BRIEFING

The Need for Federal Staffing Standards in Nursing Homes

December 9, 2021
About the Consumer Voice

*The leading national voice representing consumers in issues related to long-term care.*

- **Advocate for public policies** that support quality of care and quality of life responsive to consumers’ needs in all long-term care settings

- **Empower and educate** consumers and families with the knowledge and tools they need to advocate for themselves

- **Train and support** individuals and groups that empower and advocate for consumers of long-term care

- **Promote the critical role of direct-care workers and best practices** in quality-care delivery
Welcome and Reminders

• The program is being recorded

• Use the Q&A feature for questions for the speakers

• Use the chat feature to make comments or respond to questions from speakers or other attendees

• Links to the PowerPoint and resources – in the chat box
House version: Build Back Better Reconciliation Bill

- Creates a process for establishing minimum staffing requirements
- Requires nursing homes to have a Registered Nurse on duty 24 hours per day
- Provides necessary funds to improve the survey and oversight process
- Improves the accuracy and reliability of certain skilled nursing facility data
- Requires auditing of Medicare cost reports

*Also:*

Provides $4 billion for workforce recruitment, retention, and training
Speakers

Charlene Harrington
Professor Emerita, School of Nursing, UCSF

Richard Mollot
Executive Director
Long Term Care Community Coalition

Robyn Grant
Director of Public Policy & Advocacy
Consumer Voice
Residents in US nursing homes are highly vulnerable

- Generally older with multiple chronic conditions (90% are 65+, 34% are 85+)
- 60%+ have dementia
- 60% are frail and need extensive help
- Take 9+ different medications daily
Basic nursing care is labor intensive 24 hours per day

- Basic care – bathing, dressing, toileting, transferring, eating, walking/mobility by certified nursing assistants (CNAs)
  - Morning and evening care
  - General assistance 24 hours a day
  - Assistance by 1-2 CNAs

- Licensed practical nurse care - medications, treatments, coordination, communications – 24 hours a day
Nursing care is highly complex requiring RNs 24 hours a day 7 days a week

- RNs are specifically trained in:
  - infection control planning and management
  - resident assessment & care planning
  - identification and treatment of infections, chronic, and acute care conditions
  - surveillance of residents and resident care
  - coordination and communication with medical, dietary, therapy, social services, pharmacy, laboratory, and other
  - required for supervision of LPNs and CNAs
Nurse staffing, especially RNs, are associated with higher quality of care

- improved process and outcome measures
- better functional improvement
- reduced incontinence
- fewer urinary tract infections and catherization
- less pain
- fewer pressure ulcers
- less weight loss and dehydration
- lower use of antipsychotics
- less restraint use
- fewer infections
- fewer falls with injuries
- less rehospitalization and emergency department use
- less missed care
- fewer adverse outcomes
- lower mortality rates
- fewer deficiencies
Most nursing homes did not meet recommended staffing before the pandemic

75% of homes almost never met CMS expected RN staffing levels based on resident acuity in 2017-18 Geng et al 2019

54% homes did not meet the federal requirement of 1 licensed nurse on duty every shift for up to 30 days in 2018 OIG 2020

Staffing levels are 15% lower on weekends and holidays

Annual turnover rate of resident care was 100% for all nurses and 141% for RNs in 2017-18 Gandhi et al 2021

Nursing turnover is related to heavy workloads and low wages
COVID-19 had devastating impact on nursing homes

- CA nursing homes were 2x more likely to have COVID-19 resident infections if RN staffing less than .75 hours per resident day \(^{\text{Harrington et al 2020}}\)

- In CT, every 20 minute increase in RN staffing had 22% fewer COVID-19 infections and 26% fewer COVID-19 deaths \(^{\text{Li et al. 2020}}\)

- Higher nurse aides and total nursing had lower COVID-19 outbreaks & fewer deaths \(^{\text{Gorges & Konetzka 2020}}\)

- US nursing homes with higher RN staffing and quality ratings fewer COVID deaths and fewer staffing shortages \(^{\text{Williams et al 2021; McGarry et al 2020}}\)
Minimum staffing recommendations by researchers & experts

- Minimum staffing for lowest resident acuity
  - 1 RN: 28 residents day shift; 1:30 evenings; and 1:40 nights) (45 minutes/resident day)
  - 1 LPN: 38 residents day shift; 1:40 evenings; 1:56 nights (33 minutes/resident day)
  - 1 CNA: 7 residents on days/evenings & 1 CNA:15 nights (2.8 hours/resident day)

- Total nurse staffing 4.1 hours/ resident day
  CMS 2001; ANA 2014; Schnelle 2014

- Higher staffing levels are needed and required by CMS for higher acuity
Conclusions

Residents deserve to have adequate staffing especially RN staffing 24 hours a day every day

Residents deserve to be protected from infections and to have high quality care

Nursing staff deserve to have reasonable workloads, a living wage, and a comfortable and safe working environment
Federal Nursing Home Staffing Standards: Necessary, Affordable, and Achievable

Richard Mollot, Long Term Care Community Coalition

www.nursinghome411.org
The Long Term Care Community Coalition

- **LTCCC** is a nonprofit, nonpartisan organization dedicated to improving care & quality of life for the elderly & adult disabled in long term care (LTC).

- **What we do:**
  - Policy research & analysis;
  - Systems advocacy;
  - Public education;
  - Home to two local LTC Ombudsman Programs.


[www.nursinghome411.org](http://www.nursinghome411.org)
What are the Data?

Nursing Home Staffing Data

- **Past.** In the past, nursing homes provided self-reported information on their nurse staffing based on the two-week period prior to their annual survey.

- **Current.** In the face of persistent concerns about both staffing levels and accuracy of the reported information, the 2010 Affordable Care Act required nursing homes to report nursing and other key staff... on a daily basis,
  - for every day of the year,
  - based on payroll records,
  - in auditable files.

- **Why is this important?** We now have excellent information on the extent to which facilities employ sufficient staffing to provide the care and services they promise to residents, families, and tax-payers.
What do the Data Show?

The industry’s own data indicate that most facilities are clearly understaffed.

**Nursing Home Staffing Data**

- Less than a third (31.2%) U.S. nursing homes met the total care staff threshold (4.10 HPRD) as determined by the 2001 federal study.

- Average total nurse staffing HPRD were 3.75 in Q2 2021. Average RN staffing was 0.66 HPRD. The typical resident needs at least .75 RN HPRD.

- Average total resident census climbed 29,000 (1.1 million) from the previous quarter despite a slight decrease in total number of facilities reporting PBJ data (14,812, down from 14,857). This indicates that nursing homes are taking in new residents despite insufficient staffing.

- Contract staff accounted for 5.75% of all nurse staff hours in Q2 2021 after accounting for 5.02% of nurse hours in the previous quarter.

*The failure to ensure adequate staffing destabilized the industry and puts residents at risk.*
Are Baseline Staffing Standards Achievable?

The industry’s own data indicate that decent staffing standards are *affordable* and *achievable*.

**It is Possible!**

- One-third of nursing home *already* meet minimum staffing needs of 4.1 nursing HPRD.
- Over 75% of facilities *already* have enough RNs for 24-hour coverage.
  - However, in the absence of a federally defined minimum, doing so is voluntary.
  - With nursing homes increasingly owned by sophisticated corporations, we cannot count on the diminishing number of owners who take their commitment to residents seriously.

**It is Affordable!**

- The average cost to shift to 24-hour RN staffing is $61.82 per facility per day.
- The cost range to achieve 24-hours RN staffing per day ranges from 3¢ to $141.15 per day.
- The actual costs of achieving 24-hour RN staffing nationwide is $75.1 million per year.
- National nursing home expenditures were $173 billion in 2019. The above cost is less that one-tenth of 1% of total US NH expenditures.

*Aren’t nursing home residents worth it?*
Resources
LTCCC’s state pages

- Use clickable map to find your state
- State pages contain state-specific
  - Staffing
  - Ratings
  - Ombudsman resources
  - And more...

nursinghome411.org/states
Example: Find your facility’s or region’s staffing data

### Facility Nursing Staff (Use Provider filter)

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Nursing Home Oversight & Enforcement: Expectation vs. Reality

The vast majority of U.S. nursing homes participate in the Medicare and/or Medicaid programs, deriving most of their income and profits from taxpayers. In order to do so, they are required to meet the minimum standards laid out in the federal Nursing Home Reform Law. Fundamentally, the law requires that residents are provided the care and quality of life services sufficient to attain and maintain their highest practicable physical, mental, and psychosocial well-being.

Though the law and regulatory standards are strong, serious nursing home problems are persistent and widespread. With funding from The New York Community Trust, LTCIC undertook an assessment of the expectations and reality of state and federal enforcement of nursing home standards. The following two reports, and accompanying maps and tables, provide the results of our study and resources for stakeholders to improve resident care and the integrity of the Medicare and Medicaid programs.

- LTCIC reviewed and identified key requirements for state agencies in the Federal Nursing Home Reform Law and the State Operations Manual which lays out detailed expectations and guidance for state surveyors.
- Broken Promises: A detailed look at the reality of oversight. It presents an assessment of federal data on the adequacy of surveyor staffing and other key areas of oversight including surveyors' hours, case load, and staffing.

Access the two reports by clicking the boxes below. Click here to access interactive data.

[Image: A web page from nursinghome411.org/news-reports/reports/survey-enforcement/]

Register for our 12/21 webinar: https://nursinghome411.org/event/data-oversight-program/ for the story behind the data.
STATE NURSING HOME STAFFING STANDARDS

Robyn Grant
Director of Public Policy & Advocacy
Registered nurse on-site eight hours a day, seven days a week. 42 C.F.R. § 483.35(b)(1).

Licensed nurse—either a registered or licensed practical/vocational nurse—serving as a Charge Nurse on-site twenty-four hours daily. 42 C.F.R. § 483.35(a)(2).

Sufficient nursing staff to meet residents’ needs. 42 C.F.R. § 483.35(a)(1).
### State Requirements for Total Nursing Staff Time

**Recommended Staffing Standard: 4.1**

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Twenty-four Hour Registered Nurse

Only 6 states require an RN 24/7

CO, CT, DC, DE, MD, RI
“Do the best you can until you know better. Then when you know better, do better.”

- Maya Angelou
Public Dollars for Nursing Homes

Medicare > $25 billion annually

Medicaid > $50 billion annually

COVID Support & Relief Funds

- $21 billion from CARES Act
- Paycheck Protection Program loans to keep workers
- Temporary suspension of Medicare sequestration
- State funding from the Federal Medical Assistance Percentage Program
- Medicare accelerated and advance payment program
- Deferral of employer payroll taxes
- Higher Medicaid reimbursement rates in some states
- Higher Medicare payment rates in 2020
- Higher Medicaid and Medicare revenues related to higher resident acuity
- Economic injury disaster loans (not limited to nursing homes)
- Other non-monetary support (e.g. PPE, tests, training, national guard, strike teams)

We can support minimum staffing standards

- **Increase Transparency and Accountability for Public Funds**
  - Require funds to be spent on resident care
  - Audited consolidated cost reports
  - Target any new dollars toward resident care and staff support

- **Support Caregivers by improving jobs**
  - Living wages and benefits
  - Invest in training
  - Address turnover, retention, advancement opportunities
  - Address racial and gender equity and disparities
RESIDENT VOICES ON STAFFING

The importance of adequate staffing in long-term care facilities.
QUESTIONS?
The National Consumer Voice for Quality Long-Term Care

www.theconsumervoice.org

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