DNHRQAC Response to CMS Proposed Minimum Staffing Standards for Long-Term Care Facilities and Medicaid Institutional Payment Transparency Reporting

**Write a Comment:**

The Delaware Nursing Home Residents Quality Assurance Commission (DNHRQAC) supports the proposed rule to enhance requirements for the care and services delivered to nursing home residents.

DNHRQAC monitors Delaware's quality assurance system for nursing home residents in both privately operated and state operated facilities to ensure the health and safety of nursing home residents. The CMS proposed rule is extremely important to our mission as we evaluate the effectiveness of quality assurance systems, monitor data and analyze trends in the quality of care and life of residents, review and make recommendations to the Governor and other State dignitaries concerning the quality assurance system and improvements to the overall quality of life and care of residents. We understand that the objective of requiring minimum staffing levels is to improve overall care being provided to vulnerable/high-risk members of our community.

We support a minimum staffing level. While we believe that a level higher than 3.0 Hours per Resident Day (HPRD) would be more appropriate for the level of care required in a nursing home today, we support at least 3.0 HPRD as a minimum. The CMS proposal for 3.0 HPRD is much lower than the 4.1 HPRD identified in the CMS report over 20 years ago when residents had lower care needs than they do today.

The CMS proposed rule does not recognize the important contributions that LPNs make to the Long-Term Care industry. The total HPRD should include Licensed Practical Nurse (LPN) requirements in addition to the proposed Registered Nurse (RN) and Certified Nursing Assistant (CNA) requirements. LPNs are an integral part of the nurse staffing team and should be included in any minimum staffing requirement. Adding LPNs to the staffing minimums would raise the HRPD proposal above the 3.0 currently proposed. Higher staffing levels are supported by decades of research and by the 2023 Staffing Study commissioned by CMS.

We support the proposal for an RN 24 hours per day, 7 days per week. The proposal should further direct that the RN must be onsite at the facility, be dedicated to direct resident care, and not assigned other duties such as Director/Assistant Director of Nursing, Staff Development, Infection Control, or other administrative duties.

Delaware has had a legislatively mandated minimum staffing level of care since 1999. The current requirement is 3.28 HPRD. This mandate utilizes RN, LPN, and CNA time. DE does require the presence of an RN in the facility 24 hours per day, 7 days a week as a supervisor on each shift who is also available for direct resident care. DE has successfully implemented this staffing model. A majority of DE nursing homes not only meet these mandates on a regular basis, but most nursing homes even exceed the mandates.

We appreciate CMS’ commitment to improving the quality of resident care and we support CMS in undertaking an evidence-based study of the staffing needs for residents to live safely and implement the findings of that study within two years of completion. Any staffing standard must include sufficient time for treatment with dignity, accuracy, compassion, and attention to health outcomes along with appropriate infection control protocols.

In addition, we believe that waivers should be the exception to the rule and applied on an individual basis utilizing the requirements outlined in the proposal. Waivers need to be tracked and waiver submissions exceeding a certain threshold should be investigated and addressed. ALL residents are entitled to safe and high-quality care.

We also support the proposed Medicaid transparency provisions. We agree that Medicaid cost reports should be made publicly available to disclose the total amount of spending on nursing, ancillary, and support services compared with spending on administration, property, and profits. Medicare costs reports also should be made more transparent regarding spending, related party transactions, and disallowances, along with greater accountability requirements for ensuring that funds are spent on resident care.

We support the proposed enhancements to the facility assessment requirements. These new provisions add enhancements to assessments that are already being conducted and would require facilities to develop and implement staffing plans that are based on residents’ needs and acuity. The assessment must continue to include consideration of residents’ physical and behavioral health issues and be developed with input from facility staff including, but not limited to, leadership/management, direct care staff, and staff providing other services. These assessments should be reviewed, validated, and enforced.

For all of these provisions to be effective, however, it will be critical that they are enforced by state regulators, and that deviation from these provisions will be shared with constituents for awareness purposes.

**What is your comment about:**

Long-term Care - HPA45

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