

March 19, 2024

The Honorable Charles Schumer
Majority Leader
United States Senate
Washington, DC 20510

The Honorable Hakeem Jeffries
Minority Leader
U.S. House of Representatives
Washington, DC 20515

The Honorable Ron Wyden
Chairman
Senate Finance Committee
United States Senate
Washington, DC 20510

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


The Honorable Frank Pallone
Ranking Member
Committee on Energy & Commerce
U.S. House of Representatives
Washington, DC 20515

The Honorable Rosa DeLauro
Ranking Member
Committee on Appropriations
U.S. House of Representative
Washington. DC 20515

Dear Majority Leader Schumer, Ranking Member Jeffries, Chairman Wyden, Ranking Member Neal, Ranking Member Pallone, and Ranking Member DeLauro:

The underlying organizations representing nursing home residents and family members, as well as nursing home workers, strongly urge you to oppose H.R. 7513, S.3410, or any poison pill provision that would bar the Centers for Medicare & Medicaid Services (CMS) from fulfilling its regulatory duty of creating safe nurse staffing standards. These bills would not only prevent the current administration from creating staffing rules but also any future administration from doing so.

Years of research and studies show that safe care is not possible without an adequate number of qualified nursing staff, including licensed practical nurses/licensed vocational nurses (LPNs/LVNs) and certified nursing assistants (CNAs) led by an onsite RN around the clock. There is overwhelming evidence that higher nurse staffing ratios improve both the process and outcome measures of nursing home quality. Decades of research show that nursing homes that provide high-quality staffing have better health outcomes for residents. In contrast, residents living in nursing homes with fewer nursing staff experience higher levels of pressure ulcers, falls, neglect, and abuse. A strong minimum staffing standard would promote high-quality care for all residents and help protect them from harm and neglect in nursing homes.



A national staffing standard is broadly popular among seniors and their families. As AARP has noted, a minimum staffing standard is supported by 89% of Democrats and 74% of Republicans. Given this broad bipartisan support and HHS's comprehensive review of the issue over the last two years, CMS must be allowed to move forward to finalize staffing requirements.


Importantly, the staffing standard proposed by CMS is quite modest. It is likely to impact primarily the most poorly performing homes. Moreover, the proposed rule provides waivers to facilities that make good-faith efforts to meet the regulatory requirements. The proposed implementation times are also quite generous to providers – more than three years for most facilities and additional time for rural providers.

We know that safe staffing is possible. Thousands of nursing homes, mostly non-profit and government-run facilities, currently staff well above the standard in the proposed rule. In fact, non-profit homes staff nearly 25% higher than for-profit nursing homes, with far less turnover. We must not derail a process for protecting residents.

Industry claims that there are not enough nursing staff to comply with new staffing requirements are misleading. The industry has approximately 235,000 fewer nursing home workers than it had before the pandemic. These workers have not vanished. They just want better jobs. Nationally, direct care staff turnover is over 50% annually. The industry does not have a crisis of labor supply but retention due to poor working conditions. Low wages, poor benefits, lack of career advancement, and impossible workloads drive turnover. A staffing standard would simply require poorly staffed nursing homes to spend available taxpayer dollars on creating better jobs that reduce turnover.

While we share the concern of many about the potential closing of facilities, nursing home closures are not uncommon. A report by LeadingAge, the trade association of not-for-profit nursing facilities, describes 555 nursing home closures between June 2015 and June 2019. Some of these closures were the result of exceptionally poor-quality care and consistently low occupancy rates. Other closures were the deliberate result of state efforts to “rebalance” their long-term care systems to increase non-institutional, home and community-based alternatives to nursing homes. We also know that many closures are the result of private investors deciding that facilities in certain communities are not sufficiently profitable, oftentimes because the state is over-bedded. Facilities will, in other words, continue to close for a variety of policy and market reasons that have nothing to do with the proposed staffing regulation.

Congress should not step in at the 11th hour to kill this regulation. The process to develop the proposal has been open and transparent. CMS requested information in 2022 to inform the proposed rule, had additional opportunities for stakeholders to provide feedback, conducted a study, and had a public comment period. Facilities and industry advocates submitted thousands of comments, providing detailed information for CMS to consider. There have been adequate



opportunities for a broad range of stakeholders to make their views known. It would be wrong for Congress to circumvent this process and kill a regulation supported by tens of thousands of people who provided comments in favor of the regulation. It would be wrong for Congress to prohibit a basic, commonsense, minimal standard of staffing in taxpayer-funded nursing homes.

We urge you to oppose H.R. 7513/S. 3410 or any other poison pill provision that would prevent safe staffing in nursing homes. We strongly urge you to support the Administration's efforts to improve the quality of care for residents and the quality of work for nursing staff.

Sincerely,

AARP

AFL-CIO

AFT: Education, Healthcare, Public Services

American Federation of State, County and Municipal Employees (AFSCME)

California Association of Long-Term Care Medicine

California Advocates for Nursing Home Reform

Center for Medicare Advocacy

Elder Justice Coalition

The Geriatric Circle

The Hale Group, An Iowa-Based Advocacy Firm

Kelinson & Lerner, PLC

Michigan Elder Justice Initiative

National Association of Local Long Term Care Ombudsman (NALLTCO)

National Association of State Long Term Care Ombudsmen

National Committee to Preserve Social Security & Medicare

National Consumer Voice for Quality Long-Term Care

Service Employees International Union (SEIU)

United Food and Commercial Workers International Union (UFCW)

United Steel Workers