

Unfunded Minimum Staffing Requirement for Skilled Nursing Facilities

Dear Administrator Brooks-LaSure:

The Ohio Health Care Association represents more than 600 Skilled Nursing Facilities in the state of Ohio, and has done so since 1946. In addition to Skilled Nursing Facilities, we also represent over 600 Assisted Living, Home Care, Hospice and Intellectual and Developmental Disability Providers. With the COVID-19 pandemic, we have witnessed our members undergo one of the most devastating and challenging times in our long history.

The COVID-19 pandemic disproportionately impacted our members, due to having the frailest and most susceptible patients to mortality when infected with COVID-19. Due to the staff themselves contracting COVID-19 and requiring long periods to recover at home, our workers who remain in coverage situations often became burnt out. This has led to a great exodus of long-standing staff, requiring that operators rely on untrained staffing agency staff to care for our residents. Agency staff workers are often times 2-3 times more costly, which further impedes our ability to hire additional workers.

Due to our vast efforts to promote workforce in our industry and enhance quality of care over the last 75 years, we would like to express our extreme opposition to the mandated minimum staffing requirements for skilled nursing facilities. Since the COVID-19 pandemic, various branches of the healthcare sector have been on the path to recovery. This path has been much more difficult for Skilled Nursing Facilities. According to the Bureau of Labor Statistics, Ohio SNF providers are still down 12,436 employees from pre-pandemic levels as of July 2022. That is a staggering 14% decrease in total workforce. Over the same time period, our quarterly wages have increased by over \$22 million dollars, and our average weekly wage has increased by 19%. This demonstrates a targeted effort to attract new workers through higher wages, without much success towards recovering our workforce to pre-pandemic levels. However, according to the Bureau of Labor Statistics Direct Care Workforce Economic Index, Ohio ranks 41st in wage competitiveness.

Currently, in the state of Ohio, there are 17,678 job postings for a Registered Nurse, 4,276 listings for a Licensed Practical Nurse, 3,387 postings for Nursing Assistants and 1,550 positions for social and human service assistants. The shortage of healthcare workers in the United States is established and well-documented. In Ohio, we feel this shortage more pointedly in the SNF setting, ranking amongst the lowest in the nation for staffing levels. Per CMS Payroll-based journal (PBJ) data, from pre-pandemic levels to calendar 2022 Quarter 3, the total hours for clinical care staff have decreased by 16.24% in our state.

Also based on CMS PBJ data, the state of Ohio currently only 19.6% of our Nursing Facilities would meet a mandated staffing level of 4.1. In order to staff the additional 80% of facilities at the current average nursing wage of \$25.50 an hour, and accounting for average benefit and tax costs, this mandate would cost Ohio SNF operators roughly \$428 million annually. For each facility, the average cost is roughly \$600K annually.

The underlying issue fueling our staffing crisis in long term care is related to funding. Any mandated staffing requirements must be accompanied by increases in reimbursement to support that additional staff, as well as meet the gap of reimbursement to current costs already experienced by providers.

From 2020 to 2021 providers experienced an increase in costs on Medicare patients of 5% in Ohio, while reimbursement rates only increased by 2%. Our state Medicaid underfunding only exacerbated this issue, where Ohio providers experience a deficit in reimbursement compared to costs of \$69.43 in fiscal year 2023 and \$51.83 a day in fiscal year 2022, up from a deficit of \$41.47 a day in fiscal year 2021.

This nursing facility benefit is a necessary health care service that cannot be abandoned. Unfunded staffing mandates, with staffing remains at currently levels, would require SNF operators to decrease their census by nearly 47%. This would create a risk of displacement for our residents. We understand that caring for our most frail individuals is a costly endeavor, but it is one we approach with great pride and passion. We only request that should a staffing mandate be implemented, that it first requires that pre-pandemic staffing levels are met prior to implementation and includes full funding of the cost to employee additional staff by Medicaid and Medicare.

We also request that our valued support staff are included in any consideration for staffing mandates. Long term care is a comprehensive care team that provides more than just nursing. Physicians, nurse practitioners, therapists, social workers, activity professionals and state tested nursing assistants all provide crucial care to our residents and should be included in any definition considered for "Staff".

Lastly, we request your consideration of the profound impacts that COVID-19 had on the long-term care sector compared to other aspects of the healthcare community. We have demonstrated the financial and workforce impacts still impacting our providers in Ohio today. It is our most fervent desire to offer competitive wages to employ adequate staffing for the delivery of quality care, and request your consideration in solving this complex and systemic issue in our industry. In addition to direct reimbursement strategies, we urge CMS to consider investing in policies supporting loan forgiveness, expanding educational opportunities, tax credits, affordable housing, childcare assistance and immigration reform.

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