



From: [Loucks, Vicki](#)
To: [DH, LTCRegs](#)
Cc: [Adam Marles](#); [Anne Henry](#)
Subject: [External] proposed update to nursing facility regulations
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I appreciate the opportunity to comment on the proposed regulatory change to nursing home per patient day hours. As a nurse who has dedicated my career (28 years in PA LTCF's) to caring for Pennsylvania's elders I wanted to raise several concerns with the proposed move from 2.7 Nursing Hours per patient day(NHPPD) to 4.1 NHPPD.

1. As a nurse leader, I have had the opportunity to visit many of PA's LTCF's and I have learned that a particular NHPPD does not equal quality. This is evident in organizations across the state. For example, our organization has recently had to drop our census number and halt admissions due to staffing challenges. We do that as a not-for profit, mission/faith based organization committed to high quality. Other characteristics of a building also play into the quality of care and services. Many buildings have invested in telehealth and other electronic monitoring systems to better serve short term and long term patients/residents; commitment to staff training is also critical in quality of services.
2. The NHPPD only considers nurses and nurse aides. These are certainly not the only staff in buildings providing care and services to patients and residents. Therapists, life enrichment staff, dining staff and others provide care and services that add to the overall wellbeing of patients/residents and they should be included in the calculation of NHPPD numbers. Please consider modifying your proposal to include other staff. Therapists provide assistance with meals (speech therapy) and with ADL's (OT/PT); Life enrichment team members provide social engagement activities that provide great benefit to residents/patients; dining staff prepare and serve meals. All of this should be included in NHPPD rates.
3. We, like most of our colleagues, certainly want to be at 4.1 NHPPD all the time. In fact, our organization budgets at 4.4 NHPPD and we strive to meet that. Unfortunately, as you are aware, we are facing the biggest staffing crisis in our lifetime. This crisis has been impacted greatly by the recent pandemic. We have approximately 20 RN positions available within our organization – we've increased salaries significantly, implemented self-scheduling opportunities, attempted to increase the number of foreign-born nurses and utilized digital marketing to recruit staff. The challenge continues with nurse leaders working extended hours/shifts to cover vacancies. We've closed units because we are unable to staff to our standard of quality.
4. Because of the staffing crisis mentioned above, we will continue to have to limit admissions and decrease our census to meet the 4.1 NHPPD number. This creates a hardship for elders who are seeking high quality providers like us. Where will they go? I strongly believe that this mandate will cause LTCF's to close their doors and limit choice for Pennsylvania's elders. As an industry we've seen for-profit facilities in Pennsylvania sell to out of state providers who are notorious for providing bad care to Pennsylvania's seniors.

5. Nursing facilities continue to be significantly underfunded and have not seen a Medical Assistance (MA) rate increase in seven years. A move to require a NHPPD of 4.1 will cause an increased rate for private pay individuals which will lead to a quicker spend down of their assets and an increased burden on the MA system and more years of no increases to providers. As mentioned above, this will cause more organizations to close or sell to out of state providers. We are risking the health and wellbeing of PA's seniors when this occurs.
6. The proposed regulations may violate the Regulatory Review Act in that it incorporates by reference federal guidance or interpretations issued by CMS. These guidances may be changed by CMS at any time without notice or public process. This approach raises both due process and precedential questions and concerns.

I hope you will consider these comments, and the many others you've received and reconsider a mandated NHPPD of 4.1. PA's LTCF's have suffered greatly during this pandemic, yet we've stood firm and provided safe havens for our elders. Let's join together to create a future where we work together to improve quality for all.

Thank you!

Vicki

Vicki Loucks, RN, MSN, MBA

Vice President & COO

Redstone

Direct Dial: 724-216-0934

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