

CMS Establishes Minimum Nurse Staffing Standards for Long-Term Care Facilities

The Centers for Medicare & Medicaid Services (CMS) issued a final rule aimed at bolstering nurse staffing at long-term care (LTC) facilities. In response to advocacy by ANA and its partnering organizations, CMS incorporated several refinements to the final regulation as outlined in our submitted comment letters on the proposed rule. ANA is pleased to see CMS finalize this significant regulation and set nurse minimum staffing standards in LTC facilities across the country.

ANA continues to analyze the final rule and urges all states and members to do the same to determine state- and facility-level impacts.

KEY PROVISIONS



1

CMS is adopting a total staffing standard of 3.48 total hours per resident day (HPRD) and individual minimum nurse staffing standards of 0.55 HPRD for registered nurses (RNs) and 2.45 HPRD for nurse aides (NAs).

- ANA urged CMS to also include a specific HPRD standard for licensed practical nurses/licensed vocational nurses (LPNs/LVNs) recognizing their critical contribution to the patient care team. CMS decided not to create an LPN/LVN-specific standard because data does not show a consistent correlation of LPNs/LVNs staffing levels with increased safety and patient care. However, CMS notes that does not preclude facilities from utilizing LPNs/LVNs to meet the total HPRD staffing standard.
- For states that have existing staffing standards in place, CMS notes that facilities are required to comply with whichever (federal or state) requirements are higher.

2

CMS finalized its proposal to require an RN to be on site 24/7. This requirement would be independent of the minimum ratio standards. **ANA is pleased to see this provision included in this rule as we have long advocated for this requirement.**

3

CMS also finalized modifications to existing Facility Assessments requirements to ensure facilities are taking a comprehensive approach to staffing that ensures they meet resident needs. CMS added a requirement in the final rule that facilities must involve direct care workers and their representatives in the process to help identify the needed resources and supports for patient care based on acuity day-to-day and during emergencies. **ANA urged CMS to ensure Facility Assessments included nurse input and are pleased to see that requirement included in the final rule.**

4

CMS will exempt facilities from the requirements if the following are met:

- Workforce is unavailable as measured by having a nursing workforce per labor category that is at minimum 20 percent below the national average as calculated by CMS using Bureau of Labor Statistics and Census Bureau data,
- the facility is making a good faith effort to hire and retain staff,
- the facility posts notice of its exemption status in a prominent area that is publicly viewable, and
- the facility provides individual notice of its exemption status and to the degree it is not in compliance with the HRPD requirements to all prospective and current residents and sends a copy of the notice to a representative of the Office of the State Long-Term Care Ombudsman.
- **ANA urged CMS to conduct rigorous assessments before granting any exemptions and are pleased to see CMS strengthen its exemption criteria and hold facilities responsible for informing residents and the public of their noncompliance.**

5

Enforcement actions will be taken against LTC facilities that do not comply with the requirements. These may include but are not limited to termination of provider agreements, nonpayment for services provided to patients covered by Medicare and/or Medicaid, and civil monetary penalties.

6

Last, CMS also finalized requirements for facilities to report to State Medicaid agencies on the percentage of payments for Medicaid-covered services in nursing homes and intermediate care facilities for individuals with intellectual disabilities (ICF/IIDs) that are spend on compensation for direct care workers and support staff. States will have four years to come into compliance with the reporting requirements.

TIMELINE



The final rule will be published in the Federal Register on **May 10**.

Implementation of the provisions are on a staggered timeline:

- Facilities will have 90 days after publication of the final rule to comply with the Facility Assessment requirements.
- Facilities in urban areas will have two years to implement the 24/7 RN requirement and three years to meet the HRPD standards.
- Facilities in rural areas will have three years to implement the 24/7 RN requirement and five years to implement the HRPD standards.

LINKS



Press Release:

<https://www.cms.gov/newsroom/press-releases/biden-harris-administration-takes-historic-action-increase-access-quality-care-and-support-families>

Fact Sheet:

<https://www.whitehouse.gov/briefing-room/statements-releases/2024/04/22/fact-sheet-vice-president-harris-announces-historic-advancements-in-long-term-care-to-support-the-care-economy/>

Final Rule:

<https://public-inspection.federalregister.gov/2024-08273.pdf>