

# LeadingAge Town Hall Nursing Home Proposed Staffing Mandate

## Today's Agenda and Speakers

**Welcome and Opening:** Ruth Katz, Senior Vice President, Policy

**Overview of the Multi-faceted approach for the mandate:** Janine Finck-Boyle, Vice President Health Policy & Regulatory Affairs

**Details of the Proposed Rule:** Jodi Eyigor, Director, Nursing Home Policy & Quality

**Major Concerns at 20,000 feet:** Ruth Katz, Senior Vice President, Policy

**Tools to Decipher and Help:** Tim Thate, Vice President, Information Systems & health Analytics, LeadingAge NY

**Action Items, Next Steps & Advocacy:** Ruth Katz, Senior Vice President, Policy

**Member Questions:** Janine Finck-Boyle, Vice President Health Policy & Regulatory Affairs



Please visit [www.leadingage.org](http://www.leadingage.org) for updates

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Multi-faceted approach = Proposed Staffing Mandate

- Payroll Based Journal (PBJ)
- RFI in FY23 SNF PPS Rule
- 2022 Nursing Home Staffing Study(Abt Associates)
  - Time motion study
  - Literature review
  - Listening sessions
  - Qualitative analysis
  - Quantitative analysis

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## Overview of the Proposed Staffing Mandate Rule

- Three parts
- Staggered implementation
- Time-limited exemptions
- Nurse needs
- National campaign - HRSA
- Medicaid Payment Transparency Reporting
- Comments

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## 24/7 RN requirement

- Would replace existing requirement for 8 hours / 7 days
- On-site, available to provide direct resident care
- DON hours would count, soliciting feedback
- Would maintain existing waiver process
- Implementation: 2 years (3 years rural)

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## Minimum RN and Nurse Aide Staffing

- 0.55 HPRD RN, 2.45 HPRD nurse aide
- Which PBJ job codes?
- Exemptions:
  - Location
  - Good faith efforts to recruit/retain staff
  - Financial commitment
- Not eligible for exemption:
  - noncompliance with PBJ
  - SFF designation
  - Insufficient staffing: pattern or widespread with actual harm, IJ past 12 months
- Implementation: 3 years (5 years rural)

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## Enforcement of 24/7 RN and Minimum Staffing Standards

- Enforced through survey and certification process
- Would use PBJ data for compliance
  - Most recent quarter for HPRD requirements
  - Don't forget "sufficient" and "competent" staff tags!
- Subject to remedies (penalties)
- Waiver does not equal exemption and vice versa

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## Impact of 24/7 RN

- 3,267 additional RNs
- \$349 million/year
  - Average \$5.97 per resident per day

## Impact of Minimum HPRD Standards

- 12,639 additional RNs and 76,376 additional nurse aides
- More than \$4.2 billion/year
  - Average \$13.24 per resident per day

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## Facility Assessment

- Evidence-based, data driven
- Input from staff or representatives
- Drive staffing decisions: acuity, behavioral health issues
- Include plan for all shifts and weekends
- Staffing plan for recruitment / retention
- Staffing contingency plan
- Implementation: 60 days from finalization



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## Medicaid Payment Transparency

- Reporting provision for state Medicaid agencies
- Reported on state website, federal Medicaid website
- Concerns:
  - Will require provider reporting
  - Opportunity to draw inaccurate conclusions

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## Major Concerns

- Not enough people – domestic and international pipelines inadequate
- RNs are in short supply across the healthcare system
- Reimbursement to pay more people and higher wages – where will \$40.6 B come from?
- Additional reporting burdens for providers
- No evidence base for CMS decisions; lack of transparency
- Poor communication starting at the top

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## Next Steps: Message

- Key Message: Quality and staffing are linked but this is not a viable solution.
- The process was rushed and it is incomplete.
- Withdraw the proposed rule until the evidence research is complete and steps have been taken to ensure adequate funding and there are enough qualified applicants.

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## Next Steps: Advocacy

- Bipartisan letters from Congress to CMS and White House
- Congressional visits
- Congress in Your Neighborhood
- Conversations with CMS officials
- Member support to promote high volume of unique comments
- Engage Nursing Home Network to discuss challenges & advocacy
- Leverage all provider type members
- Collaborate with other associations

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- [Minimum Staffing Standards Proposed Rule](#)
  - [CMS Fact Sheet on Proposed Rule](#)
  - [LeadingAge Overview of Proposed Rule](#)
  - [LeadingAge Analysis of Proposed Rule](#)
- Go [here](#) to stay up to date with all of our latest staffing standard activities!