



The National
CONSUMER VOICE
for Quality Long-Term Care



DIGNITY FOR ALL

**Staffing Standards
Benefit Residents and
Workers**

February 23, 2023

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

- ▶ The program is being **recorded**
- ▶ Use the **Q&A feature** for questions for the speakers
- ▶ Use the **chat feature** to submit comments or respond to questions from speakers or other attendees
- ▶ Please complete the **evaluation** questionnaire when the webinar is over.
- ▶ Links to **resources** will be posted in the chat box and will be posted to the Consumer Voice website – theconsumervoice.org

Dignity for All webpage

← Back to Current Event Listings

Dignity for All: Staffing Standards Now!

February 23, 2023 - April 20, 2023



This month marks the one-year anniversary of President Biden's **announcement of historic nursing home reforms**. Creating a minimum staffing standard, which would be the most significant increase in protections for nursing home residents in decades, was central to his plan. Since his announcement, the Centers for Medicare & Medicaid Services (CMS) has embarked on a study to determine the minimum level of direct nursing care all residents need and has promised to propose a standard this spring.

The nursing home industry's opposition to a minimum staffing standard has been fierce. The voices of residents and workers have been lost in the discussion. Over the next several months, Consumer Voice and resident advocates will center the discussion of minimum staffing standards on residents and workers by holding a series of events to uplift their voices. We must ensure that the primary focus of adequate staffing is on the residents and workers!

Schedule of Events

February 23, 2023, 2:00pm ET

Dignity for All: Staffing Standards Benefit Residents and Workers

Join Consumer Voice for a webinar on February 23, 2023, at 2:00 pm ET as we launch our "Dignity for All: Staffing Standards Now!" campaign advocating for a minimum staffing standard in nursing homes. This webinar will discuss the importance of adequate staffing for residents' safety and health. We will also feature the voices of residents and long-term care facility workers, who will share what it is like to live and work in a nursing home without adequate staffing.

[Register Now](#)

March 9, 2023, 2:00pm ET

Webinar featuring the Voice of Workers

Join Consumer Voice and SEIU for a webinar highlighting the experiences of nursing home workers, how their work is affected by inadequate staffing in long-term care facilities, and what it would mean for their jobs to work in a facility with enough staff.

March 23, 2023, 2:00pm ET

Webinar featuring the Voice of Residents

▶ <https://theconsumervoice.org/events/dignity-for-all-staffing-standards-now>



▶ **Webinar featuring the Voices of Workers**
March 9, 2023, 2:00pm ET

▶ **Webinar featuring the Voices of Residents**
March 23, 2023, 2:00pm ET

Speakers



Toby Edelman
Senior Policy Attorney
Center for Medicare Advocacy



Margarite Grootjes
Ohio Nursing Home Resident



Shelley Jackson
Lancaster County, PA CNA
SEIU



Sam Brooks
Director, Public Policy
National Consumer Voice for Quality
Long-Term Care



Center for
Medicare Advocacy

MedicareAdvocacy.org

**DIGNITY FOR ALL:
STAFFING STANDARDS NOW!**

February 23, 2023

Toby S. Edelman
Senior Policy Attorney

NURSE STAFFING

- No dispute: Decades of research consistently find that higher nurse staffing levels matter.
 - Better resident outcomes
 - Fewer deficiencies
- Studies do not find residents do better with fewer nurses.

WHY FEDERAL REQUIREMENTS MUST BE CHANGED

- Current requirements are insufficient to ensure residents receive good care
- Nursing Home Reform Law (1987) and regulations, 42 C.F.R. §483.35
 - 8 consecutive hours per day, registered nurse
 - 24 hours per day licensed nurses (RN/LPN)
 - “sufficient” nursing staff to meet residents’ needs

BIDEN ADMINISTRATION'S COMMITMENT TO IMPLEMENT STAFFING RATIOS

- Announced nursing home reform agenda in State of the Union and [White House Fact Sheet](#) (Feb. 2022)
- Reiterated in State of the Union address and [White House Fact Sheet](#) (Feb. 2023)

STAFFING STUDY

- CMS's announcement of new research staffing study (Aug. 22, 2022):
 - “Evidence has shown that adequate staffing is closely linked to the quality of care residents receive.”
 - Described what CMS learned from RFI
 - Described study components

STAFFING LEVELS THAT RESIDENTS NEED

V. STAFFING LEVELS CMS WILL REQUIRE

- Two-part CMS process
 - CMS determines residents' actual nursing needs
 - CMS will propose nurse staffing levels in notice and comment public rulemaking process

PART 1

- CMS determines **residents' actual nursing needs**, based on analysis of prior studies, public input (Request for Information, national call), literature review, National Academies' report, new Abt study, etc.
- No distinctions based on geography, payer source, unemployment rates, or other factors not based on actual resident need

PART 2

- CMS will propose nurse staffing levels in notice and comment public rulemaking process
 - Opportunity for advocates to comment on proposal and express concerns about temporary nurse aides; how paying workers a living wage could pay for itself; adequacy of reimbursement (related party transactions)

CONCERNS RAISED FOR DECADES ABOUT NURSE STAFFING LEVELS

- Nursing Home Reform Law (1987) did not mandate staffing ratios, but required a study
 - Abt Associates, [Appropriateness of Minimum Nurse Staffing Ratios in Nursing Homes, Phase II Final Report](#) (2001)
 - 4.1 hours per resident per day
 - More than 95% of facilities cannot meet that standard, although resident acuity and care needs have increased in past 20+ years since research was completed

CMS REQUEST FOR INFORMATION (APRIL 2022)

- CMS [Request for Information](#), 87 Fed. Reg. 22720, 22789 (Apr. 15, 2022)
 - Citing the Administration’s commitment “to improving the quality of U.S. nursing homes so that seniors and others living in nursing homes get the reliable, high-quality care they deserve ...we intend to propose minimum standards for staffing adequacy that nursing homes would be required to meet.” p. 22790

BETTER STAFFING = BETTER CARE

- Strong relationship between nurse staffing levels and quality of care for residents
 - RFI, Comment letter (and Appendix listing 110 studies (1977-2022)), submitted by Charlene Harrington + 79 additional geriatric nursing experts (individuals and organizations), <https://www.regulations.gov/comment/CMS-2022-0069-4108>

BETTER RESIDENT OUTCOMES

- Harrington and others cite studies documenting functional improvement and reductions in incontinence, urinary tract infections, pain, pressure ulcers, weight loss, dehydration, use of antipsychotics, restraints, infections, falls, rehospitalizations, emergency department use, adverse outcomes, mortality rates.

NURSE STAFFING DURING COVID-19 PANDEMIC

- Same results: more staff mean fewer resident cases and fewer resident deaths
 - [Connecticut study](#): 20 minutes more of RN time/resident/day correlated with 20% fewer cases and 22% fewer deaths
 - [NY Attorney General](#): more staff, fewer resident cases and deaths; most resident deaths in facilities with 1-star or 2-star staffing rating

THE NATIONAL IMPERATIVE TO IMPROVE NURSING HOME QUALITY (2022)

- “Decades of evidence support the association between inadequate nurse staffing and poor quality of care in nursing homes, particularly for RNs.” (p. 279)
- “Most nursing homes do not have sufficient nursing staff to meet the needs of residents and are not adjusting staffing to take resident acuity into account.” (p. 280)
- [Report by National Academies of Sciences, Engineering, and Medicine](#)

ADJUSTING STAFFING LEVELS FOR RESIDENT ACUITY

- Need to adjust staffing ratios upward based on resident acuity
 - Harrington, 5-step guide to adjusting staffing ratios above minimums, to reflect resident acuity and care needs

NURSE STAFFING IS NOT JUST NUMBERS

- Staff need
 - Adequate and sufficient training
 - Living wage, health (and other) benefits
 - Sufficient supplies, working equipment
 - Career ladders, opportunities to advance
 - To be treated respectfully

NURSING HOME INDUSTRY'S OPPOSITION TO RATIOS

- No one to hire
- Need more money (“unfunded mandate”)
 - January 2023 estimate by American Health Care Association is \$11.3 billion more needed if 4.1 staffing ratio is proposed
 - Nursing homes and continuing care retirement communities got \$196.8 billion in reimbursement in 2020

NURSING HOME INDUSTRY'S ADDITIONAL APPROACHES

- Federal legislation
 - [Continue temporary nurse aide program](#) after public health emergency ends (May 11, 2023)
 - Allow facilities to [train their own aides](#)
- Create [new categories of workers](#)

CONCLUSION

- Insufficient staffing in nursing homes is not a new problem, not caused by the pandemic
- For the first time ever, an Administration is tackling this issue head-on and asking: what do residents need?



Center for
Medicare Advocacy

MedicareAdvocacy.org

For further information, to receive the Center's free weekly electronic newsletter, *CMA Alert*, update emails and webinar announcements, contact:

Communications@MedicareAdvocacy.org

Visit

MedicareAdvocacy.org

Follow us on Facebook and Twitter!



MedicareAdvocacy.org

Copyright © Center for Medicare Advocacy



Shelley Robinson,

Lancaster County, PA CNA

SEIU



Margarite Grootjes,
Ohio Nursing Home
Resident



Transparency and Accountability

Nursing Home Financial Transparency & Accountability

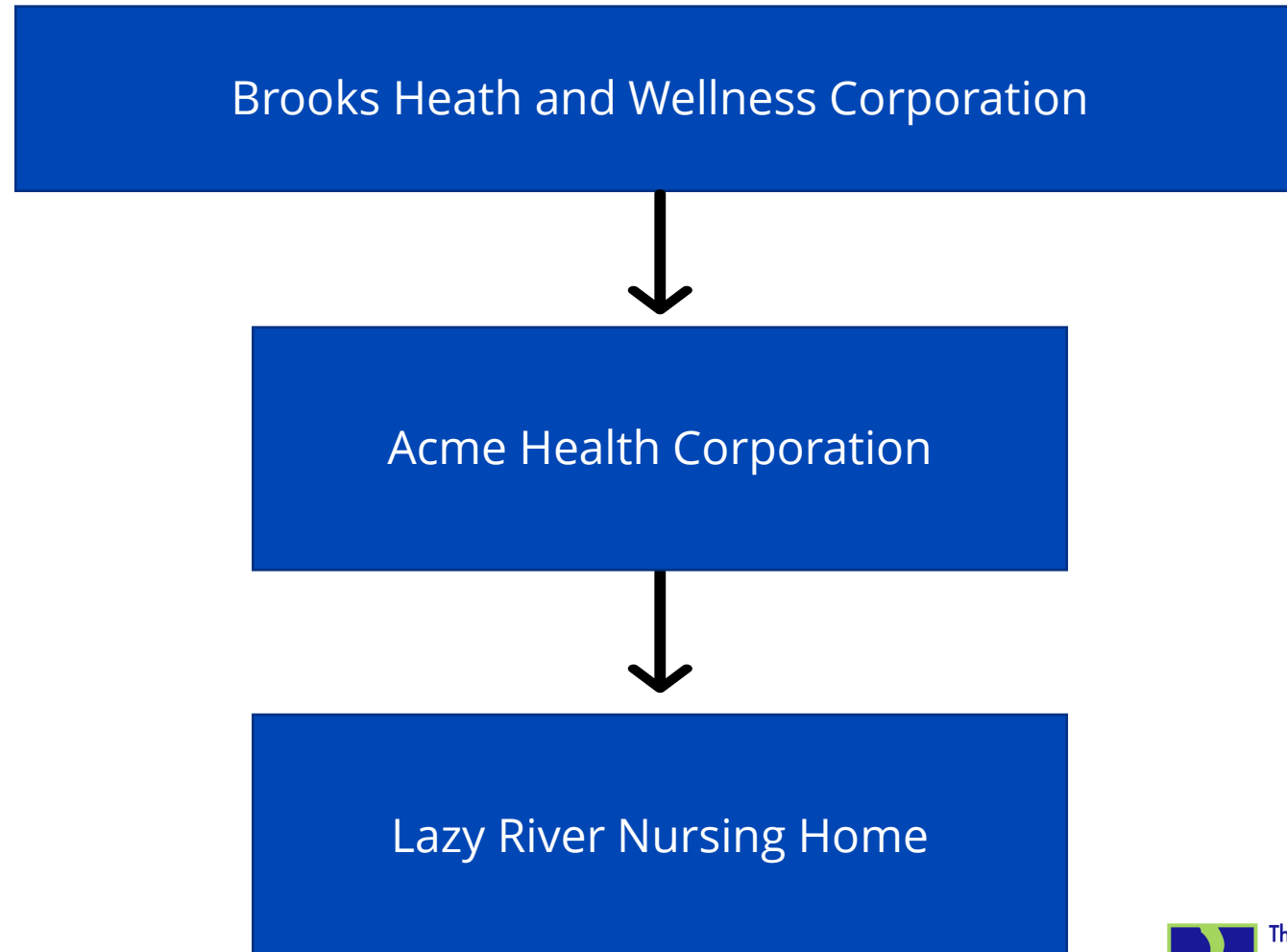


- ▶ Nursing homes receive billions of dollars in federal funding through Medicare and Medicaid
 - ▶ 2019 – at least \$80 billion
- ▶ No conditions on how they spend their money
- ▶ Nursing homes hide profits through related-party transactions
- ▶ Majority of nursing homes are for-profit
 - ▶ More than half are part of chains/corporations
 - ▶ Increasing number of private equity firms
 - ▶ Result – slashing expenses to maximize profits

Upcoming Related Party Report

- ▶ Consumer Voice will be releasing a report documenting how billions of taxpayer dollars are siphoned off annually through related party transactions with little to no accountability of how the money is used.
 - ▶ A related party is an entity that does business with a nursing home and that entity is owned or controlled by the same person(s) who own the nursing home.
- ▶ One chain from 2018-2020 paid related parties \$1.25 billion dollars.
 - ▶ Roughly \$350 million of those dollars were insurance payments to itself.
- ▶ CMS does little to scrutinize how Medicare and Medicaid dollars are used by nursing home owners and operators.
- ▶ Our review of Medicare cost reports reveals glaring errors, data omissions.

Real Estate/Most Common Related Party Transaction



Real Estate Continued

- ▶ Ownership structure serves two functions:
 - ▶ Allows owners to charge exorbitant rents that turn into profits for the owners, and
 - ▶ Allows owners to show exorbitant rents as expenses on cost reports, which reduces profits on cost reports and allows them to claim their facility is broke and needs more money

Brius Healthcare

Brius Total Related Party Lease Payments				
Year	Related Party Reported Costs	Reported Related Party Payments	Amount by Which Payment Exceeds Reported Cost	% Payment Exceeds Costs
2018	\$5,453,429	\$46,710,752.63	\$41,257,323.63	756.54%
2019	\$3,320,501	\$51,003,901	\$47,683,400.00	1436.03%
2020	\$3,046,743.93	\$54,607,213.76	\$51,560,469.83	1692.31%
Total	\$11,820,674	\$152,321,867	\$140,501,193	1188.61%

Process Repeated for Countless other Functions

- ▶ Staffing agencies
- ▶ PT/OT
- ▶ Insurance companies
- ▶ Food services
- ▶ Management Services
- ▶ Home office expenses

CMS Must Audit Cost Reports and Hold Owners Accountable

- ▶ Automated systems that reject cost reports that omit necessary data
- ▶ Systems that detect questionable information and flag for further review
- ▶ Consolidated Cost Reports
 - ▶ Require financial disclosure from all companies related to the nursing homes
 - ▶ Related parties
 - ▶ Holding companies
 - ▶ Trusts

3

Resources

Dignity for All webpage

← Back to Current Event Listings

Dignity for All: Staffing Standards Now!

February 23, 2023 - April 20, 2023



This month marks the one-year anniversary of President Biden's **announcement of historic nursing home reforms**. Creating a minimum staffing standard, which would be the most significant increase in protections for nursing home residents in decades, was central to his plan. Since his announcement, the Centers for Medicare & Medicaid Services (CMS) has embarked on a study to determine the minimum level of direct nursing care all residents need and has promised to propose a standard this spring.

The nursing home industry's opposition to a minimum staffing standard has been fierce. The voices of residents and workers have been lost in the discussion. Over the next several months, Consumer Voice and resident advocates will center the discussion of minimum staffing standards on residents and workers by holding a series of events to uplift their voices. We must ensure that the primary focus of adequate staffing is on the residents and workers!

Schedule of Events

February 23, 2023, 2:00pm ET

Dignity for All: Staffing Standards Benefit Residents and Workers

Join Consumer Voice for a webinar on February 23, 2023, at 2:00 pm ET as we launch our "Dignity for All: Staffing Standards Now!" campaign advocating for a minimum staffing standard in nursing homes. This webinar will discuss the importance of adequate staffing for residents' safety and health. We will also feature the voices of residents and long-term care facility workers, who will share what it is like to live and work in a nursing home without adequate staffing.

[Register Now](#)

March 9, 2023, 2:00pm ET

Webinar featuring the Voice of Workers

Join Consumer Voice and SEIU for a webinar highlighting the experiences of nursing home workers, how their work is affected by inadequate staffing in long-term care facilities, and what it would mean for their jobs to work in a facility with enough staff.

March 23, 2023, 2:00pm ET

Webinar featuring the Voice of Residents

▶ <https://theconsumervoice.org/events/dignity-for-all-staffing-standards-now>



▶ **Webinar featuring the Voices of Workers**
March 9, 2023, 2:00pm ET

▶ **Webinar featuring the Voices of Residents**
March 23, 2023, 2:00pm ET

Questions?



The National
CONSUMER VOICE
for Quality Long-Term Care

Connect with us!

- 🌐 theconsumervoice.org
- ✉ info@theconsumervoice.org
- f The National Consumer Voice for Quality Long-Term Care
- 🐦 @ConsumerVoices