



November 6, 2023

RE: File Code CMS-3442-P; Minimum Staffing Standards for Long-Term Care Facilities and Medicaid Institutional Payment Transparency Reporting

Dear Administrator Brooks-LaSure:

I submit my comments on behalf of The Pennsylvania Association of Directors of Nursing Administration (PADONA) and our members. We represent 486 nurse leaders working in Pennsylvania nursing facilities.

I am a staunch supporter of quality care and service delivery in our long-term care industry. Our seniors are among our most vulnerable population requiring our best and most diligent efforts in their care delivery.

I am writing to express deep concerns about the proposed rule by CMS regarding minimum staffing standards for long-term care facilities, published September 6, 2023.

Over the past 3 years, our industry has experienced extreme volatility, which I have not personally seen in my 25 years in this industry. The COVID-19 pandemic exposed significant inadequacies of our industry's infrastructure that were creating substantial challenges for providers pre-pandemic. The pandemic hastened an already declining workforce creating critical shortages of both licensed and paraprofessional health care providers to care for our most vulnerable population.

The proposed rule outlining minimum staffing standards is ill-timed, at best, and on target to decimate an already stressed beyond capacity industry. The vast majority of our membership cannot staff at levels they so desire and many are limiting capacity due solely to workforce insufficiencies. Adding additional staffing requirements does nothing but add to the current crisis. The current workforce crisis is causing real trauma for hospital systems, who cannot find placement for nursing home appropriate patients. The capacity limitations, in some markets, has created situations where hospitals are forced to hold patients beyond their necessary time, discharge patients to their community setting without the appropriate care, services and supervision, or has shifted the burden of care to family and friends who lack the necessary resources to provide adequate care and services. In Pennsylvania, we have seen 25 nursing facilities close since the pandemic, most citing workforce shortages and financial duress as the primary cause(s). Adding additional staffing requirements will only add stress to an already over - burdened industry.

In addition to the lack of workforce, we have seen increases between 25-50% in labor costs since the pandemic. The increased labor costs coupled with the inflation impact has added even further financial distress to an industry on the precipice of insolvency. In 2022, the average nursing home operated at negative margins, in large part because the majority of funding comes from the Medicaid program, which fails to reimburse nursing facilities adequately to cover the actual cost of providing care. This unfunded mandate, proposing arbitrary staffing minimums, will not only fail to improve quality of care but instead result in the complete lack of care to our most vulnerable population. This proposed staffing minimum will surely drive more providers out of business creating an even more pronounced access to care challenge.

While CMS acknowledges recruitment challenges in our industry, they offer no material solutions to address them. Without investing in improving the industry's foundation and infrastructure, these unfunded mandates simply continue to add insult to injury.

Nursing facility residents are vastly different in their health care needs and the care and services they require. As such, there is no one prescriptive staffing pattern that guarantees quality of care to all nursing facility seniors.

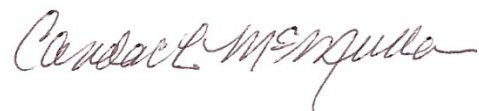
Since July 1, 2023, Pennsylvania nursing facility providers have been operating under new state mandated staffing requirements. These new staffing requirements were funded through increases in Medicaid reimbursement. Without commensurate reimbursement to pay for additional staffing requirements, additional unfunded mandates will further decimate the industry.

CMS cannot solve the problem of our workforce crisis through this unfunded mandate! The workforce crisis in our industry is multi-faceted. Integral is the fact that our reimbursement must be commensurate with the care and services provided. We cannot continue to operate with such large gaps in unfunded care. As operating margins plunge further into the negative, our crisis only exacerbates. Should CMS move forward with this proposal, I would encourage you to begin planning NOW for the more significant access to care crisis that will most assuredly result, amplified by the growing senior population and declining workforce.

I urge CMS to shift its' focus - consider the root cause(s) of our industry crisis and allocate the resources necessary for nursing facilities to provide quality care and services to our most vulnerable! Without this.....the nursing facility industry is fated for demise.

We appreciate the opportunity to provide these comments on the proposed staffing regulation. I can be reached at 814.617.1435 or cmcmullen@padona.com.

Regards,



Candace McMullen
Executive Director Board Chair