



American Association on Health & Disability

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AAHD - Dedicated to better health for people with disabilities through health promotion and wellness



LAKESHORE

June 8, 2022

Re: CMS RFI on Revising Long-Term Care Facilities Mandatory Minimum Staffing Requirements (Nursing Facilities)

CMS File Code – CMS-1765-P

The American Association on Health and Disability and the Lakeshore Foundation appreciate the opportunity to provide comments on the need and implementation of a nursing facility minimum staffing standard.

The American Association on Health and Disability (AAHD) (www.aahd.us) is a national non-profit organization of public health professionals, both practitioners and academics, with a primary concern for persons with disabilities. The AAHD mission is to advance health promotion and wellness initiatives for persons with disabilities. AAHD is specifically dedicated to integrating public health and disability into the overall public health agenda.

The Lakeshore Foundation (www.lakeshore.org) mission is to enable people with physical disability and chronic health conditions to lead healthy, active, and independent lifestyles through physical activity, sport, recreation and research. Lakeshore is a U.S. Olympic and Paralympic Training Site; the UAB/Lakeshore Research Collaborative is a world-class research program in physical activity, health promotion and disability linking Lakeshore's programs with the University of Alabama, Birmingham's research expertise.

We applaud HHS and CMS for taking the proposed necessary step for encouraging a minimum staffing requirement.

We join our sister organizations – the National Consumer Voice for Quality Long-term Care and Justice in Aging, as well as their sister advocate organizations - Long Term Care Community Coalition, Center for Medicare Advocacy, and California Advocates for Nursing Home Reform who have submitted detailed, RFI question-by-question responses to the RFI. AAHD and the Lakeshore Foundation are public health organizations, well experienced in **Medicaid home-and-community-based services and supports (HCBS)**. We are not technically proficient in nursing home payment and operational issues. However, we witness the impact and effects of inadequate nursing facility services and the inability of many nursing facilities to provide daily, individualized, person-centered, needed services and supports. We see these challenges in the **transitions between community-NF-community**. We see the failure of many states to implement, as Congress intended, **PASARR (Pre-admission Screening and Annual Resident Review)**. We see many people with disabilities inappropriately admitted to NFs because of the lack of HCBS services, supports, and settings; only to see many such resident health decline, largely because of inadequately trained and prepared staff, in sufficient numbers.

As our sister advocates have stated:

We fully support the Administration’s plan to set mandatory minimum staffing levels. The 1987 Nursing Home Reform Law gives the Secretary full authority to set minimum staffing standards. The Reform Law requires that the Secretary assure that facilities provide each resident with high quality care. These broad and important powers provide the Secretary with clear authority to set minimum staffing standards.

Staffing is a complex issue, with multiple interrelated factors affecting staffing levels. Setting minimum staffing levels is essential to improving quality of care for residents, but it is not sufficient. Staff, especially certified nursing assistants, need better wages and benefits, more training, better working conditions, more respect and better treatment from employers, and less discrimination against women of color and immigrants. Some of these staffing issues will require additional federal regulations.

1. Is there evidence (other than the evidence reviewed in this RFI) that establishes appropriate minimum threshold staffing requirements for both nurses and other direct care workers? To what extent do older studies remain relevant? What are the benefits of adequate staffing in LTC facilities to residents and quality of care?

Evidence:

- o 2001 study from the Centers for Medicare & Medicaid Services (CMS) found a clear association between nurse staffing ratios and nursing home quality of care. It established the importance of having a minimum of 0.75 Registered Nurse (RN) hours per resident day, 0.55 Licensed Vocational Nurse (LVN)/Licensed Practical Nurse (LPN), and 2.8 (to 3.0) Certified Nursing Assistant (CNA), for a total of 4.1 nursing to prevent resident harm and

jeopardy.

- o The minimum standard was verified in a 2004 observational study, and later confirmed in a simulation study finding that between 2.8 and 3.6 CNA were needed to ensure adequate care to residents with varying staffing care needs.

□ Benefits:

- o Many studies have found a strong relationship between nursing staffing levels and improved quality of care in terms of both process and outcome measures.
- o The strongest relationships are between RN staffing levels and quality measures.
- o Studies have shown that higher nurse staffing levels are associated with improved resident outcomes, including: better functional improvement; and - reduced incontinence, urinary tract infections and catheterizations, pain, pressure ulcers, weight loss and dehydration, use of antipsychotics, restraint use, infections, falls, rehospitalization and emergency department use, missed care, adverse outcomes, and mortality rates. Higher staffing levels are strongly associated with fewer deficiencies.
- o Low staffing levels are associated with COVID-19 infections and deaths. Insufficient staffing leads to greater infection control violations which lead to greater risk of spread and death. Infection control deficiencies are more common at homes with fewer nurses and aides than at facilities with higher staffing levels, based on an analysis of data from the past two regular inspection periods.

Thank you for the opportunity to comment. If you have any questions please contact Clarke Ross at clarkeross10@comcast.net.

Sincerely,



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