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Nursing Home Staffing: Myths vs. Facts

Introduction: Last April the Centers for Medicaid and Medicare Services (CMS) – following on a promise from President Biden and in response to decades of advocacy by nursing home residents and workers – finalized a long-awaited regulation that sets minimum staffing standards for nursing facilities participating in Medicare and Medicaid programs. The regulations require non-rural facilities to provide 3.48 hours per resident day (hprd) of total nursing staff care and ensure there is a registered nurse (RN) available 24 hours every day of the week within two years (and three years for rural facilities). Within three years, non-rural facilities will need to ensure that the total hprd of staffing includes 2.45 hprd of nurse aide staffing and 0.55 hprd of RN staffing; rural facilities have five years to meet this requirement. In response to concerns raised by nursing home operators, the final rule includes a robust exemption process for homes that can demonstrate genuine barriers to compliance. Yet despite the adjustments to the final rule and the generous timeline for compliance–not to mention the fact that it will improve the quality of jobs for nursing home workers and the safety of care for residents–nursing home industry organizations are attempting to overturn it through a Congressional Review Act resolution, other legislation, and legal action. This fact sheet responds to key claims the industry has raised as it attempts to roll back the rule.

Myth: Nursing home operators want to hire more staff but there is a shortage of qualified workers that makes it impossible to meet these minimum staffing standards, especially in rural areas.

Facts:

The real problem is a shortage of good jobs. Thousands of registered nurses (RNs) and certified nursing assistants (CNAs) left their jobs during the pandemic due to burnout and safety concerns, and as nursing home censuses declined. However, as an Economic Policy Institute (EPI) analysis notes, "[Rather] than indicating a nationwide shortage of trained staff, the recent downturn in employment suggests that there's a pool of experienced workers who could return to nursing homes if pay and working conditions improved."

In the Case of RNs:

- The U.S. has never had more actively licensed nurses than it does today. Graduations from nursing school are up and growth in the workforce is projected to outpace retirements during the coming decade, as the RN requirements phase in over the next five years. Moreover, while there are 4,790,959 actively licensed RNs,[1] the Bureau of Labor Statistics (BLS) estimates that only 3,175,390 individuals were actually employed as RNs as of May, 2023, suggesting that there are workers available to be hired.

[1] Information last updated by NCSBN on 6/14/2024.

- A survey of licensed RNs in Illinois and New York who recently left their employment in the healthcare sector found that insufficient staffing was one of the top reasons for their departure, and this was an especially common reason among nurses who had worked in nursing homes. Indeed, nurse respondents previously employed in nursing homes and other residential facilities were the only category for which understaffing was the most commonly chosen reason for departure, even higher than planned retirement and burnout.
- The same survey found that 41 percent of retired respondents had entered retirement unplanned and prematurely, and that burnout and insufficient staffing were the leading factors for this choice. For respondents who were 30 years old or younger, burnout or emotional exhaustion and insufficient staffing (chosen by 43 percent and 40 percent of respondents, respectively) were the top reasons for leaving the profession.
- An earlier survey of RNs employed in the same two states found that even before the pandemic nursing home RNs were more likely to report plans to leave their position than nurses employed in other settings–one in three nursing home RN respondents planned to leave their employment within a year compared to one in five across all job types.
- These already trained workers could be attracted back into nursing employment. As the researchers note, "[H]ealth care employers' nurse recruitment and retention problems could be resolved by investing in policies (eg, safe nurse staffing policies) that target the top reasons experienced nurses are leaving (eg, burnout and insufficient staffing)... "

In the Case of CNAs:

- While a majority of facilities will need to hire additional CNAs to meet the total 3.48 hprd requirement and the 2.45 hprd requirement for nurse aide staffing, the numbers are manageable, especially given the generous time frame for compliance. Non-rural facilities currently employ nearly 357,000 CNAs and CMS estimates they will need to hire an additional 62,348 aides over the next three years. Rural facilities, which currently employ about 95,500 CNAs, will have five years to hire the additional 15,263 they need to meet the standard, for a total of 77,611 nurse aides. This is well below the 130,000 jobs the industry estimates have disappeared since early 2020.
- Even if trained CNAs choose not to return to nursing home jobs, there is an available pool of workers to fill these jobs. Barriers to entry for CNA jobs are relatively low. Federal requirements dictate a minimum 75 hours (or two weeks) of training, which can be completed within four months of hiring. Only 15 states require more than 100 hours of training.
- The real problem is that this pool of workers can earn more in jobs that require less training. Raising wages and improving the quality of these jobs through adequate staffing and other workforce policies will help attract these workers back to nursing homes.

Rural and Ownership Facts:

- Rural and non-rural facilities are equally likely to meet the final rule's requirements based on current staffing levels. For example, rural homes in Montana will need to hire 43 CNAs

over the next five years, a 4 percent workforce increase that is quite a bit lower than the 7 percent average increases for urban areas in that state (and well below the national average).[2]

- Despite the similarity in current staffing levels across geographies, rural facilities will have an additional year to comply with the first phase of requirements and an additional two years to comply with the second phase. If rural homes are still unable to comply with the RN and NA staffing requirements after five years the regulations provide exemptions for homes in areas with workforce shortages.
- Facilities have the flexibility to meet the 3.48 hprd minimum requirement with any type of nursing staff, including with licensed practical nurses (LPNs). Rural areas have more LPNs per capita than non-rural areas and rural LPNs are more likely to work in nursing facilities than their urban counterparts.
- When looking at current staffing levels, the more meaningful distinction appears to be related to ownership type, not geography. While non-profit facilities provide an average of 4.3 hours of total nurse staffing each day, for-profit homes provide just 3.6 hours, on average.

Myth: Nursing home operators want to add staff and raise pay to attract workers but cannot afford to do so because Medicaid rates are too low and they are already operating on thin margins.

Facts:

- When the staffing requirements have been fully implemented in five years, CMS estimates the annual cost of meeting the minimum standard will be around $5.1 billion, assuming no exemptions are granted. That is a tiny fraction of the projected 2029 spending of $284.4 billion total U.S. spending for nursing homes and continuing care facilities.[3]
- The claim that homes cannot afford safe staffing deserves special scrutiny. There is clear evidence that many nursing homes, especially for-profit facilities, reduce their reported profitability through related party transactions--inflated payments, often in the form of rents and management fees, from a facility to other entities in which the facility's owners have a financial interest. The use of these transactions, which can make homes appear less profitable than they actually are, is widespread–77 percent of U.S. nursing homes reported making such payments in 2021.
- A recent analysis by economists Ashvin Gandhi and Andrew Olenski looked at financial data from Illinois nursing homes and found that 63 percent of their total profits were obscured through related party transactions in 2019, with the average facility masking some $300,000 in profits annually. A separate analysis of New York state cost reports showed for-profit nursing homes paid related companies almost $1.1 billion, or 16 percent of their total annual expenses, in 2020. While the nursing homes themselves reported only a 2.3

[2] Medicare and Medicaid Programs: Minimum Staffing Standards for Long-Term Care Facilities and Medicaid Institutional Payment Transparency Reporting. Regulatory Impact Analysis, Table 25 and Table 26.
[3] NHE projections, Table 2 "Amounts and Annual Percent Change by Type of Expenditure: Calendar Years 2016-2032"

percent profit margin, their related companies had an average profit margin of 19.5 percent. Curbing abusive payment practices would free up funds to support safe staffing levels.

- The costs of investing in higher staff levels, worker wages, and other workforce improvements will be partially offset through lower rates of turnover and reduced need to use expensive staffing agencies. According to the latest federal data on turnover, the average nursing home loses more than half (52 percent) of its nursing staff within a year. It is estimated that turnover costs employers between six and nine months of an employee's salary, on average, and significantly more for a specialized healthcare profession. Improving job quality through higher staffing levels would reduce these costs.
- Despite owners' claims that they are doing all they can to attract and retain staff, it is not clear that facilities actually invest new funds in staffing. For instance, a recent study found that when Illinois raised Medicaid rates in 2019, there was no discernible change in staffing. Moreover, when the state adopted a voluntary CNA subsidy program in 2021 under which Medicaid fully subsidizes pay increases for CNAs based on experience, many homes opted not to apply for the funding. As of April, 2023, only about half of Illinois homes were participating in the program, even though it would enable them to increase wages, improve retention, and attract new workers at a substantially reduced cost to the facility.

Myth: Minimum safe staffing standards will cause nursing homes to close, displacing vulnerable residents.

Facts:
In addition to the points above, consider:

- Nursing home operators have a long track record of predicting large scale closures in response to common-sense policy proposals. For instance, in 2022 an industry organization claimed that, based on facilities' reported negative operating margins, more than 400 facilities would close by the end of the year if public funding was not increased. Despite these predictions, the closure rate (198 facilities) was consistent with the annual number of terminated providers over the past decade.[4]
- The number of nursing home closures has remained steady since 2010. It is true that fewer facilities have opened each year since the onset of the pandemic, but this reflects changing consumer preference away from institutional care and towards home and community-based care–a trend that may have been hastened by the poor level of care in many homes. An analysis of CMS provider data reflects this trend, showing that the current census is 76 percent–in other words, approximately one in four beds are empty.
- Not surprisingly, a 2020 Leading Age report on closure trends over the 2015-19 period pointed to a decline in occupancy rates as a key factor in closures, while noting that other factors such as payment rates could also play a role. The study presented no evidence that regulations designed to protect resident safety and quality of care cause responsibly managed nursing homes to close.

[4] Data on terminated providers is from QCOR.