



November 6, 2023

The Honorable Chiquita Brooks-LaSure, MPP  
Administrator  
Centers for Medicare & Medicaid Services  
Department of Health and Human Services  
7500 Security Boulevard  
Baltimore, MD 21244-1850

**RE: Medicare and Medicaid Programs; Minimum Staffing Standards for Long-Term Care Facilities and Medicaid Institutional Payment Transparency Reporting - Attention: CMS-3442-P**

Dear Administrator Brooks-LaSure,

The American Academy of PAs (AAPA), on behalf of the more than 168,300 PAs (physician assistants/associates) throughout the United States, is pleased to provide comments on the Minimum Staffing Standards for Long-Term Care Facilities (LTCF) proposed rule. PAs and the patients they serve will be impacted by the proposed standards. AAPA believes PAs have the capacity to help meet the ultimate objectives of the proposed standards – to increase access and quality of care in long-term care facilities. However, AAPA has concerns that the proposed rule, as drafted, will be overly burdensome on the facilities and patients it purports to benefit.

AAPA supports the administration's goals of addressing disparities and promoting equity in healthcare. However, the proposed standards in the rule would implement rigid minimum staffing standards that limit adaptability and flexibility based on the reality of today's practice environment. It is within this context that we draw your attention to our comments.

**Staffing Standards that Do Not Allow for an Expanded Utilization of PAs Will Not Maximize Patient Access or Outcomes**

The PA profession is growing at a rapid rate which will help meet the increasing workforce needs of our healthcare system. In 2020, there were estimated to be nearly 150,000 PAs in clinical practice. By 2035 that

number is anticipated to grow to nearly 215,000.<sup>1</sup> PAs work to ensure the best possible care and outcomes for patients in every specialty and setting, including long-term care/nursing facilities. PAs, working with other members of the healthcare team, have demonstrated their ability to improve access to quality care while providing high levels of patient satisfaction, similar to that of physicians.<sup>2</sup>

The growth rate of the PA profession, along with PAs' qualifications, shows that an increased utilization of PAs could be part of an effective solution to address the country's long-term care workforce deficiencies and access concerns.

The number of PAs practicing in long-term care/nursing facilities has remained relatively low. This is largely attributable to restrictive laws and facility policies. The proposed rule implements another such restriction by proposing a narrow interpretation of which providers can count toward meeting the required hours per resident day (HPRD). Such a restrictive definition is not necessary and indeed certain states, such as Arkansas, include non-nurse health professionals such as PAs in meeting its HPRD requirements.

**AAPA shares CMS's desire to improve access, continuity, and quality outcomes in long-term care facilities. However, AAPA disagrees with the agency's strategy on how to best achieve this goal. AAPA urges adoption of a broader definition as to who may contribute to meeting HPRD requirements which would allow LTCFs to draw from a larger pool of qualified providers, including the rapidly expanding and growing PA workforce.**

#### **Request for More Information Regarding Collection of Data Related to Direct Care Workers**

AAPA recognizes CMS's reasoning for not including PAs and Physicians within the definition of Direct Care Worker in the proposed regulation. However, to ensure there is absolutely no need to amend the definition, **we respectfully request more detailed information on how CMS intends to use the data collected related to Direct Care Workers.**

#### **Burden to Meet the Proposed Staffing Standards**

AAPA also has concerns about the potential burden on facilities, as well as patients and their families to meet the minimum staffing standards that are proposed.

The proposed rule has three main proposals pertaining to staffing, two of which focus on hours per resident day, specifically: 1) minimum nurse staffing standards of .55 HPRD for RNs and 2.45 for nurse aides (NAs); and 2) a 24/7 onsite requirement for RNs. A recent review conducted by the Kaiser Family Foundation (KFF), found that currently, only about 20 percent of nursing facilities would meet the proposed requirements for staffing.<sup>3</sup> According to KFF, the new requirements would hit some states much harder than others in terms of

---

<sup>1</sup> Hooker, R. et al, Forecasting the Physician Assistant/Associate Workforce: 2020-2035, 9 Future Healthcare Journal 1, pp. 57-63, March 2022.

<sup>2</sup> Medicare Payment Advisory Committee. 2019. Report to the Congress: Medicare and the health care delivery system. Retrieved from <https://www.medpac.gov>

<sup>3</sup> Burns, A. et al, Brief: What Share of Nursing Facilities Might Meet Proposed New Requirements for Nursing Staff Hours? Kaiser Family Foundation, Sept. 18, 2023.

the need for change/increase in staffing. While these proposed staffing changes may be desirable, there is concern regarding the overall cost to facilities to increase staffing to meet needs, and whether ultimately that cost is passed on to either the state or to residents and/or their families creating a financial barrier to care.

**AAPA recommends CMS set the minimum staffing hours for LTC facilities at a level and with an implementation timeline that will meet appropriate patient safety requirements with a sensitivity regarding how those requirements financially impact patients.**

Thank you for the opportunity to provide comments regarding the Minimum Staffing Standards for Long-Term Care Facilities. AAPA welcomes further discussion with CMS regarding this critical issue. For any questions you may have please do not hesitate to contact me at [michael@aapa.org](mailto:michael@aapa.org).

Sincerely,

A handwritten signature in black ink that reads "Michael L. Powe". The signature is written in a cursive style with a light blue shadow effect behind the text.

Michael L. Powe, Vice President  
Reimbursement and Professional Advocacy