

March 5, 2024



The Honorable Jason Smith
Chairman
Committee on Ways and Means
U.S. House of Representatives
Washington, DC 20515

The Honorable Richard Neal
Ranking Member
Committee on Ways and Means
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Smith and Ranking Member Neal,

I am writing on behalf of LeadingAge members to express our support for **H.R. 7513, the Protecting America's Seniors' Access to Care Act**, which will be considered by the House Ways and Means Committee on March 6, 2024. This bill would prohibit implementation of the proposed rule on Minimum Staffing Standards for Long-Term Care Facilities (CMS-3442-P) that was released by the Centers for Medicare and Medicaid Services (CMS) on September 1, 2023.

LeadingAge represents more than 5,400 nonprofit and mission-driven aging services providers and other organizations that touch millions of lives every day. Alongside our members and 36 partners in 41 states, we use advocacy, education, applied research, and community-building to make America a better place to grow old. Our membership encompasses the entire continuum of aging services, including skilled nursing, assisted living, memory care, affordable housing, retirement communities, adult day programs, community-based services, hospice, and home-based care.

As the association of nonprofit and mission-driven aging services providers, LeadingAge shares the Administration's goal of ensuring access to the highest quality care in our nation's 15,000 nursing homes. However, the proposed rule works against this shared goal and would be unfeasible to implement due to its failure to address the chronic reimbursement challenges and workforce shortages plaguing the health and long-term care sectors.

In order to provide a more accurate picture of the proposed staffing rule's impacts on nursing homes, we have included a state-by-state analysis of the additional staff that nursing homes would be required to hire and the anticipated costs to meet those requirements. Our broad concerns around the Administration's proposed staffing requirements are outlined below:

- **There is no additional funding to hire and retain staff.** CMS estimates that 90,000 new staff will need to be hired at a cost of \$4.06 billion annually. Independent estimates of cost impacts are even greater, including LeadingAge's estimate of \$7.1 billion annually. The costs of delivering quality care already far exceed Medicaid reimbursement levels, and this unfunded mandate will force nursing homes to consider limiting admissions or even closing their doors for good, depriving older adults and their families care in their communities. CMS has announced \$75 million in funding through a partnership with the Health Resources and Services Administration (HRSA) to boost the long-term care workforce. However, this funding is a mere drop in the bucket compared to the costs to comply with the proposed rule, and CMS does not identify funding to assist long-term care providers in meeting the new staffing requirements.

- **There simply aren't enough people to hire.** As is true for most retail, food service, and hospitality businesses, a mandate will not solve the long-standing workforce shortages impacting nursing homes and the rest of long-term care continuum, particularly in rural and underserved areas. CMS estimates that approximately 75% of nursing homes will need to hire additional registered nurses (RNs) and certified nurse aides (CNAs) to meet the proposed staffing requirements. Hiring in long-term care has long been a challenging process, but with unemployment at 3.7%, there simply aren't enough workers to fill open positions. Many nursing homes have already been forced to utilize staffing agencies at prohibitive costs.
- **Licensed Practical Nurses (LPNs) were completely omitted from the staffing requirements.** The proposed rule fails to include the essential contributions of Licensed Practical Nurses (LPNs), who comprise 13% of the nursing home workforce and should count toward either the RN or CNA mandated ratios. LPNs contribute to patient care and quality of life, and these positions offer career ladders that provide opportunities for growth and promote staff retention. More than 88% of all LPNs are women, and nearly half of all employed LPNs identify as people of color. Unless more resources are provided for additional staff, the proposed rule would disproportionately impact people of color as nursing homes are forced to shift staffing patterns and employ fewer LPNs in order to finance the hiring of additional RNs.
- **Mandating staffing requirements could decrease access to care.** The existing workforce shortages are resulting in backlogs at acute care hospitals, which are unable to discharge patients due to reduced capacity in post-acute, long-term care facilities. Further, home care and hospice providers – already navigating workforce challenges – will be short even more workers if they move to nursing homes. Shuffling the relatively small number of care workers available between settings won't solve the problem. And holding nursing homes to a standard that is impossible to meet because there are not enough workers in the country, then fining them for not meeting that standard, is going to force quality of care down—not improve it.
- **We need meaningful workforce development investments and fair reimbursement rates.** Federal action on staffing mandates must be realistic to achieve its intended effect and should be paired with historic workforce investments and fair reimbursement rates. Congress and the Administration must commit to providing the resources necessary to build domestic and international workforce pipelines that will allow providers to attract and retain qualified workers.

We urge you to support passage of H.R. 7513, the Protecting America's Seniors' Access to Care Act, when it comes up for consideration in the Ways and Means Committee. Federal action on staffing mandates must be realistic to achieve its intended effect and should be paired with historic workforce investments and fair reimbursement rates. If you have any questions, please contact Todd Adams, Director, Health Legislative Affairs, at TAdams@LeadingAge.org.

Sincerely,



Katie Smith Sloan
President and CEO
LeadingAge

LeadingAge State-by-State Analysis: Proposed SNF Minimum Staffing Rule 2023

LeadingAge: Additional Yearly Costs and FTEs to Meet Proposed Staffing Regulation					
State	SNF Count	Total Cost	Cost per SNF	Additional RN FTEs needed	Additional Aide FTEs needed
USA	14,993	\$ 7,138,167,385	\$ 476,100	26,753.97	85,364.39
AK	20	\$ 267,118	\$ 13,356	1.00	2.59
AL	225	\$ 84,588,033	\$ 375,947	407.09	1,077.08
AR	218	\$ 73,024,240	\$ 334,974	602.62	561.33
AZ	142	\$ 60,657,017	\$ 427,162	216.75	860.67
CA	1,170	\$ 503,718,487	\$ 430,529	2,905.01	2,741.29
CO	217	\$ 75,765,820	\$ 349,151	142.53	1,099.28
CT	203	\$ 100,991,458	\$ 497,495	279.81	1,421.19
DC	17	\$ 5,112,301	\$ 300,724	2.16	88.37
DE	44	\$ 16,537,888	\$ 375,861	22.34	235.61
FL	697	\$ 244,901,445	\$ 351,365	1,120.84	2,880.67
GA	357	\$ 229,905,222	\$ 643,992	996.76	2,857.78
HI	43	\$ 7,888,335	\$ 183,450	11.18	123.10
IA	411	\$ 82,171,401	\$ 199,930	342.71	1,018.23
ID	81	\$ 15,487,298	\$ 191,201	50.32	192.97
IL	693	\$ 437,705,033	\$ 631,609	1,039.29	6,322.96
IN	521	\$ 190,167,002	\$ 365,004	705.64	2,252.16
KS	313	\$ 58,052,278	\$ 185,471	296.53	615.87
KY	274	\$ 87,887,974	\$ 320,759	318.91	1,235.66
LA	269	\$ 184,587,873	\$ 686,200	1,336.61	1,658.95
MA	353	\$ 204,949,869	\$ 580,595	479.62	2,431.78
MD	225	\$ 137,447,297	\$ 610,877	220.29	1,948.58
ME	87	\$ 7,452,067	\$ 85,656	28.71	68.94
MI	430	\$ 180,140,754	\$ 418,932	592.29	2,286.83
MN	349	\$ 83,803,783	\$ 240,125	182.18	1,070.50
MO	509	\$ 245,314,401	\$ 481,954	1,321.95	3,007.75
MS	202	\$ 64,861,987	\$ 321,099	322.61	852.98
MT	62	\$ 20,466,662	\$ 330,107	55.21	257.05
NC	420	\$ 207,303,426	\$ 493,580	858.56	2,350.89
ND	76	\$ 9,582,885	\$ 126,091	42.99	61.59
NE	186	\$ 36,693,759	\$ 197,278	189.27	311.84
NH	73	\$ 34,312,033	\$ 470,028	59.79	403.71
NJ	348	\$ 259,137,204	\$ 744,647	626.96	3,336.77
NM	68	\$ 29,598,258	\$ 435,269	95.11	381.51
NV	67	\$ 36,451,007	\$ 544,045	103.06	487.40
NY	606	\$ 644,023,777	\$ 1,062,746	1,586.58	7,166.58
OH	946	\$ 430,983,673	\$ 455,585	1,389.86	6,228.55
OK	292	\$ 95,882,192	\$ 328,364	772.94	679.21
OR	129	\$ 20,184,914	\$ 156,472	130.83	49.85
PA	672	\$ 463,393,312	\$ 689,573	831.42	5,972.42
PR	6	\$ 2,863,565	\$ 477,261	0.05	60.78
RI	75	\$ 23,881,093	\$ 318,415	56.07	267.14
SC	188	\$ 93,944,312	\$ 499,704	383.54	1,149.84
SD	98	\$ 18,677,719	\$ 190,589	62.75	242.09
TN	311	\$ 162,338,993	\$ 521,990	602.08	2,246.51
TX	1,193	\$ 721,780,385	\$ 605,013	3,717.05	8,867.67
UT	98	\$ 15,076,197	\$ 153,839	25.12	278.18
VA	289	\$ 230,824,163	\$ 798,700	707.42	3,057.67
VT	34	\$ 11,266,970	\$ 331,381	31.81	98.47
WA	197	\$ 46,695,176	\$ 237,031	131.44	462.98
WI	331	\$ 73,586,853	\$ 222,317	170.42	1,058.46
WV	122	\$ 56,636,571	\$ 464,234	159.59	849.40
WY	35	\$ 9,195,906	\$ 262,740	18.36	124.71