



August 20, 2021

The Honorable Xavier Becerra
Secretary
Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

The Honorable Chiquita Brooks-LaSure
Administrator
Center for Medicare and Medicaid Services
7500 Security Boulevard
Baltimore, MD 21244

Re: Mandating Vaccine in Skilled Nursing Facilities

Dear Secretary Becerra and Administrator Brooks-LaSure:

We appreciate your focus on increasing staff vaccination rates in skilled nursing facilities. It has been our primary focus throughout 2021.

The Administration's mandate can dramatically advance our joint goal of getting all staff vaccinated if thoughtfully implemented. We would like to work closely with your staff to ensure it is implemented in an effective way to avoid a disastrous outcome for long term care residents. Unfortunately, vaccine hesitancy among our staff is real. Failing to recognize and address that will cause hundreds of thousands of employees to abandon facilities and leave residents with limited or, in some cases, no care.

This letter offers some suggestions on how we can work together to make this policy work.

Before offering specific suggestions, I would like to provide some background information. When we began the vaccination effort, only 37 percent of nursing home staff agreed to the initial dose. The 63 percent of staff that initially declined vaccination had varied reasons for their decision. Those reasons included concerns about fertility, the impact on pregnancy, as well as a general distrust of the medical community held by minority groups. We rolled up our sleeves and worked very hard with the CDC, CMS, and others to attempt to improve uptake. We launched our [#GetVaccinated](#) campaign in December to reach frontline staff directly and provide resources to providers. We also publicly committed to a [75 percent staff vaccination goal](#), which was supported by the White House. As a result, we have seen staff vaccination increased to 62 percent currently.

Unfortunately, among the remaining staff who are not vaccinated, there are some who are not persuadable. However, we believe there are others we can persuade. As you develop the policies to implement President Biden's order, we ask you to keep two guideposts in mind.

1. If a significant portion of the approximately 38 percent of unvaccinated nursing home staff leave, the net impact will be worse care for the residents. While the loss of just half of the unvaccinated staff would be devastating to care, the loss of even one or two staff in a nursing home impacts care on certain shifts and units. The plan to implement this requirement must focus on retaining current staff. We have already heard from multiple facilities with grave concerns about their ability to care for their residents if this mandate is implemented in a way that drives away their staff. I have attached two such communications as an example.
2. This policy has the potential to impact women of color in a disproportionate way. They make up a significant portion of our staff and concerns over fertility and lingering distrust of the medical community due to issues such as the Tuskegee experiments and experienced medical disparities have created significant levels of hesitancy among them.

To combat these problems, we offer the following suggestions:

1. The President's order should include a vaccine mandate for all health care workers in all Medicare and Medicaid certified settings. This is the only way to prevent nursing facility employees from leaving to work in other settings such as hospitals or home health.
2. More education must take place to provide information to vaccine hesitant staff. We worked with the CDC on a digital media campaign that targeted facilities and we had success in increasing vaccination rates. Individuals who saw our advertising reported they were more likely to get vaccinated after watching or reading the ads. Unfortunately, there was only \$1 million allocated for that campaign, and we quickly exhausted the funds. We ask that the Administration, either with us or on its own, dedicate \$25 million to restart and expand this effort.
3. There should be a federally funded daily testing alternative for staff that won't take the vaccine. This will give the education efforts time to work and prevent a sudden departure of large numbers of staff. We realize and would support this option being time limited. Currently sixteen states and the District of Columbia have implemented vaccine mandates for some or all health care workers. Of these, eight (Delaware, D.C, Hawaii, Maryland, Mississippi, Oregon, Pennsylvania, and Rhode Island) include regular testing for unvaccinated staff as a provision of their mandate.
4. Providers will incur significant expense in agency staff once this policy goes into effect. We encourage the Administration to set aside \$3 billion from the Provider Relief Fund to cover the cost of implementing this program including use of agency staff, recruiting replacement staff as well as the cost of testing staff. This could either

be in the form of a direct payment on a per bed basis at the start of the program, or an application process with funds set aside to cover these costs.

5. We continue to urge HRSA to open the portal for the additional Provider Relief Funds, both in the general fund and the rural fund. The sector is in crisis and the time to open these funds is now.
6. CMS should modify its visitation guidance to allow providers to ask visitors about their vaccination and test results and require vaccination or negative tests prior to visits. This should also apply to federal and state survey inspectors and ombudsman.

Finally, we would appreciate the ability to meet with both the Secretary and the Administrator to talk about this important policy. We want this to work and believe we can be of significant assistance in making that happen.

Thank you for considering these suggestions.

Sincerely,



Mark Parkinson
AHCA/NCAL President & CEO

Good evening Mark,

I just wanted to reach out to you quickly about President Biden's Administration decision to mandate the COVID vaccine. I have encouraged my employees to get vaccinated, I have met with many one on one, I have shared my personal vaccine story and employees were even offered \$200 to get the vaccine. All of these efforts have us at less than 45% vaccination rate.

The employees here believe strongly that the vaccine is not for them. Several of these same employees have told me directly they will leave before getting the vaccine. These are not empty words; these employees have conviction that they have the right to refuse. The skilled nursing healthcare system is at a tipping point of collapse. I have critical holes on all shifts. I have not had any new nursing applications in over a month ,despite posting to several job sites. People are burned out and leaving health care. This mandate, if carried out will result in the implosion of our facility and many more.

The months of encouraging employees to vaccinate, has us at just 63 of 145 employees vaccinated. That's 43%! If we lose even a small amount of these employees, we will not have enough people to care for the residents we have.

Although we have not worked together very long, I am not an emotional or a reactive person. This mandate announced today took me to a place of despair I have never experienced in 24years as an Administrator. I can work in another industry if this facility closes but these residents have nowhere else. Those soon to need long term care will have nowhere to turn. My despair is for the residents that fought for us in foreign wars and paved the way for an Administration today that means well but does not understand what it has put in motion. Thank you for your time and pray for us all.

**Jason Banks
Administrator
Traylor Health Care**

Subject: What a vaccine mandate means at Arbor Springs

At Arbor Springs, we have floated the idea of a vaccine mandate since day 1 that vaccines became available to us. Early on in the pandemic, March 21, 2020 our 1st resident was transferred to the hospital and subsequently tested. The agonizing wait for the test results began, and what came next, we would never want to experience again. That resident with all the accompanying comorbidities didn't survive. Facility wide testing of all residents, more positive results, employees falling ill, more positive results. We start to find that the vast majority of people testing positive are all asymptomatic,

unknowingly spreading the virus. It is totally airborne, even though it has not yet been classified as such by our country's healthcare authorities. The fear in the facility was palpable and the weight was heavy.

Having experienced so much anxiety, loss, depression, the vaccine was our chance to turn this whole thing around. Many of our employees didn't hesitate to say yes, but some needed more information and assurance. We recognized their need and tried to alleviate their fears with exemplary leadership, and ongoing education. Currently, we stand at 78.19% fully vaccinated staff and 98% residents fully vaccinated. I feel that all who work in healthcare should be vaccinated, as we are here to promote the health and safety of all residents. How can we do that if we put our residents at risk of the greatest threat to life that we have seen in our lifetime? At the same time, we care for people, who require people to provide that care, even as we are experiencing the deepest staffing crisis I have known in my 36 years in long term care.

Our first priority at Arbor Springs is the health and safety of our residents, inside and outside of our walls. Our residents go out to appointments to other healthcare facilities, and there are other healthcare providers that come into our facility to see them. All of these other healthcare workers are in close contact with our residents and could put them in harm's way, if they are not vaccinated. Let's mandate the vaccine for all healthcare personnel, so that our residents have the best chance of having caregivers to care for them, and protect them from unnecessary exposures. Without that approach, our residents will still be unprotected when encountering other healthcare personnel, and we will also lose more staff to other healthcare providers who are not under the same vaccine requirements. Our most vulnerable population will continue to be at risk of being exposed to COVID-19, the most serious and real threat to life that we have ever known.

Annie Swanson BSN, RN, LNHA
Administrator