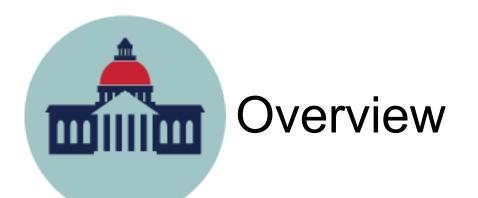
CMS Proposal on Minimum Staffing Requirements

- Mark Parkinson President & CEO
- Holly Harmon Senior Vice President of Quality, Regulatory & Clinical Services
- Clif Porter Senior Vice President of Government Relations







Specific thresholds for RN and Nurse Aides would be created

• 24/7 RN

Facility assessment requirement expanded





Number of Hours Required

- RN: 0.55 HPRD
- Nurse Aide (NA): 2.45 HPRD
- No specific LPN requirement
- 24/7 RN
- If acuity needs of residents require more, higher RN and NA staffing level will also be required



Alternate Approaches

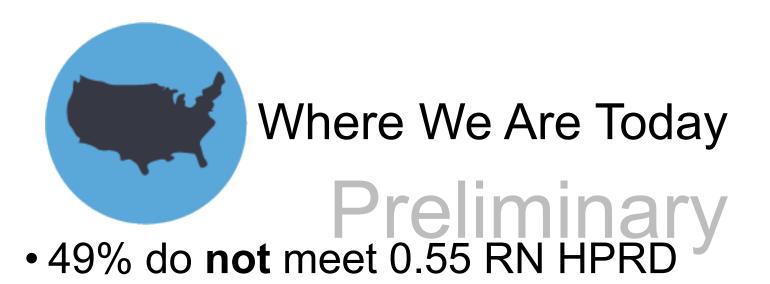
- In addition to or in place of the 0.55 RN and 2.45 NA proposal, CMS is asking if either of the following should be considered:
 - O Three-part:
 - 3.48 Total Nursing Staff HPRD
 - RN HPRD
 - NA HPRD
 - o Four-part:
 - Total Nursing Staff HPRD
 - RN HPRD
 - NA HPRD
 - LPN HPRD





What Workers Count

- 0.55 HPRD can only be met by RNs
 - DON can be counted
 - Unclear if RNs with administrative duties can be counted (though appear to be included in CMS calculations)
- 2.45 HPRD can only be met by Nurse Aides
 - CMS invites comments on allowing substitution with LPN in extraordinary cases and extreme circumstances
- CMS notes NASEM recommendation to exclude DON from counting in 24/7 and invites comments
- Cannot substitute RN or NA with PT, OT, Psychologist, Social Worker



- 72% do **not** meet 2.45 NA HPRD
- 19% meet both RN & NA HPRD
- Estimate <20% facilities have 24/7 RN hours
 PBJ has per day, not shift-level data





Extensive criteria

Process is cumbersome & not user-friendly

Most in need unlikely to qualify



Hardship Exemption for HPRD

Prior to being granted:

- Must be surveyed to assess health and safety of residents and
- Cited as noncompliant with minimum staffing requirement and

Eligible:

- Applicable workforce supply not sufficient per BLS; or no LTC facility within 20 miles of requesting facility and
- Good-faith effort to hire/retain including offers at prevailing wages or better (4-6 months or full year lookback) and
- Financial commitment demonstrated through documentation of financial resources expended annually on nurse staffing relative to revenue.

Hardship Exemption for HPRD

Ineligible:

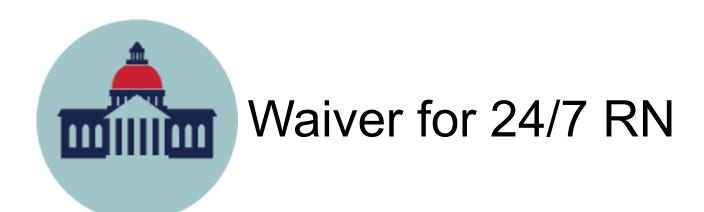
- Fail to submit PBJ in accordance with 483.70(p) or
- Within the 12 months preceding survey during which the facility's noncompliance is identified - was cited at widespread or pattern of insufficient staffing resulting in resident harm or cited at IJ for insufficient staffing or
- Identified as SFF

Length of exemption:

- One year and could be extended in increments of one additional year if facility continues to meet criteria
- Discontinued if facility becomes ineligible per criteria above

Exemption will be publicly posted





 Uses existing process for current RN 8 hour/7 day requirement





No funding for increased staff

\$75 million for workforce development

CMS estimates 10-year cost is \$40.6B
 Average cost of \$4.1B annually





• HPRD:

- Urban facilities 3 years
- ∘Rural facilities 5 years

• 24/7 RN:

- Urban facilities 2 years
- ∘Rural facilities 3 years
- Facility assessment:
 - o60 days





U.S. Census Definition Used for Urban/Rural

- 21% of SNFs are rural: All population, housing, and territory not included within an urban area
- Facility's designation will be available in TrendTracker
 Topline report by September 8
- CMS seeking comment on whether a different definition should be used





Rural Health Information Hub: <u>Am I Rural?</u>

https://www.ruralhealthinfo.org/am-i-rural

First definition listed is U.S. Census





- DPNA, DPOC, directed in-service or other enforcement actions
- CMPs
- Temporary management
- State monitoring
- Transfer of residents
- Provider agreement termination





Facility Assessment Expansion

- Creates new regulatory section for facility assessment at §483.71 (separating from Administration)
- Requires facilities develop and maintain staffing plan to maximize recruitment & retention of nursing staff
- Address staffing for all shifts and days of week and adjust based on significant changes in resident population





Facility Assessment Expansion (cont.)

- Require greater inclusion of direct care staff in development, including representatives of direct care employees (union, local safety organization, third-party worker advocacy group)
- Use evidence-based data driven methods that consider resident condition, linked to resident assessment
- Behavioral health issues and staff skill sets are emphasized
- Contingency plan for non-emergency events that have potential to affect resident care





How We Are Going to Win

Further moderate the rule

Obtain relief from Congress

Litigation if necessary





Objective: Further Moderate Rule

- Funding
- Longer phase-in for 24/7 RN requirement
- More inclusive count of 24/7 RN hours (DON and nurses with administrative duties included)
- Ease the hardship exemption requirements
- Ensure that LPNs are acknowledged as a part of the solution



Strategy

- Political Outreach
 - Engaging Congressional Leadership
 - Expanding Congressional Champions (Tester)
 - Engaging Governors on costs placed on states
 - Legislative proposals that fix problem (CHALLENGING)
- Grassroots Proposed Rule Outreach
 - Formal Comments
 - 10,000 comments goal
 - Facility/Community Congressional Tours
 - 133 facility/community tours to date
 - Member Meetings





Strategy

- Coalition Building
 AHA, Rural Health, Homecare, LeadingAge
- Targeted media and public affairs investment
- Leveraging proposed rule to advance solutions
 Lockout, TNA, immigration)
- Engaging Administration





What You Can Do Now

- If you have relationship, contact your Members of Congress directly (time to use the cell phone #)
- District office meeting to discuss the issue
- Continue to invite Members of Congress to your facility
- Engage your local press about workforce shortages (OpEds, articles etc.)
- Lobby Wednesdays in DC
 - AHCA will coordinate mini fly-ins to engage Members of Congress





We Need 10,000 Comments to CMS

- Contact CMS to weigh in on their proposal for SNF minimum staffing requirements
- Comments due November 6
- Make your comments personalized to drive home message
 Use your own circumstances & examples
- Focus on your patients and residents





Help Us Contact CMS

JOIN OUR WEBINAR:

Contacting CMS on Minimum Staffing Requirements

Monday, September 11 2:00 PM Eastern

Register on ahcancalED or click here

https://tinyurl.com/5n82n4cb



Questions?

Submit through chat









IMPROVING LIVES by DELIVERING SOLUTIONS for QUALITY CARE