



Fact Sheet: ABA Resolution in Support of Small-House Nursing Homes

In August 2021, the American Bar Association’s House of Delegates overwhelmingly adopted a resolution – by a vote of 303-21 – urging Congress to make private rooms and bathrooms mandatory for nursing home care in America. The Green House Project wholeheartedly welcomes the ABA’s support for transformative change in long-term care, and we encourage anyone interested in nursing home reform to learn more about the ABA’s ideas for achieving this necessary goal.

What is the ABA’s main objective with this resolution?

The resolution calls on lawmakers to broadly explore ways to phase in stricter requirements that would eventually bring the end of the traditional shared-bedroom, shared-bathroom design that dominates the more than 15,000 nursing homes currently operating in the United States.

How could that goal be achieved?

The ABA provides multiple potential solutions, recognizing that such a complete overhaul would require a variety of different policy and financial levers:

- **Requirements of Participation:** Most nursing homes rely on Medicare and Medicaid as their primary sources of income. To receive Medicare and Medicaid reimbursements, facilities must meet a variety of baseline regulatory benchmarks, known as the requirements of participation. The ABA suggests that Congress explore the addition of private rooms and bathrooms to the requirements of participation on a phased-in basis. Such a move would essentially make private rooms and baths a *de facto* regulatory requirement, as the loss of Medicare and Medicaid funds is tantamount to a forced closure.
- **Safety Codes:** Nursing homes must also meet a variety of fire and life-safety regulations on the federal and state levels. In many cases, the codes that inspectors use to determine compliance are outdated and fundamentally linked to the prevailing institutional nursing home model. The ABA suggests that the various groups in charge of setting these vitally important standards – including the International Code Council and the National Fire Protection Association – revise their recommendations to accommodate small-home models that did not exist when the rules were first developed.
- **Financing and Reimbursement:** The ABA acknowledges that renovating or replacing the existing outdated nursing home infrastructure will require significant capital investments. The federal government could directly support such investments, the ABA suggests, by providing low-cost financing through the Department of Housing and Urban Development (HUD) – which already backs billions in loans for owners and operators of nursing homes – and other federal agencies. The ABA also calls on Congress to set “reasonable” Medicare and Medicaid reimbursement rates to fund ongoing care; neither program currently covers private rooms except in very limited cases.
- **Certificate of Need Waivers:** Most states have some form of certificate of need (CON) law, which limits the number of nursing home beds that can operate within a given state or region. The ABA suggests offering CON waivers to encourage the development of new alternatives.



How does the Green House model fit into the ABA’s recommendations?

The ABA specifically cites the Green House model’s success during the COVID-19 pandemic as a reason for adopting the resolution, including the substantially lower infection and death rates among Green House homes as compared to the general nursing home population.

Does the ABA’s support for small homes also include workforce solutions?

Yes, the ABA resolution clearly asserts that design alone will not solve the endemic problems in long-term care: “The authors acknowledge that the advantage of Green House homes comes from more than mere size. They have the advantage of private bedrooms and bathrooms, limited ancillary staff, and fewer admissions. Together these factors point to the need to fundamentally change the physical plant structure of nursing homes as an essential starting point in preventing a long-term care pandemic debacle from ever happening again.”

What is The Green House Project’s stance on the ABA resolution?

The Green House project supports the ABA’s bold list of potential reforms. We stand ready to assist in any way possible to clear the regulatory and financial hurdles that currently prevent wider adoption of the small-home nursing home model.

How can I learn more about the ABA’s positions?

The full resolution [is available here](#). Charles Sabatino, who serves as the director of the ABA’s Commission on Law and Aging, additionally [coauthored a piece about potential reforms](#) with longtime nursing home reform advocate and University of California, San Francisco professor emeritus Charlene Harrington.