

LONG TERM CARE COMMUNITY COALITION

Advancing Quality, Dignity & Justice

LTCCC Alert: CMS Rescinds Important Guidance Supporting Nursing Home Residents' Right to Vote

The Centers for Medicare & Medicaid Services (CMS) has issued a [memorandum](#) rescinding its guidance on nursing home residents' voting rights. While the new memorandum **does not change federal law or residents' fundamental right to vote**, it withdraws important guidance that emphasized nursing homes' affirmative responsibility to help residents exercise that right.

Residents continue to have the right to vote, the right to decline to vote, and the right to receive assistance from a person of their choosing. Nursing homes also remain obligated under federal regulations to support residents in exercising their rights without interference, coercion, discrimination, or reprisal.

What has changed is CMS's guidance to facilities. The previous memoranda encouraged nursing homes to take proactive steps to help residents participate in elections, including planning ahead, facilitating voter registration and absentee voting, coordinating transportation or other assistance, and ensuring residents had meaningful opportunities to cast their ballots. That affirmative guidance has now been withdrawn and replaced with a memorandum focused primarily on preventing coercion and violations of election laws.

Protecting residents from coercion is essential. But it should reinforce – not diminish – the obligation to ensure that people living in nursing homes can exercise one of their most fundamental constitutional rights.

Particularly troubling is CMS's justification for rescinding the prior guidance. **This memorandum, which changes federal policy for close to 15,000 nursing homes, relies on just two cases of alleged fraud, both of which involve highly unusual, politicized circumstances and neither of which resulted in any substantiated case of voting irregularity.**

One involved a Texas state-supported living center – **not** a nursing home – where a social worker was criminally prosecuted after helping residents register to vote during the COVID-19 pandemic. [Investigative reporting](#) subsequently raised substantial questions about the legal basis for the case, the extraordinary decision to bring 134 felony charges, and the political context in which the prosecution occurred. The reporting also noted that the voter registration applications **did not result in anyone voting illegally** and that the allegations largely centered on technical violations arising from efforts to help eligible residents register to vote.

The second example involved allegations concerning voting by residents of a Wisconsin nursing home during the pandemic. [The allegations, made by a local sheriff who reportedly has been “a figure in Wisconsin election controversies”](#), arose amid a broader and highly politicized dispute over Wisconsin election procedures. We have not identified a single criminal prosecution or

judicial finding establishing that election fraud occurred. Yet CMS now cites that matter as support for rescinding nationwide guidance designed to help protect nursing home residents' access to the ballot.

"Voting is a fundamental civil right. People living in nursing homes need meaningful assistance and support to ensure they can fully exercise that right. Rather than reinforcing that responsibility, CMS has chosen to withdraw important guidance based on two highly questionable cases that provide no meaningful basis for changing national policy. **If only cases against bad nursing home operators were pursued with as much vigor,**" said Hayley Cronquist, LTCCC Associate Director.

LTCCC strongly encourages all stakeholders – including residents, families, ombudsmen, advocates, and nursing homes – to actively support eligible residents who wish to vote. Resources on residents' voting rights, practical guidance, and educational materials are available in LTCCC's **Nursing Home Voting Resource Center** at <https://nursinghome411.org/voting>.