



July 8, 2024

The Honorable Elizabeth Warren
U.S. Senate
309 Hart Senate Office Building
Washington, DC 20510

The Honorable Jan Schakowsky
U.S. House of Representatives
2408 Rayburn House Office Building
Washington, DC 20515

Dear Senator Warren and Representative Schakowsky:

We appreciate your interest and welcome the opportunity to explain our advocacy around the Centers for Medicare and Medicaid Services' Minimum Staffing Standards for Long-Term Care Facilities final rule.

Since the Biden Administration's initial call for a staffing mandate with the 2022 release of its Action Plan for Nursing Home Reform, we have repeatedly expressed our alignment with the goal of ensuring all older adults and families can receive quality care. We know that quality care and staffing are tightly connected. Without nurse aides, registered nurses (RNs), licensed practical nurses, and others who serve nursing home residents, there simply is no care.

While we agree on the goal of ensuring quality care, we disagree on the use of mandates to achieve it. That is why, on behalf of our more than 5,400 nonprofit and mission-driven members who serve older adults in nursing homes and other care settings, we have made our opposition to the rule extremely clear.

The reason is simple: America's current infrastructure of long-term care cannot sustain staffing mandates until they are supported by adequate funding and available staff. By our calculations, at least 27,000 additional full-time equivalent registered nurses and 78,000 additional full-time equivalent nurse aides are needed (not including exemptions or waivers), just in the first full year of implementation. Where will those 100,000 caring, qualified individuals come from?

And what about the cost? The price tag for additional staff, both RNs and nurse aides, will be over \$7 billion for the first full year based on fourth quarter 2023 data (also not factoring in exemptions or phase ins). Unfortunately, Medicaid reimbursement rates, which provide the lion's share of nursing homes' funding, do not fully cover the actual cost of care. Providers' resources are also strained by Medicare Advantage plans, which now provide coverage for over 50% of Medicare enrollees and often do not cover the cost of care and also threaten resident safety by denying needed care—issues that Senator Warren and Representative Schakowsky have championed in partnership with us and our members. Care costs money—money that pays for the wages these professionals deserve and for training to build essential competencies—and the numbers simply do not add up.

Next, we must consider workforce supply. We have a math problem: supply and demand are far out of line. Between 2021 and 2031, nearly 9.3 million total direct care jobs will need to be filled, including one million new jobs and job vacancies that are created as existing workers leave the long-term care field or exit the labor force. There are not enough nurses in the U.S. to fill the positions that are currently open in long-term care settings, and we are deeply concerned about gaps in all the settings across the care continuum that will be exacerbated by this mandate. What's more, schools are not graduating enough nurses to fill either existing jobs or those projected to open in long-term care.



As we said [when announcing our board-approved decision to join as co-plaintiff in the lawsuit](#) challenging the final staffing rule, we are opposed to this mandate because it does not acknowledge the interdependence of funding, care, staffing, and quality. With fewer staff, our nonprofit and mission-driven nursing home members are forced to make difficult decisions, including reducing admissions or closing units to maintain quality care. In some cases, staffing challenges have contributed to decisions to close altogether. The results? Further limits on older adults' ability to access needed services that are available in proximity to their community. The staffing mandate simply ignores the bigger issues: lack of staff and—even if they were readily available—the dearth of additional funding to support the costs imposed by the mandate.

Regarding resources LeadingAge has devoted to the education of policymakers and advocacy around the matters facing our members, it is important to note that these efforts address a wide range of critical issues affecting not only nursing homes but also providers of affordable senior housing and other settings, including Programs of All-Inclusive Care for the Elderly, hospice, home health, adult day, Medicare Advantage, Medicaid home and community-based services, assisted living, and life plan communities. The expansion of resources for all of these services will remain central to LeadingAge's advocacy and education efforts.

Our expenditures cover the costs of our direct lobbying by staff as well as federal policy education and grassroots advocacy by our members, including our annual lobby day, where our members visit elected officials and their staff in their Capitol Hill offices. Our support of the latter is particularly critical to ensure that lawmakers hear, first-hand, what's needed to serve older adults—from the people who do the work. [Listen to the words of our member R. Kevin McFeely, president and CEO, Futura Age, Tacoma, WA, about his April 2024 lobby day visit](#): “We shared that in the state of Washington on any given day, we have 641 people that are boarding in hospitals, instead of being transferred to skilled nursing because we don't have the staff. I used an example: one of my communities has 211 beds, but we can staff only 130 of them—a little more than half—and that really impacted them.” Policymakers must recognize how the health and long-term care systems work together and depend on each other for the health and wellbeing of older adults and those with disabilities.

Our quarterly and annual lobbying disclosures demonstrate our commitment to dedicating resources to improving and expanding programs that serve older adults. Despite the billions of dollars in federal funds spent annually on Medicare, Medicaid, and affordable housing, for example, we believe the federal government has a responsibility to do more. Our country is rapidly aging, and we are not prepared to meet the growing demand for services and supports that will result. Thus, we advocate for these programs— including those that will expand the long-term care workforce, increase healthcare reimbursement rates to cover the cost of care, and expand the supply of affordable housing—all to do better by older adults.

Finally, we cannot overemphasize the serious gaps in America's long-term services and supports financing system that the staffing mandate lays bare. Addressing these gaps can be done only by Congressional action—and our advocacy sounds the alarm on this to ensure that older adults can access care and providers will have the resources necessary now and in the future.



We are committed to our advocacy initiatives related to staffing mandate and other issues, and to stand by the financial decisions we make to support our organization's mission. We look forward to working with you to meet the needs of America's older adults, and we hope to meet with you in the coming weeks to further discuss these issues.

Sincerely,

A handwritten signature in black ink that reads "Katie Smith Sloan". The signature is written in a cursive style with a large, stylized "K" and "S".

Katie Smith Sloan
President and CEO
LeadingAge