

This term is added to make the requirements broad, so that a provider cannot escape disclosure by claiming that certain financial services (for example) were only provided at a certain low level.

Also note that we suggest deletion of the term “management or” where it precedes “clinical consulting services.” Management services already is addressed immediately before our suggested deletion, and it is unclear how the second reference to management services relates to clinical consulting services in a useful way.

### **Delete the Qualifier that “Organizational Structure” Refers Specifically to a Skilled Nursing Facility or Nursing Facility**

In sections 424.502 and 455.101, in the definition of “organizational structure,” we have deleted the phrases “with respect to a skilled nursing facility defined at section 1819(a) of the Act” and “with respect to a nursing facility defined in section 1919(a) of the Act,” respectively. We make those deletions because otherwise it seems that the definition refers to the organizational structure of the facility, rather than a different person or entity with a relationship to the facility.

Possibly this issue could be addressed by revising the language rather than simply deleting the reference to facilities. We leave that possibility to your discretion.

### **Clarify that the Five Percent Threshold Applies to Shareholders, But Not to Officers and Directors**

We suggest the following revision in sections 424.502 and 455.101:

(1) *A corporation.* The officers, and directors of the corporation, and shareholders of the corporation who have an ownership interest in the corporation which is equal to or exceeds 5 percent.

This revision is made to clarify that the five percent threshold applies only to shareholders, and not to officers and directors.

## **Add Provision to Ensure that CMS Retains Authority to Require “Organizational Structure” Information from Entities Other than the Ones Explicitly Listed in the Regulations**

The statutory authority for disclosure of “organizational structure” includes the catch-all language that authorizes disclosing, in relation to “any other person or entity, such information as the Secretary determines appropriate.” 42 U.S.C. § 1320a-3(c)(5)(D)(vii). CMS should not abandon this authority by failing to address it in the regulation. Accordingly, we recommend addition of the following provision in sections 424.502 and 455.101:

*(7) Any other person or entity.* Such information as the Secretary determines appropriate.

## **Add Language Relating to Facility Chains**

For purposes of monitoring quality and management practices, CMS should require disclosure relating to chains of facilities. This information is separate from ownership information, because facilities within the same chain will not own or control each other – instead, they will be owned or controlled by common persons or entities.

To address this, we suggest adding a definition of “chain organization” in sections 424.502 and 455.101. Our suggested definition is adapted from the definition of “chain organization” in section 3900 of Part 2 of the Medicare Provider Reimbursement Manual. We suggest the following language:

Chain organization means, for purposes of this subpart only, a group of two or more facilities, either skilled nursing facilities or nursing facilities or both, that are owned directly or indirectly, leased, or, through any other device, controlled by at least one common person or entity.

In turn, this definition is utilized in our suggested revisions of sections 424.516 and 455.104, by requiring disclosure of the “Name and identifying information for each skilled nursing facility or nursing facility within a chain of facilities that includes the skilled nursing facility [or nursing facility] under consideration.” This

chain-related information will be valuable for CMS, researchers, consumers, and others with an interest in facility quality and operations.

### **Add Definitions of “Managerial Control” and “Operational Control”**

Under the regulations, an additional disclosable party includes a person or entity which exercises “operational, financial, or managerial control” over the facility. Accordingly, it is important that these terms be defined precisely enough to ensure that the relevant persons or entities are subject to the regulatory requirements. To provide such precision, we suggest that the following definitions be added to sections 424.502 and 455.101.

*Managerial Control* means having the power, directly or indirectly, to influence or direct operation of the skilled nursing facility.

*Operational control* means having the power, directly or indirectly, to influence or direct the actions or policies of the skilled nursing facility. This includes having the power, directly or indirectly, to choose, appoint or terminate any member of the board of directors or management committee, or any managing employee.

### **Specify Potential Inclusion of “Private Equity Company” and “Real Estate Investment Trust” as Additional Disclosable Parties**

We propose revisions in section 424.502 to make clear that a private equity company and a real estate investment trust may qualify as “additional disclosable parties,” if certain conditions are met. These conditions relate to ownership or control (in the case of private equity companies) and control of real property (in the case of real estate investment trusts). Our proposed language is as follows:

A private equity company may qualify as an “additional disclosable party” if it satisfies subsections (1) or (2) of the definition of “additional disclosable party,” above.

A real estate investment trust can qualify as an “additional disclosable party” if it satisfies subsection (3) of the definition of “additional disclosable party,” above.

## **Implement Proper Enforcement Mechanisms, Including Intermediate Sanctions**

Existing federal regulations refer to termination as a remedy for providers that fail to comply with disclosure requirements. See, e.g., 42 C.F.R. §§ 420.206(c) (Medicare), 455.104(e) (Medicaid). But history has shown that CMS and state Medicaid agencies do not terminate provider agreements for disclosure violations and, indeed, termination would generally be a disproportionate consequence for a disclosure violation, except in the most extreme circumstances. As a result, disclosure violations are likely to result in no penalty whatsoever.

We recommend that CMS establish intermediate sanctions and create different levels of penalties, including fines, holds on payments, and suspensions. We note that 42 C.F.R. § 405.371(d)(1) states: “If a provider has failed to timely file an acceptable cost report, payment to the provider is immediately suspended in whole or in part until a cost report is filed and determined by the Medicare contractor to be acceptable.”

## **Conclusion**

We appreciate the commitment of CMS to improving the lives of nursing facility residents, and respectfully suggest that our recommended edits and policy changes will advance this important work. Please feel free to contact us at any time if we can be of assistance.

Sincerely,



Eric M. Carlson, Attorney  
Director, Long-Term Services and Supports Advocacy

(See following pages for Justice in Aging’s recommended edits as incorporated into the proposed regulations.)

## Suggested Revisions, Incorporated into the Proposed Regulations

### § 424.502 Definitions.

\* \* \* \* \*

*Additional disclosable party* means, with respect to a skilled nursing facility defined at section 1819(a) of the Act, any person or entity who does any of the following:

(1) ~~Has an ownership or control interest in the facility.~~

(+2) Exercises any level of operational, financial, or managerial control over the facility or a part thereof, or provides policies or procedures for any of the operations of the facility, or provides any level of financial or cash management services to the facility.

(23) Leases or subleases real property to the facility, or owns a whole or part interest equal to or exceeding 5 percent of the total value of such real property.

(34) Provides any level of management or administrative services, ~~management or~~ clinical consulting services, or accounting or financial services to the facility.

\* \* \* \* \*

*Managing employee* means—

(1) A general manager, business manager, administrator, director, or other individual that exercises operational or managerial control over, or who directly or indirectly conducts, the day-to-day operation of the provider or supplier, either under contract or through some other arrangement, whether or not the individual is a W-2 employee of the provider or supplier; or

(2) With respect to the additional requirements at § 424.516(g) for a skilled nursing facility defined at section 1819(a) of the Act, an individual, including a general manager, business manager, administrator, director, or consultant, who

directly or indirectly manages, advises, or supervises any element of the practices, finances, or operations of the facility.

\* \* \* \* \*

*Organizational structure* means, ~~with respect to a skilled nursing facility defined at section 1819(a) of the Act,~~ in the case of any of the following:

- (1) *A corporation.* The officers, and directors of the corporation, and shareholders of the corporation who have an ownership interest in the corporation which is equal to or exceeds 5 percent.
- (2) *A limited liability company.* The members and managers of the limited liability company including, as applicable, what percentage each member and manager has of the ownership interest in the limited liability company.
- (3) *A general partnership.* The partners of the general partnership.
- (4) *A limited partnership.* The general partners and any limited partners of the limited partnership who have an ownership interest in the limited partnership which is equal to or exceeds 10 percent.
- (5) *A trust.* The trustees of the trust.
- (6) *An individual.* Contact information for the individual.
- (7) *Any other person or entity.* Such information as the Secretary determines appropriate.

\* \* \* \* \*

*Chain organization* means, for purposes of this subpart only, a group of two or more facilities, either skilled nursing facilities or nursing facilities or both, that are owned directly or indirectly, leased, or, through any other device, controlled by at least one common person or entity.

*Managerial Control* means having the power, directly or indirectly, to influence or direct operation of the skilled nursing facility.

*Operational control* means having the power, directly or indirectly, to influence or direct the actions or policies of the skilled nursing facility. This

includes having the power, directly or indirectly, to choose, appoint or terminate any member of the board of directors or management committee, or any managing employee.

*Private equity company* means, for purposes of this subpart only, a publicly-traded or non-publicly traded company that collects capital investments from individuals or entities and purchases an ownership share of a provider. A private equity company may qualify as an “additional disclosable party” if it satisfies subsections (1) or (2) of the definition of “additional disclosable party,” above.

*Real estate investment trust* means, for purposes of this subpart only, a publicly-traded or non-publicly traded company that owns part or all of the buildings or real estate in or on which a provider operates. A real estate investment trust can qualify as an “additional disclosable party” if it satisfies subsection (3) of the definition of “additional disclosable party,” above.

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**§ 424.516 Additional Provider and Supplier Requirements for Enrolling and Maintaining Active Enrollment Status in the Medicare Program.**

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(g) *Skilled nursing facilities.* (1) In addition to all other applicable reporting requirements in this subpart, a skilled nursing facility (as defined in section 1819(a) of the Act) must disclose upon initial enrollment (which, for purposes of this paragraph (g), also includes a change of ownership under 42 CFR 489.18) and revalidation the following information:

(i) Each member of the governing body of the facility, including the name, title, and period of service for each such member.

(ii) Each person or entity who is an officer, director, member, partner, trustee, or managing employee (as defined in § 424.502) of the facility, including the name, title, and period of service of each such person or entity.

(iii) Each person or entity who is an additional disclosable party of the facility (as defined in § 424.502).

(iv) The organizational structure (as defined in § 424.502) of each additional disclosable party of the facility and a description of the relationship of each such additional disclosable party to the facility and to one another, along with a visual depiction of the organizational structure.

(v) Name and identifying information for each skilled nursing facility or nursing facility within a chain organization of facilities that includes the skilled nursing facility under consideration.

(2) Copies of any documents that contribute to establishing

(i) The relationship between the facility and any person or entity specified in (1)(i) through (iii), or the relationship between any persons or entities specified in (1)(i) through (iii), including any documents establishing a financial obligation between the facility and any person or entity specified in (1)(i) through (iii), or between such persons and entities; or

(ii) The organizational structure and descriptions of relationships as set forth in (1)(iv).

(23) The skilled nursing facility need not disclose the same information described in paragraph (g)(1) of this section more than once on the same enrollment application submission.

(34) The skilled nursing facility must report any change to any of the information described in paragraph (g)(1) of this section consistent with the applicable timeframes in paragraph (e) of this section.

## **§ 455.101 Definitions.**

*Additional disclosable party* means, with respect to a nursing facility defined in section 1919(a) of the Act, any person or entity who—

(1) Has an ownership or control interest in the facility.

(+2) Exercises any level of operational, financial, or managerial control over the facility or a part thereof, or provides policies or procedures for any of the operations of the facility, or provides any level of financial or cash management services to the facility;

(23) Leases or subleases real property to the facility, or owns a whole or part interest equal to or exceeding 5 percent of the total value of such real property; or

(34) Provides any level of management or administrative services, ~~management or~~ clinical consulting services, or accounting or financial services to the facility.

\* \* \* \* \*

*Managing employee means—*

(1) A general manager, business manager, administrator, director, or other individual who exercises operational or managerial control over, or who directly or indirectly conducts, the day-to-day operation of an institution, organization, or agency, either under contract or through some other arrangement, whether or not the individual is a W-2 employee of the institution, organization, or agency; or

(2) With respect to the additional requirements at § 455.104(e) for a nursing facility defined in section 1919(a) of the Act, an individual, including a general manager, business manager, administrator, director, or consultant, who directly or indirectly manages, advises, or supervises any element of the practices, finances, or operations of the facility.

~~*Organizational structure means, with respect to a nursing facility defined in section 1919(a) of the Act, in the case of any of the following:*~~

(1) *A corporation.* The officers, and directors of the corporation, and shareholders of the corporation who have an ownership interest in the corporation which is equal to or exceeds 5 percent.

(2) *A limited liability company.* The members and managers of the limited liability company including, as applicable, what percentage each member and manager has of the ownership interest in the limited liability company.

- (3) *A general partnership.* The partners of the general partnership;
- (4) *A limited partnership.* The general partners and any limited partners of the limited partnership who have an ownership interest in the limited partnership which is equal to or exceeds 10 percent.
- (5) *A trust.* The trustees of the trust.
- (6) *An individual.* Contact information for the individual.
- (7) *Any other person or entity.* Such information as the Secretary determines appropriate.

*Chain organization* means, for purposes of this subpart only, a group of two or more facilities, either skilled nursing facilities or nursing facilities or both, that are owned directly or indirectly, leased, or, through any other device, controlled by at least one common person or entity.

*Managerial Control* means having the power, directly or indirectly, to influence or direct operation of the skilled nursing facility.

*Operational control* means having the power, directly or indirectly, to influence or direct the actions or policies of the skilled nursing facility. This includes having the power, directly or indirectly, to choose, appoint or terminate any member of the board of directors or management committee, or any managing employee.

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**§ 455.104 Disclosure by Medicaid Providers and Fiscal Agents: Information on Ownership and Control.**

\* \* \* \* \*

(e) *Nursing facilities.* (1) In addition to all other applicable reporting requirements in this subpart, a nursing facility (as defined in section 1919(a) of the Act) must disclose upon initial enrollment and revalidation the following information:

(i) Each member of the governing body of the facility, including the name, title, and period of service for each such member.

(ii) Each person or entity who is an officer, director, member, partner, trustee, or managing employee (as defined in § 455.101) of the facility, including the name, title, and period of service of each such person or entity.

(iii) Each person or entity who is an additional disclosable party of the facility (as defined in § 455.101).

(iv) The organizational structure (as defined in § 455.101) of each additional disclosable party of the facility and a description of the relationship of each such additional disclosable party to the facility and to one another, along with a visual depiction of the organizational structure.

(v) Name and identifying information for each skilled nursing facility or nursing facility within a chain organization of facilities that includes the skilled nursing facility under consideration.

(2) Copies of any documents that contribute to establishing

(i) The relationship between the facility and any person or entity specified in (1)(i) through (iii), or the relationship between any persons or entities specified in (1)(i) through (iii), including any documents establishing a financial obligation between the facility and any person or entity specified in (1)(i) through (iii), or between such persons and entities; or

(ii) The organizational structure and descriptions of relationships as set forth in (1)(iv).

~~(23)~~ The State need not require the facility to disclose the same information described in this paragraph (e) more than once on the same enrollment application submission.

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