

February 1, 2023



The Honorable Kevin McCarthy
Speaker
U.S. House of Representatives
Washington, DC 20515

The Honorable Charles Schumer
Majority Leader
U.S. Senate
Washington, DC 20510

The Honorable Hakeem Jeffries
Minority Leader
U.S. House of Representatives
Washington, DC 20515

The Honorable Mitch McConnell
Minority Leader
U.S. Senate
Washington, DC 20510

Dear Speaker McCarthy, Leader Schumer, Leader McConnell and Leader Jeffries,

On behalf of the more than 5,000 nonprofit aging services providers and other mission-minded organizations that LeadingAge represents, I urge you to consider legislation to address the issue of nursing home minimum staffing levels within the context of the current staffing and funding challenges facing the long-term care sector.

As part of the Biden Administration's nursing home care initiative, the Centers for Medicare & Medicaid Services (CMS) is expected to issue a rule mandating minimum staffing levels for nursing homes. For the first time in decades, our federal government is committed to meaningful action to ensure America's older adults and families can receive quality nursing home care—a goal that LeadingAge and its nonprofit, mission-driven nursing homes have long shared. But at a time when providers are operating under severe workforce shortages and inadequate reimbursement, staffing mandates will undoubtedly force closures and limit older adults and families' access to care and services. These challenges are also resulting in backlogs at hospitals, which are unable to discharge patients due to reduced capacity in post-acute long-term care facilities.

The Critical Issues

There are several critical issues impacting nursing homes that must be addressed to ensure federal action on staffing ratios is realistic and can achieve its intended effect:

- **There are too few people available to hire in nursing homes.** Like much of health care and other sectors of the economy (there are currently nearly two jobs for every job seeker), nursing homes are struggling with employee shortages—on top of a chronic workforce crisis marked by significant challenges in recruiting, training and retaining qualified care professionals. LeadingAge members report that, on average, 20% of their direct care and nursing job postings draw no applicants.
- **The cost of delivering quality nursing home care far exceeds reimbursement.** Nursing homes largely rely on Medicaid for most of their financing. Unlike other businesses, they cannot simply charge consumers more. Average Medicaid base rates across states covered just 86% of nursing home costs in 2019—and that was before pandemic costs and inflation were a factor. Providers are largely dependent on reimbursement to cover the cost of delivering quality care. Without it, they can't survive.

- **One staffing level does not fit all needs.** The needs and underlying condition of nursing home residents nationwide vary widely—as do the skills and capacity of available care professionals, each location’s operational capabilities, and local workforce conditions.

Our Proposal

LeadingAge seeks federal legislation to address the issue of nursing home minimum staffing levels within the reality of the current staffing and funding crisis. Our proposal establishes six common sense conditions that must be met before mandatory nursing home staffing levels could be implemented:

- 1. The Medicaid fee for service nursing home rate covers at least 95% of the cost of care.**
- 2. States with Medicaid Managed Long-Term Services and Supports have a set benchmark rate equal to at least 95% of the cost of care.**
- 3. The secretaries of Labor and Health and Human Services have certified there is not a shortage of potential employees qualified to work in long-term care settings.**
- 4. Standards are flexible enough to meet the current needs of the residents being served.**
- 5. A national public health emergency is not in place.**
- 6. Staffing mandates include waivers for local emergency conditions in place.**

Implementing a federal staffing mandate without addressing persistent workforce shortages and longstanding reimbursement challenges will damage a system of care that is struggling at a time the country can least afford it, particularly considering the increasing number of older adults who will be seeking services as Baby Boomers continue to age.

LeadingAge stands ready to collaborate with Congress and the Administration on behalf of our members and looks forward to continuing the ongoing discussion of how to ensure quality nursing home care to older Americans and their families.

Sincerely,



Katie Smith Sloan
President and CEO
LeadingAge

Cc: Chair and Ranking Member, House Energy and Commerce Committee and the Subcommittee on Health
Chair and Ranking Member, House Ways and Means Committee and the Subcommittee on Health
Chair and Ranking Member, Senate Health, Education, Labor and Pensions Committee and the Subcommittee on Primary Health and Retirement Security
Chair and Ranking Member, Senate Finance Committee and the Subcommittee on Health Care