



Submitted November 6, 2023

Friends of Residents in Long Term Care (FOR) is a North Carolina based citizens advocacy organization chartered in 1987 and committed to improving the conditions and care of residents living in long term care settings. We would like to comment on the proposed rules announced on September 6, 2023, that would implement a minimum staffing standard for nursing homes receiving federal funds.

FOR has long been supportive of a defined standard to replace what is the current ambiguous and difficult standard to hold long term care facilities accountable. Over our history we have consistently observed staffing to be the underlying cause associated with egregious care. We very much appreciate the Biden administration's effort at proposing a better-defined standard, but strongly believe it must be made much stronger to assure that residents' basic clinical needs are met. Unfortunately, the proposed regulations have set overall staffing levels at insufficient levels to ensure basic safety. With such low standards, facilities and state regulators may overlook serious violations as they interpret this staffing minimum as regulatory compliance.

FOR concurs with the recommendations provided by the National Consumer Voice which include:

- *Require nursing homes to meet a total staffing standard of 4.1 hours per resident day (HPRD) within the next two years. This total should be made up of at least:*
 - *1.4 HPRD of total licensed nurse care, composed of at least .75 HPRD of registered nurse (RN) care; and*
 - *2.80 HPRD of certified nurse aide care (CNA)*
- No waivers to facilities that cannot provide a level of care that ensures resident safety.

- Restrict admissions when minimum staffing standards are not met.
- Not delaying implementation of this standard for five years in rural areas. The 2023 Staffing Study found that staffing in rural homes is almost identical to staffing in homes located in urban areas. Residents in rural homes should not suffer for years before a staffing standard is implemented.

3.0 hours per day is NOT enough. Nursing home residents need 4.1 nurse HPRD to receive sufficient clinical care and avoid unnecessary harm, according to a landmark federal study and by the 2023 Staffing Study commissioned by CMS last year. CMS's proposed minimum of 3.0 HPRD could result in many facilities *decreasing* staff. It must be increased. **Residents deserve better.**

These additional requirements are financially feasible because the costs would be less than **five percent of the over \$100 billion** that nursing homes receive from Medicare and Medicaid annually.

FOR strongly supports CMS' proposal to require nursing homes to have an RN on staff 24 hours per day, seven days per week. RNs play a critical role in resident care. The current requirement of eight hours per day places all residents at risk of harm. To reach this new standard would only cost **about a Dollar a Day**. That's the cost, per resident, that nursing homes would need to pay to meet the 24-hour RN requirement in CMS's proposed minimum staffing standards. A recent analysis by the Long Term Care Community Coalition finds that the annual cost to meet the 24-hour RN standard costs only \$71 million – a fraction of the \$610 million cost industry leaders claim.

FOR also supports the proposed Medicaid transparency provisions, although we also request that Medicaid cost reports be made publicly available to disclose the total amount of spending on nursing, ancillary, and support services compared with spending on administration, property, and profits. Medicare costs reports also should be made more transparent regarding spending, related party transactions, and disallowances, along with greater accountability requirements for ensuring that funds are spent on resident care. We should ensure that taxpayer money is not being used fraudulently, rather that it is being spent on direct patient care.

By whatever measure, FOR remains concerned that a minimum standard will be treated by the industry as the defined standard of care rather than staffing sufficient to meet the needs of residents and will be enforced as such by state inspectors. Any standard of care is what is ultimately enforced. We hope CMS will encourage inspections that enforce care in facilities at staffing levels beyond a minimum when resident needs dictate.

We urge you to adopt these evidence-based recommendations to provide a stronger standard for all nursing home residents.