

# AFL-CIO

## LEGISLATIVE ALERT

March 5, 2024

Dear Representative:

On behalf of the AFL-CIO, I urge you to vote against (H.R. 7513), the misnamed Protecting Rural Seniors' Access to Care Act when it is considered by the House Ways & Means Committee later this week. The bill would require the Administration to abandon a much-needed staffing standard for nursing facilities participating in the Medicare and Medicare programs.

The AFL-CIO strongly supports the creation of a minimum staffing standard for these nursing homes. The connection between staffing levels in nursing homes and the quality of care is well-established; decades of research, including research commissioned by the Department of Health & Human Services (HHS), shows that higher staffing levels improve the physical and mental health of residents, reduces staff injuries, and reduces worker turnover.

Congress should not step in at the eleventh hour to interfere with a regulatory process in which the industry has had ample opportunity to provide input and advice. HHS issued a proposed rule that the provider community could comment on and issued a Request for Information (RFI) seeking input from stakeholders that has proven influential in shaping the proposed staffing standard.

Despite industry claims, the proposed rule is not a one-size-fits-all solution that mandates a uniform level of staffing. The rule would simply establish a floor below which staffing could endanger the health of residents. Nursing homes with a higher acuity population could continue to staff at a higher level.

The industry claims that there are not enough nursing staff to comply with staffing requirements. This claim overlooks the fact that more than 235,000 nursing home workers quit work or were let go during the pandemic and have not returned to the bedside.<sup>1</sup> Those workers are trained and ready to work if compensation was competitive and working conditions improved. In fact, wages are so poor and the work so dangerous that the average nursing home continues to lose over half of its nursing staff every year. To the extent that the industry is facing a labor shortage, it is a problem they can address but choose not to.

Data shows that the final rule is unlikely to be a hardship for most nursing homes. According to the Kaiser Family Foundation, 90% of non-profit facilities will be able to meet the proposed staffing standard.<sup>2</sup> The rule is primarily a problem for for-profit providers that

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<sup>1</sup> Emily Paulin, *Inside the 'Staffing Apocalypse' Devastating U.S. Nursing Homes*, AARP, June 9, 2022. Available at <https://www.aarp.org/caregiving/health/info-2022/labor-shortage-nursing-homes.html>.

<sup>2</sup> Alice Burns, Priya Chidambaram, Tricia Neuman, and Robin Rudowitz, *What Share of Nursing Facilities Might Meet Proposed New Requirements for Nursing Staff Hours?* Kaiser Family Foundation, September 18, 2023. Available at <https://www.kff.org/medicaid/issue-brief/what-share-of-nursing-facilities-might-meet-proposed-new-requirements-for-nursing-staff-hours/>.

historically staff at lower levels. Moreover, the proposed rule also had a generous phase-in period with additional time for rural facilities; it also contains an exemption process that would excuse facilities unable to meet staffing standards, potentially for years.

We also believe that a minimum staffing standard is broadly popular among seniors and their families. As AARP has noted, a minimum staffing standard is supported by 89% of Democrats and 74% of Republicans.<sup>3</sup> This is in line with the broad support for staffing standards in response to the RFI last year. Given this broad support and HHS's comprehensive review of the issue over the last two years, we believe that the Department should be allowed to move forward to finalize minimum staffing requirements. We urge you to vote against H.R. 7513, which would prevent standards to ensure residents are getting quality care and nursing staff have a safe work environment.

Sincerely,

A handwritten signature in black ink, appearing to read "William Samuel". The signature is fluid and cursive, with a large initial "W" and a long, sweeping tail.

William Samuel  
Director, Government Affairs

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<sup>3</sup> AARP, *U.S. Voters' Views on Support for Family Caregiving*, May 2023. Available at [https://www.aarp.org/content/dam/aarp/research/surveys\\_statistics/ltc/2023/voters-views-caregiving-support-report.doi.10.26419-2Fres.00616.001.pdf](https://www.aarp.org/content/dam/aarp/research/surveys_statistics/ltc/2023/voters-views-caregiving-support-report.doi.10.26419-2Fres.00616.001.pdf).