To require States to meet assisted living facility reporting requirements to qualify for future COVID–19 response funds.

IN THE SENATE OF THE UNITED STATES

Ms. WARREN (for herself and Mr. MARKEY) introduced the following bill; which was read twice and referred to the Committee on

A BILL

To require States to meet assisted living facility reporting requirements to qualify for future COVID–19 response funds.

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 “Assisted Living Facil-
5 ity Coronavirus Reporting Act”.
6 SEC. 2. DEFINITIONS.
7 In this Act:
8 (1) ASSISTED LIVING FACILITY.—The term
9 “assisted living facility” means—
(A) an adult care facility that—

   (i) is licensed and regulated by the State in which the facility is located (or, if there is no State law providing for such licensing and regulation by the State, by the municipality or other political subdivision in which the facility is located);

   (ii) makes available to residents supportive services to assist the residents in carrying out activities of daily living, such as bathing, dressing, eating, getting in and out of bed or chairs, walking, going outdoors, using the toilet, laundry, home management, preparing meals, shopping for personal items, obtaining and taking medication, managing money, using the telephone, or performing light or heavy housework, and which may make available to residents home health care services, such as nursing and therapy; and

   (iii) provides dwelling units for residents, each of which may contain a full kitchen and bathroom, and which includes common rooms and other facilities appro-
appropriate for the provision of supportive services to the residents of the facility;
(B) an adult care facility that—
   (i) is—
      (I) licensed and regulated by the State in which the facility is located
      (or, if there is no State law providing for such licensing and regulation by
      the State, by the municipality or other political subdivision in which the facil-
      ity is located); and
      (II) similar to a skilled nursing facility, (as defined in section 1819(a)
      of the Social Security Act (42 U.S.C. 1395i–3(a))), a nursing facility (as
      defined in section 1919(a) of the Social Security Act (42 U.S.C. 1396r(a))), or a board and care facil-
      ity (as defined in section 1616(e) of the Social Security Act (42 U.S.C. 1382e(e))); or
      (ii) is subject to the identification, inv-
      estigation, and resolution of complaints by, or otherwise subject to the activities of,
gram established under section 712 of the Older Americans Act of 1965 (42 U.S.C. 3058g); or

(C) an adult care facility receiving Federal funds through a State Medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.), including through any waiver relating to such a program granted under such title or title XI of such Act (42 U.S.C. 1301 et seq.).

(2) Secretary.—The term “Secretary” means the Secretary of Health and Human Services.

SEC. 3. STATE REPORTING REQUIREMENTS FOR ASSISTED LIVING FACILITIES AND COVID–19.

(a) In General.—As a condition of receiving funding to combat the coronavirus pandemic under Federal legislation enacted on or after the date of enactment of this Act which designates such funding as being for emergency requirements pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(2)(A)(i)), a State shall do the following:

(1) Within 30 days of the passage of this Act, begin weekly reporting of the following information for each assisted living facility located in the State
to the Centers for Disease Control and Prevention, 
disaggregated by race, ethnicity, primary language, 
sex, sexual orientation, gender identity, age, and dis-
ability status:

(A) The number of suspected and con-
firmed active cases of Coronavirus Disease 
2019 (COVID–19) among residents and the 
number of suspected and confirmed active cases 
of COVID–19 among staff of the facility.

(B) The number of residents and staff of 
the facility, respectively, who, since the last re-
port under this paragraph, contracted severe 
respiratory infections related to COVID–19 
that resulted in hospitalization and the number 
that resulted in death, including deaths that oc-
curred outside of the facility.

(C) The number COVID–19 diagnostic 
tests conducted weekly on residents and staff of 
the facility, respectively, and the percentage of 
those tests that are positive among residents 
and staff of the facility, respectively.

(D) The average time between testing a 
resident and receiving the results of the test.
(E) The personal protective equipment, hand hygiene supplies, ventilators, and medical supplies in the facility.

(F) The total number of resident beds at, residents living in, and staff employed by the facility.

(G) Other information specified by the Secretary.

(2) Within 30 days of the passage of this Act, report for each assisted living facility in the State to the Centers for Disease Control and Prevention, the information specified in subparagraphs (A) through (G) of paragraph (1) for the period of time between January 1, 2020 and the passage of this Act, disaggregated by race, ethnicity, primary language, sex, sexual orientation, gender identity, age, and disability status.

(3) Within 30 days of the passage of this Act, require each assisted living facility in the State to inform the Centers for Medicare & Medicaid Services, the Centers for Disease Control and Prevention, State and local health officials, residents, their representatives, and families of those residing in facilities by 5 p.m. the next calendar day following the occurrence of either a single confirmed infection of
COVID–19 among the residents or staff of the facility or 3 or more residents or staff of the facility presenting new-onset of respiratory symptoms within 72 hours of each other. This information shall—

(A) not include personally identifiable information;

(B) include information on mitigating actions implemented to prevent or reduce the risk of transmission, including if normal operations of the facility will be altered; and

(C) include any cumulative updates for residents, their representatives, and families at least weekly or by 5 p.m. the next calendar day following the subsequent occurrence of—

(i) the identification of a confirmed infection of COVID–19 among the residents or staff of the facility; or

(ii) 3 or more residents or staff presenting new onset of respiratory symptoms within 72 hours of each other.

(b) **Sunset.**—The requirements of subsection (a) shall terminate if and when the circumstances which led to the public health emergency period described in section 1135(g)(1)(B) of the Social Security Act (42 U.S.C. 1135(g)(1)(B) of the Social Security Act (42 U.S.C.
1320b–5(g)(1)(B)) (relating to the coronavirus pandemic) cease to exist and are unlikely to recur.

(c) GUIDANCE.—Within 15 days of the date of enactment of this Act, the Secretary shall issue guidance to States to ensure the information reported in (a) is reported in an electronic, standardized format that matches, to the extent practicable, the format applicable to information reported to the Department of Health and Human Services by skilled nursing facilities and nursing facilities on COVID–19 under section 483.30(g) of title 42, Code of Federal Regulations (as amended by the interim final rule of the Centers for Medicare & Medicaid Services published on May 8, 2020 (85 Fed. Reg. 27550)), to enable the comparison of COVID–19 outbreaks across congregate care settings.

(d) PUBLICATION OF INFORMATION.—The Secretary shall publicly post on the website of the Department of Health and Human Services, the information received by the Department under section (a), and shall update such information on a weekly basis.

(e) EXTENSIONS.—The Secretary may grant, at the request of a State, a 30-day extension for the State report the information required under paragraphs (1) and (2) of subsection (a) to allow the State to develop the reporting
infrastructure necessary to gather such information from assisted living facilities.

SEC. 4. APPLICATION OF NURSING FACILITY REPORTING REQUIREMENTS TO ASSISTED LIVING FACILITIES.

The Secretary shall provide that any COVID–19 reporting requirement that applies to skilled nursing facilities (as defined in section 1819(a) of the Social Security Act (42 U.S.C. 1395i–3(a))) or nursing facilities (as defined in section 1919(a) of the Social Security Act (42 U.S.C. 1396r(a))) and is imposed on or after the date of enactment of this Act under title XVIII or XIX of the Social Security Act (42 U.S.C. 1395 et seq., 1396 et seq.) or under a regulation promulgated under such title shall apply in the same manner to assisted living facilities, which shall report such information through the States unless complying with such reporting requirement is not practicable in the assisted living facility setting.

SEC. 5. GAO REPORT.

Not later than 2 years after the date of enactment of this Act, the Comptroller General of the United States shall conduct an evaluation, and submit to Congress, a report including—

(1) what is known about how required reporting of COVID–19 data on residents in nursing homes
during the pandemic was used to prevent or control COVID–19 cases or deaths, and how this compares to the experience of other congregate care facilities without required reporting of this data; and

(2) any lessons learned from required reporting of COVID–19 cases or deaths in nursing homes that could be applied to other congregate care facilities during the COVID–19 pandemic, if it continues, and similar public health emergencies in the future.