

June 24, 2024

The Honorable James Lankford
United States Senate
316 Hart Senate Office Building
Washington, DC 20510

Dear Senator Lankford:

On behalf of our nearly 5,000 member hospitals, health systems and other health care organizations, our clinician partners — including more than 270,000 affiliated physicians, 2 million nurses and other caregivers — and the 43,000 health care leaders who belong to our professional membership groups, the American Hospital Association (AHA) writes in support of S.J.Res. 91, a joint resolution for congressional disapproval of a rule relating to **"Medicare and Medicaid Programs; Minimum Staffing Standards for Long-Term Care Facilities and Medicaid Institutional Payment Transparency Reporting."**

The AHA and its members are committed to safe staffing to ensure high-quality, equitable and patient-centered care in all health care settings, including long-term care (LTC) facilities. Yet, the process of safely staffing any health care facility is about much more than achieving an arbitrary number set by regulation. It requires clinical judgment and flexibility to account for patient needs, facility characteristics and the expertise and experience of the care team. The Centers for Medicare & Medicaid Services' (CMS) one-size-fits-all minimum staffing rule for LTC facilities creates more problems than it solves and could jeopardize access to all types of care across the continuum, especially in rural and underserved communities that may not have the workforce levels to support these requirements.

Safe staffing is complex and dynamic. It must account for the acuity of the patients' needs, the experience and clinical expertise of the nurses and health care professionals on the care team, and the technical capabilities of the facility. Mandated nurse staffing standards remove from the practice of nursing real-time clinical judgment and flexibility. Numerical staffing thresholds do not consider advanced capabilities in technology or the interprofessional team care model that supports data-driven decision-making and collaborative practice. Emerging care models incorporate nurses at various levels of licensure, respiratory therapists, occupational therapists, speech-language pathologists, physical therapists and case managers. A simple mandate of a base number of registered nurse (RN) and nurse aide hours per resident day emphasizes staff roles of yesterday, rather than what current and emerging practices may show is most effective and safe for the patient, and best aligned with the capabilities of the care team. AHA is concerned that these rigid standards will stymie innovation in care delivery.



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June 24, 2024

Page Two

The AHA also is concerned that this final rule could lead nursing homes to reduce capacity or close outright, including those that are otherwise performing well on quality and safety metrics. The loss of these nursing home beds could adversely impact patients who have completed their hospital treatment and need continuing care in nursing facilities. The AHA [has already documented](#) rising lengths of stay for hospital patients in need of skilled post-acute care, with patients waiting days, weeks or even months for post-acute care placements. As those patients continue to occupy hospital beds, other patients awaiting elective surgeries or other scheduled procedures may find their care disrupted because there is no bed for them in the hospital. Even more troubling, this final rule could lead to delays in urgent medical care as patients coming into hospital emergency departments (EDs) may experience longer waits as EDs and inpatient beds are occupied by patients awaiting nursing home placements. The AHA [urged](#) CMS not to finalize the rule and to instead focus on developing more patient and workforce-centered approaches to safely staff nursing facilities.

Lastly, we believe this final rule could exacerbate the already serious shortages of nurses and skilled health care workers across the care continuum. The agency estimates that 79% of LTC facilities would have to increase staffing to meet the proposed standards, including the new standard requiring 24/7 RN staffing. Considering the massive structural shortages described by recent studies, it is unclear from where this supply of nurses will come, and it is inconceivable that LTC facilities will be able to meet these standards without detrimental effects to workforce availability throughout the care continuum. Strengthening the health care workforce requires investment and innovation, not inflexible mandates. **Therefore, AHA supports S.J.Res. 91 for Congress to disapprove this rule and prohibit the Secretary of Health and Human Services from implementing or enforcing this rule.**

Sincerely,

/s/

Stacey Hughes
Executive Vice President