

Final Ownership Disclosure Requirements for Nursing Facilities

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As of Tuesday, January 16, 2024, all Medicare and Medicaid nursing facilities will be required to disclose ownership and management information to the Centers for Medicare & Medicaid Services (CMS). Under the [Final Rule](#) released by CMS, nursing facilities must report this information to the government upon enrollment or revalidation, and upon any change of ownership. These new reporting requirements will be a condition of both program participation and payment.

In 2023, we reported that [CMS had outlined initial steps in its Proposed Rule](#) to require more disclosure about nursing facility ownership and management. CMS expressed quality concerns regarding for-profit facilities owned by private equity companies, real estate investment trusts (REITs) and other investors. CMS has determined that private equity owned facilities are particularly associated with increased mortality rates, higher COVID-19 infection rates and other deficiencies. CMS believes that greater transparency about nursing facility ownership and management will aid federal and state regulators in holding facilities accountable.

As confirmed in the CMS Final Rule, nursing facilities must disclose information about their ownership structure and the persons involved, including directors, officers and managers, as well as any "additional disclosable parties." These additional disclosable parties include any persons or entities that exercise "operational, financial or managerial control" over the facility. The definition includes third party administrators and facility managers, as well as landlords or owners of 5% or more of the facility's real property.

Furthermore, facilities must describe the organizational structure of any "additional disclosable parties" as well as the relationship between each party and the facility. CMS finalized the definition of "organizational structure" to include:

- For a corporation, shareholders with a 5% or greater ownership interest.
- For a limited liability company, all members (regardless of the ownership percentage) and managers.
- For a partnership, all general partners and all limited partners with a 10% or greater ownership interest.

CMS has acknowledged that obtaining organizational information about "additional disclosable parties" may "prove challenging," but this additional reporting will be mandatory if facilities want to participate in the Medicare or Medicaid programs. CMS also has promised to provide further guidance concerning the parameters of this data collection process.

Medicare facilities will use a new [Form CMS-855A](#) to report this additional information, with a 30-day grace period following the release of the new form by CMS - on a date to be determined. Medicaid facilities will

follow state procedures.

If you have any questions regarding the CMS Final Rule or these reporting requirements, please contact partner [Christopher J. Churchill](#) or any member of Barley Snyder's [Senior Living Industry Group](#).

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