



We'll get you there.

CPAs | CONSULTANTS | WEALTH ADVISORS

CMS Proposed Staffing Mandate

In-Depth Analysis on Minimum Nurse Staffing Levels

Forward-Looking Statements — Disclaimer

Certain information set forth in this presentation contains “forward-looking information,” including “future-oriented financial information” and “financial outlook” (collectively referred to herein as forward-looking statements). Except for statements of historical fact, the information contained herein constitutes forward-looking statements and includes, but is not limited to, (i) projected median operating margin performance of national skilled nursing facilities; (ii) projected occupancy levels; and (iii) projected inflation. These forward-looking statements are provided to allow industry professionals and policy makers the opportunity to understand CLA’s beliefs and opinions with respect to the future so that they may use such beliefs and opinions as one factor in evaluating the performance of the skilled nursing industry.

These statements are not guarantees of future performance and undue reliance should not be placed on them. Such forward-looking statements necessarily involve known and unknown risks and uncertainties, which may cause actual performance and financial results in future periods to differ materially from any projections of future performance or result expressed or implied by such forward-looking statements.

Although forward-looking statements contained in this presentation are based on what CLA believes are reasonable assumptions, there can be no assurance that forward-looking statements will prove to be accurate, as actual results and future events could differ materially from those anticipated in such statements. CLA undertakes no obligation to update forward-looking statements if circumstances or industry estimates or opinions should change. The reader is cautioned not to place undue reliance on forward-looking statements.





Executive Summary



©2023 CliftonLarsonAllen LLP. CLA (CliftonLarsonAllen LLP) is an independent network member of CLA Global. See CLAGlobal.com/disclaimer.
Investment advisory services are offered through CliftonLarsonAllen Wealth Advisors, LLC, an SEC-registered investment advisor.



On September 1, 2023, the Centers for Medicare and Medicaid Services (CMS) issued the long anticipated proposed rule on the Minimum Staffing Standards for the long-term care (LTC) facilities. CMS has “long identified staffing as one of the vital components of a nursing home’s ability to provide quality care . . .”⁽¹⁾ CMS is currently using various methods to analyze an appropriate “minimum level and type of staffing needed to enable safe and quality care in nursing homes.”⁽²⁾ CMS states they are basing the proposed minimums on their new 2022 staffing report⁽³⁾ that found “statistically significant differences in safety and quality care” at certain minimum levels.

The proposed rule mandates hours per resident day (HPRD) for two disciplines: registered nurses (RNs) at 0.55 HPRD and nurse aides (NAs) at 2.45 HPRD. The rule does not require any licensed practical nurse staffing minimums. In addition, the proposed rule would require an RN to be on-site 24 hours a day, seven days a week and able to provide care. This is a separate requirement from the 0.55 HPRD RN requirement.

Utilizing Payroll-Based Journal (PBJ) data and hourly rates from Medicare cost reports, we have estimated the additional staff necessary to meet the staffing requirement, as well as the costs associated with the additional staff. The analysis demonstrates the financial and workforce challenges for skilled nursing facilities (SNFs) to provide direct care staffing at the levels CMS has indicated in the proposed rule.

1. Centers for Medicare & Medicaid Services Minimum Staffing Standards for Long-Term Care. [2023-18781.pdf \(federalregister.gov\)](https://www.federalregister.gov/documents/2023/09/01/2023-18781/centers-for-medicare-and-medicaid-services-minimum-staffing-standards-for-long-term-care)
2. <https://www.cms.gov/blog/centers-medicare-medicaid-services-staffing-study-inform-minimum-staffing-requirements-nursing-homes>
3. [The Nursing Home Staffing Study Comprehensive Report \(cms.gov\)](https://www.cms.gov/medicare/medicare-part-b-and-medicare-medicaid-services/studies-reports/nursing-home-staffing-study-comprehensive-report)





CMS has also proposed additional facility assessments related to the staffing mandate. CMS states that its “goal is to ensure [these minimums] are both implementable and enforceable, as determined through both the PBJ System as well as on-site surveys.”⁽¹⁾ The agency also wants to work against any inverse incentives to reduce staffing to these minimums. Therefore, CMS proposes the following:

Clarifying that evidence-based methods must be used when care planning for residents

Requiring use of facility assessments to assess specific needs of each resident and adjust as necessary based on any significant changes in resident population

Requiring input of staff including leadership, management, direct care (nurse staff), representatives of direct care, and staff who provide other services

Requiring development of a staffing plan to enhance recruitment and retention of staff

1. Centers for Medicare & Medicaid Services Minimum Staffing Standards for Long-Term Care. [2023-18781.pdf \(federalregister.gov\)](https://www.federalregister.gov/documents/2023/01/11/2023-18781/minimum-staffing-standards-long-term-care)





Summary of Findings and Conclusions

The cost of staffing to meet a minimum staffing mandate of 0.55 RN HPRD and 2.45 nurse aide HRPD, as well as the 24/7 RN coverage, is estimated to be \$6.8 billion. The [CLA 37th Annual SNF Cost Comparison and Industry Trends report](#) identified that 7,741 out of 13,193 SNFs (59%) had negative operating margins (excluding public health emergency funding). The additional burden of meeting minimum staffing requirements with no funding mechanism could potentially increase the number of facilities operating with negative margins.

The \$6.8 billion in estimated annual cost is associated with the wages and benefits required to hire more full-time equivalents (FTEs) to meet the proposed requirements. The SNF industry would need to hire approximately 102,000 additional full-time equivalents (FTEs). Although there have been improvements in workforce availability in some areas of the country, SNFs in many parts of the nation are still challenged to find the appropriate workforce. Some facilities may need to reduce admissions or number of beds in a facility to meet staffing ratios. If SNFs are unable to increase their workforce, hundreds of thousands of residents could be impacted by census reductions.





Summary of Findings and Conclusions

The following table summarizes the potential impact of the proposed staffing mandate on the skilled nursing facility industry.

	Nurse Aide (2.45 HPRD)	RN 24/7 Coverage	RN (0.55 HPRD)	All/Total
<i>Facilities that met criteria</i>	4,079 (28%)	2,970 (20%)	7,642 (52%)	896 (6%)
<i>Facilities that did NOT meet criteria</i>	10,532 (72%)	11,729 (80%)	7,057 (48%)	13,803 (94%)
<i>Estimated Annual Cost (\$ in Millions)</i>	\$ 4,794	\$ 610	\$ 1,455	\$ 6,860
<i>Estimated FTEs to Meet Criteria</i>	80,077	6,897	15,180	102,154
<i>Potential Census Impacted</i>	186,920 (16%)	96,528 (8%)	147,167 (12%)	287,524 (24%)

The additional cost and FTEs for 24/7 RN coverage does allow some facilities to meet the RN HPRD requirement. The RN HPRD estimated annual cost and additional FTEs to meet the 0.55 HPRD is in excess of the RN 24/7 coverage.

The estimated \$6.8 billion annual cost exceeds the CMS estimated annual cost of \$4 billion dollars primarily due to the fiscal year cost reports utilized in the calculation. CLA utilized the most currently available reports, including some FYE 2022 reports, which represent higher compensation costs than FY 2021.





Data and Methodology



©2023 CliftonLarsonAllen LLP. CLA (CliftonLarsonAllen LLP) is an independent network member of CLA Global. See CLAglobal.com/disclaimer. Investment advisory services are offered through CliftonLarsonAllen Wealth Advisors, LLC, an SEC-registered investment advisor.



Data and Methodology

Hours and census

PBJ data from first quarter 2023

Classification consistent with CMS Nursing Home Five-Star Quality Rating System Technical Users' Guide

- RN includes DON, RN with administrative duties, and RN
- Nurse aide includes CNA, aides in training, and medication aides / technicians
- Care Compare data from first quarter 2023

Action description	Total facilities
Annualized one quarter for each provider included to produce average annualized hours. Thus, each provider was only included once.	15,011
Removed facilities that did not report hours per resident day. A total of 400 facilities were removed.	14,611
Final facility count	14,611

Hourly rates

Annual Medicare cost reports released by CMS as of July 2023

- Includes fiscal years ended between December 31, 2021, and December 31, 2022
- S-3, Part V, column 5 Median Hourly Wage (includes salaries and allocated benefits)
 - Did not include or weight hourly rates for contract labor*
- State median hourly wages were used for facilities missing cost report data (approximately 6%)
- RN hourly wage rates utilized in median were capped at \$150 per hour

* The hourly rates for contract labor were excluded from the calculation, based on the assumption the costs associated with contract labor are higher than employed hourly rates. The analysis provides the lowest financial impact of a staffing minimum, without the consideration of the financial impact of the use of contract nursing to meet a minimum staffing requirement.





Methodology

CLA documented the potential cost and FTE requirements based on CMS proposed rule utilizing the following:

- By discipline
 - RN
 - Nurse aide
- RN coverage 24 hours per day, 7 days per week — Per rule, 24/7 coverage to be met prior to and regardless of RN HPRD coverage

Results are presented by discipline and in total

- For example, a facility that failed to meet the threshold for “all” did not meet any one of the criteria for Nurse aide HPRD, RN HPRD, or RN 24/7 coverage

Average total daily census (ADC)

- The sum of the ADC for facilities that do not meet the specific staffing criteria

Census impacted

- The number of residents impacted if facilities meet the mandate by reducing their ADC





Findings and Conclusions





Results — Facility Level

	Nurse aide	RN 24/7	RN (0.55)	All
Facilities that met criteria	4,079	2,970	7,642	896
Facilities that did NOT meet criteria	10,532	11,729	7,057	13,803

	Nurse aide	RN 24/7	RN (0.55)	All
Facilities that met criteria	28%	20%	52%	6%
Facilities that did NOT meet criteria	72%	80%	48%	94%

The tables above identify the number of facilities that **met** or **did NOT meet** the individual staffing requirements for first quarter 2023. The “All” columns identify facilities that either did or did not meet at least one of the criteria. In summary, 94% of facilities either did not meet the nurse aide criteria of 2.45 HPRD, the 0.55 RN HRPD, or the 24/7 RN coverage. A total of 13,803 facilities did not meet part or all of the HPRD and coverage requirements.

The total number of facilities included in analysis for RN 24/7 coverage is 14,699 based on the daily PBJ data.

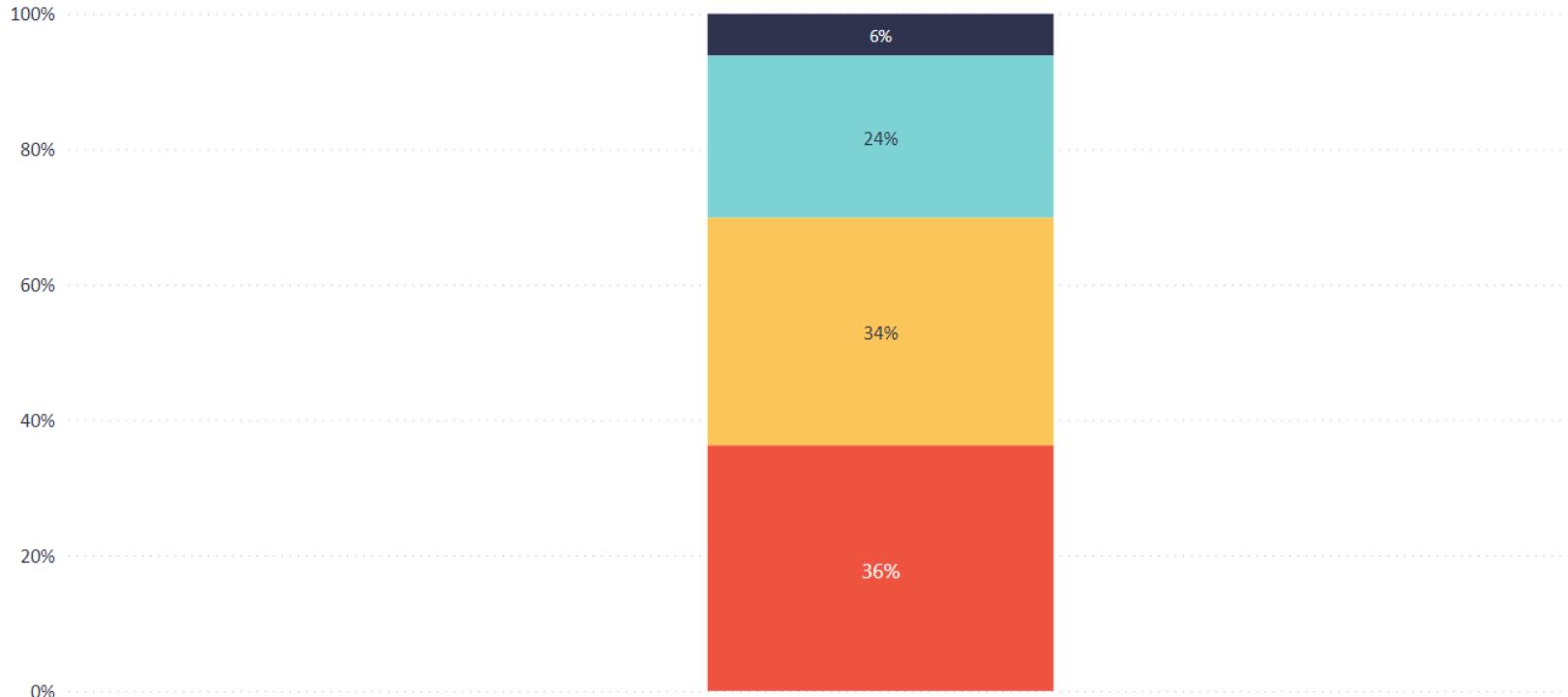




Results – Facility Level

Percent of Requirements Met

● Meet 0 of 3 ● Meet 1 of 3 ● Meet 2 of 3 ● Meet 3 of 3



Note: Puerto Rico and Guam were excluded from the analysis above.





Results — Cost to Meet Criteria

Estimated Annual Cost (\$ in Millions)

Nurse aide	RN 24/7	RN	Total
\$ 4,794	\$ 610	\$ 1,455	\$ 6,860

CLA used the average hourly rates from Medicare cost reports to determine the costs to the industry for meeting the staffing minimum per requirement.

The estimated annual cost for facilities to meet both the nurse aide and RN HPRD requirement, as well as a 24/7 RN requirement, is \$6.8 billion.

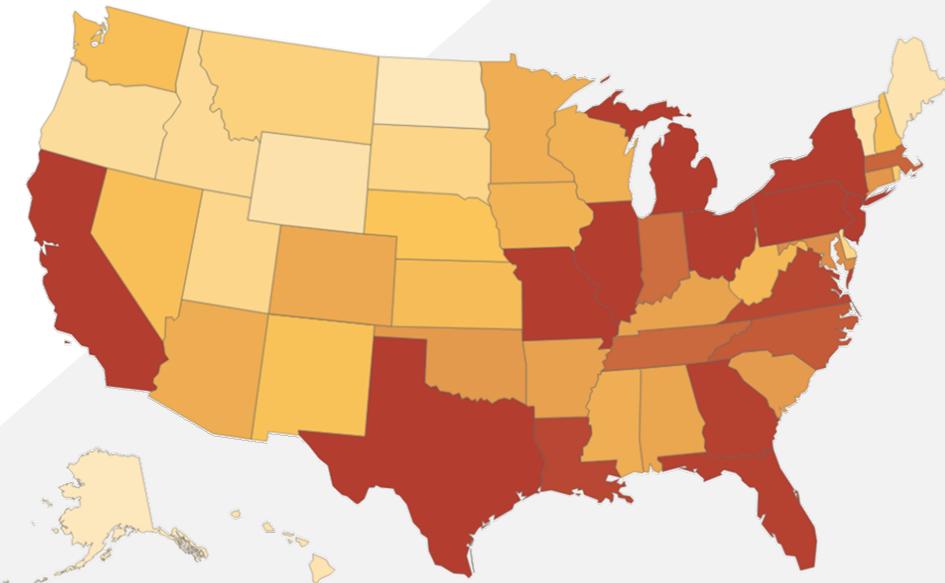
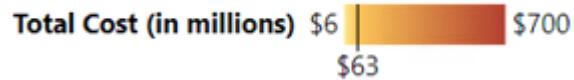
The cost estimate includes the analysis of the 24/7 RN first, followed by the incremental cost of adding additional RNs to meet the 0.55 HPRD RN criteria. The additional \$1.46 million for RN HPRD assumes a portion of this criteria is met by the additional 24/7 coverage.

The estimated \$6.8 billion annual cost exceeds the CMS estimated annual cost of \$4 billion dollars primarily due to the fiscal year cost reports utilized in the calculation. CLA utilized the most currently available reports, including some FYE 2022 reports, which represent higher compensation costs than FY 2021.



Financial Impact at State Level

The overall workforce and financial impact of the staffing mandate varies by state. Certain states have more workforce challenges and will require the hiring of more FTEs to meet the mandate.





Results — Medicaid Occupancy Impact

Medicaid Payor Mix

	Nurse aide	RN 24/7	RN (0.55)	All
Facilities that met criteria	45%	54%	49%	43%
Facilities that did NOT meet criteria	58%	55%	61%	56%

Displayed in the table above, of facilities that met all three criteria, forty-three percent of their total days were Medicaid. Conversely, of the facilities that failed at least one of the requirements, fifty-six percent of their days were Medicaid. (Medicaid days and total days were obtained from Medicare cost reports, schedule S-3 Part I. Approximately 7% of cost reports did not have days reported and thus are excluded from the analysis.)

Requirements Met Based Upon Facility Medicaid Occupancy

Medicaid Occupancy Percent	Met 0 of 3 Requirements	Met 1 of 3 Requirements	Met 2 of 3 Requirements	Met 3 of 3 Requirements
Low < 49%	704 (19%)	1,294 (35%)	1,282 (34%)	454 (12%)
Mid 49 – 63%	1,357 (37%)	1,279 (35%)	875 (24%)	188 (5%)
Mid High 64 – 75%	1,576 (44%)	1,202 (33%)	679 (19%)	135 (4%)
High >= 76%	1,776 (49%)	1,088 (30%)	651 (18%)	128 (4%)



Results — Estimated FTEs to Meet Criteria

In order to meet both the nurse aide and RN hours per resident day criteria and the RN 24/7 coverage, facilities will need to hire an additional 80,077 nurse aides and 22,077 RNs for a total of 102,154 FTEs. If CMS only requires the RN 0.55 HPRD requirement, with no 24/7 RN coverage, a total of 19,880 RN's would be needed.

Nurse aide	RN 24/7	RN	Total
80,077	6,897	15,180	102,154

If the appropriate workforce is not available to fill these positions, facilities may need to reduce admissions or discharge current residents.





Results — Resident Impact

Nurse aide	RN 24/7	RN	All
908,758	839,844	84,536	1,109,779

Census Impacted if Facilities Met Mandate by Reducing Average Daily Census

Nurse aide	RN 24/7	RN	All
186,920	96,528	147,167	287,524

In the top table, we show the sum of the number of residents, or average daily census (ADC), in facilities that would not pass the staff mandate for the nurse aide and RN HPRD, in total for the HPRD, and for the RN 24/7 coverage. A total of 1.11 million residents are in facilities that do **NOT** meet at least one of the staffing criteria.

In order to provide care for these residents at the proposed hourly rates per patient day, either additional staff would need to be hired or census would have to be reduced. The bottom table shows the number of residents impacted if facilities reduced census by denying admissions to meet the mandate.





CLAconnect.com



CPAs | CONSULTANTS | WEALTH ADVISORS

©2023 CliftonLarsonAllen LLP. CLA (CliftonLarsonAllen LLP) is an independent network member of CLA Global. See CLAglobal.com/disclaimer. Investment advisory services are offered through CliftonLarsonAllen Wealth Advisors, LLC, an SEC-registered investment advisor.



Appendix



©2023 CliftonLarsonAllen LLP. CLA (CliftonLarsonAllen LLP) is an independent network member of CLA Global. See CLAglobal.com/disclaimer. Investment advisory services are offered through CliftonLarsonAllen Wealth Advisors, LLC, an SEC-registered investment advisor.



Staffing Mandate Analysis – Bed Size

Percent of Facilities Meeting Criteria by Certified Bed Size

	Nurse Aide	RN 24/7	RN 0.55	All
91+ Beds	21%	28%	41%	7%
76 - 90 Beds	28%	12%	51%	5%
46 - 75 Beds	36%	9%	63%	5%
31 - 45 Beds	50%	7%	82%	5%
0 - 30 Beds	67%	13%	93%	8%

Percent of Facilities Not Meeting Criteria by Certified Bed Size

	Nurse Aide	RN 24/7	RN 0.55	All
91+ Beds	79%	72%	59%	93%
76 - 90 Beds	72%	88%	49%	95%
46 - 75 Beds	64%	91%	37%	95%
31 - 45 Beds	50%	93%	18%	95%
0 - 30 Beds	33%	87%	7%	92%

Note: Puerto Rico and Guam were excluded from the analysis above.

CLA utilized the 2023 Q1 Care Compare file to determine bed count. As the number of providers in the Care Compare file differs from the number in PBJ, any providers not in Care Compare are not included in the table to the left.

The “All” columns identify facilities that either meet all three requirements or inversely, in the bottom table, missed at least one of the requirements.





Staffing Mandate Analysis – Urban vs Rural

	Nurse aide	RN 24/7	RN (0.55)	All
Facilities meeting criteria	3,551	2,724	6,715	763
Urban	2,608 (26%)	2,459 (24%)	4,939 (49%)	655 (7%)
Rural	943 (26%)	265 (7%)	1,776 (50%)	108 (3%)

	Nurse aide	RN 24/7	RN (0.55)	All
Facilities NOT meeting criteria	10,103	11,009	6,939	12,970
Urban	7,475 (74%)	7,681 (76%)	5,144 (51%)	9,485 (94%)
Rural	2,628 (74%)	3,328 (93%)	1,795 (50%)	3,485 (97%)

For purposes of this analysis, the urban and rural definitions are based on the CBSA designations as reported on the Medicare cost reports. The CBSA designations may differ from the US Census definition used in the proposed rule. Approximately 7% of facilities did not report this distinction, and thus are not included in the table above.

The “All” columns identify facilities that either meet all three requirements or inversely, in the bottom table, missed at least one of the requirements.

Note: Puerto Rico and Guam were excluded from the analysis above.

Variances from 100% in the percentages above are due to rounding.

