

Improving Nursing Home Care Through Strong Staffing and Oversight: *Recent Progress and Opportunities for the Future*



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Note from the Chairman

"We have made progress by bringing nursing home issues to the forefront, improving transparency and oversight, and moving the ball forward on adequate staffing, but there is still more to be done."



Over the course of the 118th Congress, during my time as Chairman of the Senate Special Committee on Aging, my career in the Senate, and going back as far as my time as Auditor General for the Commonwealth of Pennsylvania, I have worked to improve conditions in nursing homes for residents and staff. We have made progress by bringing nursing home issues to the forefront, improving transparency and oversight, and moving the ball forward on adequate staffing, but there is still more to be done. We must continue to confront power and corporate forces that put profits over resident and staff safety.

Introduction

Nursing homes are the common term used to refer to “skilled nursing facilities” or “nursing facilities” in Federal health regulations.¹ Nursing homes generally serve two types of Americans, those with short-term medical recovery needs and those with long-term residential medical needs. Short-term care includes patients leaving a hospital or other acute care setting, who need rehabilitation services. Long-term care is often provided to older adults or people with disabilities who require daily skilled nursing. That care is usually covered by Medicare, Medicaid, private insurance, out-of-pocket payments, or some combination of those funding sources. Nursing homes can be found in a number of different settings including as stand-alone facilities, as part of a hospital campus, or as part of a continuing care retirement community.

There are approximately 1.1 million Americans residing in the Nation’s 15,000 nursing homes. Those Americans are cared for by direct care staff who include Registered Nurses (RNs), Licensed Vocational Nurses (LVNs) or Licensed Practical Nurses (LPNs), and Certified Nursing Assistants (CNAs). There are approximately 4.4 million nursing staff working in nursing homes, including Directors of Nursing, Nurse Aides in Training, and Medical Aides and Technicians.²

Nursing Home Care

Oversight of Nursing Homes

The Centers for Medicare & Medicaid Services (CMS) has a shared responsibility with states to oversee and monitor nursing home quality and services. State survey agencies do this oversight by conducting annual inspections known as “recertification” or “standard” surveys; investigate complaints against the facilities; take enforcement actions when warranted; and make public the results of survey findings.³ These inspection activities are meant to ensure that nursing homes are abiding by Federal standards for medical care, have adequate staffing, are prepared for possible emergencies, and safeguarding residents from abuse and neglect.⁴

Federal law requires Medicare and Medicaid-certified nursing homes to provide 24-hour licensed nursing services, which are “sufficient to meet nursing needs of [their] residents” and must use the services of a registered professional nurse at least eight consecutive hours a day, seven days a week.⁵ Nursing homes are also required to conduct an annual facility assessment, which considers resident needs and staff ability to provide care.

When it comes to staffing nursing homes, many states have their own minimum requirements that are more stringent than the federal “sufficient staff” requirement. At least 16 states use the federal “sufficient staff” requirements while at least 34 states and the District of Columbia define a specific staffing ratio or hours per resident per day (HPRD) standard.⁶

High Turnover and Chronic Understaffing

When making the decision to place a family member in a nursing home, families want to make sure their loved ones will receive the best care possible. The connection between staffing levels in nursing homes and the safety and quality of care is well-established. Unfortunately, nursing homes are often chronically understaffed. For years, researchers have linked low staffing levels in nursing homes to poor quality, patient safety violations, and higher rates of antipsychotic use.⁷ Recently, a report from the National Academies of Sciences, Engineering, and Medicine (NASEM) found that “higher nurse staffing ratios mitigated the effect of [a COVID-19] outbreak in nursing homes and resulted in fewer deaths once an outbreak occurred.”⁸ Understaffing in nursing homes also contributes to inadequate emergency preparedness, leaving older adults and people with disabilities vulnerable to extreme weather events.

In addition to the challenging work that nursing home staff do every day, the COVID-19 pandemic placed an even greater burden on those caregivers. COVID-19 took an immense toll on nursing home residents and staff, who represent more than one-third of all deaths nationwide, despite accounting for fewer than five percent of cases.⁹ In January 2022, CMS began posting nursing staff turnover data on the Care Compare website, revealing that the average annual turnover of nursing staff is 53 percent. Such high rates are a serious problem for residents. Nursing homes with higher staff turnover are cited more frequently for resident abuse, perform worse on five-star quality rating measures, and tend to have more substantiated complaints. The causes of high staff turnover are often poor wages and benefits, lack of training and career opportunities, poor management, and unreasonable workloads.

In 2001, CMS released a Congressionally mandated report on staffing that identified minimum staffing standards below which quality of care would be compromised and residents would be put at risk.¹⁰ The report recommended a daily minimum standard of 4.1 hours of total direct care nursing time per resident that included 2.8 hours from certified nursing assistants, 0.75 hours from RNs, and 0.55 hours from licensed practical/vocational nurses.

Recent Federal Efforts to Address Nursing Home Staffing and Oversight

In April 2024, CMS issued a final regulation, the “Medicare and Medicaid Programs: Minimum Staffing Standards for Long-Term Care Facilities and Medicaid Institutional Payment Transparency Reporting.” The rule was informed by over 46,000 public comments and went into effect in June 2024.

The final rule requires all nursing homes that receive federal funding through Medicare and Medicaid to have 3.48 hours per resident per day of total staffing, including at least 33 minutes with a nurse and two hours and 27 minutes with a nurse aide. The rule also requires facilities to have a registered nurse onsite 24 hours a day, seven days a week (24/7). This final rule provides a staggered implementation based on geographic location, with some provisions for rural areas not going into effect until May 2028. The rule also provides possible exemptions for facilities who are acting in good faith but experiencing workforce shortages.

The final rule also strengthens the facility assessment requirement. The rule requires facilities to use evidence-based methods when planning care for residents in order to meet the specific needs of each resident. The rule also requires facilities to develop a staffing plan that maximizes staff recruitment and retention.

To increase transparency related to compensation for workers, the rule requires states to collect and report on the percent of Medicaid payments that are spent on compensation for direct care workers and support staff delivering care in nursing facilities and intermediate care facilities for individuals with intellectual disabilities.

In September 2023, CMS announced that the agency would be investing over \$75 million to launch a national nursing home staffing campaign to increase the number of nurses in nursing homes. The funding can be used for tuition reimbursement or to streamline enrollment into training programs.

Recent Work by Chairman Casey and the Aging Committee to Address Nursing Home Staffing and Oversight

Chairman Casey has been concerned about the quality of nursing homes and the services provided since his time as Auditor General for the Commonwealth of Pennsylvania. In recent years, the Senate Aging Committee, chaired by Senator Casey, has held a number of hearings and issued several oversight reports on nursing homes specifically addressing staffing.

In August 2021, Chairman Casey joined the Senate Finance Committee Chairman Ron Wyden (D-OR), House Ways and Means Committee Chairman Richard Neal (D-MA), and the House Energy and Commerce Committee Chairman Frank Pallone (D-NJ) to introduce the *Nursing Home Improvement and Accountability Act* (S.2694/H.R. 5169).¹¹ The bill would require nursing homes to take significant steps to modernize by filling gaps in staffing, access to information, accountability, and oversight. These steps would improve care for residents and ensure that nursing homes would be better prepared for future public health emergencies. Many components of the *Nursing Home Improvement and Accountability Act* were included in the *Build Back Better Act*, which passed the House in 2021 but was not passed by the Senate.

In November 2021, Chairman Casey convened an Aging Committee hearing titled “Inclusive Disaster Management: Improving Preparedness, Response, and Recovery.” This hearing highlighted the devastating effects of natural disasters on older adults and people with disabilities, including those in nursing homes. In February 2023, as a follow-up to this hearing, Chairman Casey and Finance Committee Chairman Wyden issued a report titled, “Left in the Dark: The Impact of the 2021 Texas Blackout on Long-Term Care Residents and the Need to Improve Emergency Preparedness.”¹² This report found that inadequate staffing and high staff turnover rates contribute to a lack of emergency preparedness plans and put the health and lives of residents at risk.

The Aging Committee also held two joint briefings with the Senate Finance Committee on nursing home staffing for Committee members and the Democratic Caucus.

- In March 2023, Aging and Finance staff organized a briefing on minimum staffing standards in nursing homes. Panelists included representatives from SEIU, AFSCME, AARP, and Dr. Elizabeth Halifax of the University of California-San Francisco.
- In July 2024, Aging and Finance staff organized a briefing for Democratic staff about the CMS final staffing standard rule and its effects on nursing homes. Panelists included representatives from SEIU, AARP, and Sherrill Mason of Mason Advisors.

Future Steps to Address Nursing Home Staffing and Oversight

Ensuring sufficient staffing to provide care for Americans in nursing home and resources to ensure adequate monitoring of those facilities must be a priority for the 119th Congress. To accomplish these goals, members of Congress should take the following actions:

- Protect the nursing home staffing rule and ensure it is implemented across the country. In formulating the rule, CMS undertook a multi-year process to determine what staffing level was needed to prevent harm to residents and to promote quality of care. The majority of states already have a staffing standard, and many nursing homes already staff at or above the requirements of the rule. Time must be provided to allow for a good faith effort to implement the staffing levels.
- Resist efforts by the nursing home industry to weaken or eliminate the staffing rule. Organizations that include the American Health Care Association (AHCA) and LeadingAge have waged an open war to eliminate the rule. Industry reactions claim the rule is too burdensome on nursing homes and will result in closures due to workforce shortages. However, the nursing home industry is a multibillion dollar one, and about 70 percent of nursing homes are for-profit facilities. Private equity firms have rapidly increased ownership in nursing homes, driving many facilities towards worse health outcomes.¹³
- Hold the incoming administration accountable for any efforts to weaken the staffing rule. Congress can hold the administration accountable by holding hearings focusing on the risks to residents of low staffing ratios as well as the risks to workers who must practice in settings with insufficient staff.
- The Senate Aging Committee can be a source of accurate information about the effects of insufficient nursing home staffing, including by holding round tables, informing Senate members and staff, and gathering researchers and practitioners to share information about insufficient staffing.
- The Senate Aging Committee can also develop state fact sheets to communicate the benefits of the rule and the staffing requirements in states, similar to previous fact sheets.¹⁴
- Redraft the *Nursing Home Improvement and Accountability Act* to strengthen its provisions and reintroduce the legislation in the 119th Congress.

- Support the efforts of CMS to implement section 6101 of the Affordable Care Act to require disclosure of ownership information of nursing homes. Private equity firms have bought and restructured thousands of the country's nursing homes. Americans deserve to know who owns the nursing homes their loved ones are considering for care. Supporters of safety and quality in nursing homes must ensure that the new administration is held accountable in implementing the CMS rule that requires disclosure of nursing home ownership.¹⁵
- Ensure that the CMS Survey and Certification Program is sufficiently funded. State survey agencies, supported by the program, are integral to ensuring the health and safety of Americans living in nursing homes. They ensure federal standards are met, that adequate staffing is available, and that safeguards are in place to prevent residents from experiencing abuse and neglect. In May 2023, the Aging Committee Majority Staff released a report detailing the severe staffing shortages experienced by state survey agencies, leading to the inability to complete nursing home inspections.¹⁶ Congress should increase funding for survey and certification activities and consider making the spending mandatory to provide states more predictable funding streams.

- 1 U.S. Code of Federal Regulations, Title 42 §483, last accessed November 20, 2024 <https://www.ecfr.gov/current/title-42/chapter-IV/subchapter-G/part-483?toc=1>.
- 2 "Nursing Home Staffing Q1 2024," Long Term Care Community Coalition, last accessed November 20, 2024, <https://nursinghome411.org/data/staffing/staffing-q1-2024/>.
- 3 "Nursing Homes," Centers for Medicare and Medicaid, U.S. Department of Health and Human Services, last modified October 29, 2024, <https://www.cms.gov/medicare/health-safety-standards/quality-safety-oversight-general-information>.
- 4 "Quality, Safety & Oversight General information," Centers for Medicare and Medicaid, U.S. Department of Health and Human Services, last modified September 10, 2024 <https://www.cms.gov/medicare/health-safety-standards/quality-safety-oversight-general-information>.
- 5 U.S. Code. Title 42 § 1395i-3(b) (4) (C) (i) (Social Security Act, § 1819), last accessed November 20, 2024, https://www.ssa.gov/OP_Home/ssact/title18/1819.htm.
- 6 "Update on State and Federal Long-Term Care Staffing Requirements," National Council of State Legislatures, last updated October 23, 2023, <https://www.ncsl.org/health/update-on-state-and-federal-long-term-care-staffing-requirements>.
- 7 Charlene Harrington et al, "The Need for Higher Minimum Staffing Standards in U.S. Nursing Homes, Health Services Insights, 9, 13-19, April 12, 2016, <https://doi.org/10.4137/HSI.S38994>.
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- 11 "Wyden, Casey Unveil Comprehensive Bill to Improve Nursing Homes for Residents and Workers | United States Senate Committee on Finance," United States Senate Committee on Finance, August 10, 2021, <https://www.finance.senate.gov/chairmans-news/wyden-casey-unveil-comprehensive-bill-to-improve-nursing-homes-for-residents-and-workers>.
- 12 United States Senate Finance Committee and United States Senate Special Committee on Aging, Left in the Dark: The impact of the 2021 Texas Blackout on Long-Term Care Residents and the Need to Improve Emergency Preparedness, February 22, 2023, <https://www.finance.senate.gov/imo/media/doc/02222023%20Left%20in%20the%20Dark%20-%20Wyden-Casey%20final.pdf>.
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- 14 "Avoiding Default and Protecting Against Cuts to Safety-Net Programs: Resources and Fact Sheets | United States Senate Special Committee on Aging," United States Senate Special Committee on Aging, May 16, 2023, <https://www.aging.senate.gov/press-releases/avoiding-default-and-protecting-against-cuts-to-safety-net-programs-resources-and-fact-sheets>.

15 “Disclosures of Ownership and Additional Disclosable Parties Information for Skilled Nursing Facilities and Nursing Facilities: Definitions of Private Equity Companies and Real Estate Investment Trusts for Medicare Providers and Suppliers,” Centers for Medicare and Medicaid, U.S. Department of Health and Human Services, November 15, 2023, <https://www.cms.gov/newsroom/fact-sheets/disclosures-ownership-and-additional-disclosable-parties-information-skilled-nursing-facilities-and-0>.

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