

# CARE FOR OUR SENIORS ACT

## OVERSIGHT: IMPROVING SYSTEMS TO BE MORE RESIDENT-DRIVEN Addressing Chronic Poor Performing Nursing Homes

### Background

While the majority of nursing homes provide high quality care to millions of residents each year, as with any industry, there will be some bad actors. Most issues flagged by government surveyors are rectified immediately, as facilities must submit a plan of correction and demonstrate they have addressed the issue upon follow up from regulators. However, a small number of nursing homes persistently struggle, due to a variety of reasons, to adhere to government regulations and standards of care.

Chronic poor performing nursing homes often do not meet the needs of the residents admitted to these facilities. Chronic poor performing facilities are those that have multiple poor outcomes and/or result in serious harm to their residents due to ongoing problems. These poor performers rarely become so overnight but usually have been on a steady decline for the past couple of years. The current oversight system for nursing homes of escalating citations and penalties has neither helped turn these facilities around nor prevented other facilities from becoming chronic poor performers. The survey system needs to develop a process to help turn these facilities around, change management/ownership, or ultimately, close the facility.

### Proposed Solution

**Develop and implement a five-step process to assist chronic poor performing nursing homes improve, change management, or close.**

AHCA and LeadingAge propose a five-step process as follows:

1. **CMS identifies chronic poor performing nursing facilities** based on their inspection results, staffing, clinical, and financial metrics.
2. **Conduct a root cause analysis (RCA)** to identify why a facility is chronically poor performing, which will serve as the basis for a turnaround plan. The analysis should be performed by an unaffiliated party, (e.g., a consultant approved by CMS such as the quality improvement organization [QIO] but not the provider or regulatory body), and include a market analysis to determine if continued operations are feasible.
3. **Develop a turn-around plan** that should include key milestones to track progress in correcting the issues identified in analysis above. This should also identify the financial and other resources necessary to effectively implement the plan. The plan could serve as a system improvement agreement with CMS. The facility will develop this plan based on root cause analysis which CMS must then approve.
4. **Execute a monitoring program** by an external entity (independent from the facility who reports to CMS) to ensure milestones and goals are being met. The state, CMS regional office, and CMS central office should provide a list of potential external monitors facilities may use but are not required to use.
5. **Determine if the identified milestones/goals have been implemented or if revisions to the plan are required** due to issues outside the control of the facility. If milestones are not met within six to 24 months (median time of one year), a temporary manager, change in management/ownership or the closure of the facility may be required.

## Change of Ownership

For those chronic poor performing facilities where a change of ownership (CHOW) is sought voluntarily or required by the State Survey Agency (SSA), AHCA and LeadingAge propose the following solutions:

- Create incentives for high quality owners/operators to purchase chronic poor performing facilities.
  - The current process to receive a new Medicare provider number is extremely slow. AHCA and LeadingAge recommend that an expedited process for these facilities be put in place by CMS.
  - The existing owner/operator cannot be involved in the new operator license.
- The new owner/operator should be able to demonstrate experience in the following:
  - Prior history of owning/operating/managing a health care facility with good quality and financial results, particularly long term care facilities.
  - History of working with troubled facilities to turn them around.
- Be able to maintain staffing capacity and install temporary leadership and/or management-level positions to stabilize and address the problems found in the RCA above. They should remain for at least four to six months until permanent replacements can be found.
- Access to financial resources needed to make capital improvements, cover existing debt and facility expenses, support appropriate staffing levels or a demonstrated plan with commitments to acquire needed funds. This should include at least six months of facility expenses.
- Willingness to assume the system improvement agreement (or modify based on their assessment to accomplish the turnaround).
- Give the facility a new Medicare provider number
- Ensure clear transparency of new ownership individuals and organizations behind LLCs.
- Be prepared to close facilities that cannot be saved.

**Funded By:** CMS, states and providers responsible for process improvement.