

**Nursing Home Policy Brief:  
Mandatory Minimum Safe Staffing Requirements Needed to Protect Nursing  
Home Residents Now & in the Future**

**Table of Contents**

**Overview..... 1**

**The Need for a Legislative Solution ..... 2**

Overcoming the Challenges to Action ..... 3

*Challenge #1: Cost – A Look Under the Surface Reveals the High Costs of Low Staffing.....3*

*Challenge #2: The Nursing Shortage.....4*

**Nursing Home Residents Continue to Suffer..... 6**

    Pressure Ulcers..... 6

    Nutrition..... 7

    Continence Care ..... 7

**Conclusion..... 7**

*June 2013 Update*

**Overview**

**CURRENT SITUATION:** Despite strong legal requirements for nursing homes to provide good care and dignified conditions for residents, the nursing home crisis continues. As a result, too many of our most vulnerable citizens suffer needlessly every day because nursing homes fail to provide good care. The Nursing Home Reform Law, the landmark federal law passed in 1987, requires that every nursing home resident “be provided with services sufficient to attain and maintain his or her highest practicable physical, mental, and psycho-social well-being.” Yet, 25 year later, nursing homes too often continue to be unpleasant and hostile environments, the agent of harm rather than provider of care & protection, and, for good reason, “the option of last resort.”

**THE FUTURE:** While there is an increasing trend for people who need long term care to get that care in their communities, there will always be a need for nursing homes for those who need or want to be cared for in a residential setting that is capable of providing professional services 24 hours a day. In fact, the demand for nursing home services will likely increase with the aging of the baby boomer generation. The number of people age 85 or older has increased significantly, and population projections by the US Census Bureau anticipate the over age 65 population to

increase by 40% between 2010 and 2030.<sup>1</sup> Projections also indicate that the percentage of people in need of nursing home care will increase by up to 25%.<sup>2</sup>

**GOVERNMENT ACTION NEEDED NOW:** Taken together, the persistent crisis in nursing home care and the impending increase in the number of those needing nursing home care as the baby boomers age could result in the breakdown of the nursing home system just when it is needed most. Do we want to risk a return to the scandal ridden 1970s, when so many residents were tied down, nursing homes frequently smelled badly and it seemed like nobody even thought about caring for people humanely or with dignity? We must take steps now to protect nursing home residents and their families and ensure that our nursing homes are equipped to care for vulnerable residents. As study after study have indicated, sufficient staffing is key to nursing home quality.

## The Need for a Legislative Solution

Legislation is needed to mandate minimum staffing ratios. A federal report in 2000 found that staffing levels are below the level needed for resident safety. As of 2002, all state standards and 85% of nursing home facilities did not meet the CMS recommended level of 4.1 hours per resident day (HPRD).<sup>3,4</sup> Between 1999-2005, RN hours decreased by 25%, LN hours decreased by 22% and CNA hours decreased by 7%.<sup>5</sup> Despite a wide variation of staffing levels within states, states with low standards for staffing have similar overall staffing levels to states with no staffing standards whatsoever. States with higher staffing standards, on the other hand, have significantly greater total staffing levels.<sup>6</sup> While staffing levels have remained relatively stagnant or dropped, a 2010 CMS report found that residence acuity has increased significantly. In 2005, 42% of nursing home residents were dependent upon assistance for four or more ADLs, compared with 52% of residents in 2009.<sup>7</sup> Clearly it is time for Congress to ensure the safety of all Americans who need nursing home care.

According to the CMS report to Congress, of the facilities providing less than an average of at least two hours of daily nurse aide care per resident, 22% had a high rate of avoidable hospitalization and 46% had a high rate of pressure sores compared to 2% and 12%,

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<sup>1</sup> U.S. Census Bureau. International database. Table 094. Midyear population, by age and sex. Available at: <http://www.census.gov/population/www/projections/natdet-D1A.html>.

<sup>2</sup> Lakdawalla D, Goldman D, Bhattacharya J, Hurd MD, Geoffrey FJ, Panis CWA. Forecasting the nursing home population. *Med Care*. 2003;41(1):8-20.

<sup>3</sup> US Centers for Medicare and Medicaid Services (Prepared by Abt Associates Inc.), Appropriateness of Minimum Nurse Staffing Ratios in Nursing Homes. Report to Congress: Phase II Final. Volumes I-III. Baltimore, MD: CMS, 2001.

<sup>4</sup> Harrington C. Nursing Home Staffing Standards. Kaiser Commission on Medicaid and the Uninsured. (2002) Available at: <http://www.kff.org/medicaid/loader.cfm?url=/commonspot/security/getfile.cfm&PageID=14106>.

<sup>5</sup> Harrington C, Carrillo H, LaCava C. (2006). Nursing Facilities, Staffing, Residents and Facility Deficiencies, 1999 Through 2005. Available at: [http://www.nccnhr.org/public/245\\_1267\\_13554.cfm](http://www.nccnhr.org/public/245_1267_13554.cfm).

<sup>6</sup> Mueller C, Arling G, Kane R, Bershadsky J, Holland D, Joy A. Nursing Home Staffing Standards: Their Relationship to Staffing Levels. *Gerontologist*. 2006;46(1): 74-80.

<sup>7</sup> Centers for Medicare and Medicaid Services, Nursing Home Data Compendium 2010 Edition. Available at: [https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/CertificationandCompliance/downloads/nursinghomedatacompendium\\_508.pdf](https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/CertificationandCompliance/downloads/nursinghomedatacompendium_508.pdf).

respectively, of facilities that provide more than an average of at least two hours of daily nurse aide care per resident.<sup>8</sup>

### Overcoming the Challenges to Action

Research has shown that there are strong correlations between nursing home staffing levels and quality of care and between the presence of legislation and actual nurse staffing levels. In short, nursing home residents need an average of 4.2 hours of direct care staff time per day in order to live safely and not suffer or deteriorate because of inadequate care. And without government mandates, most nursing homes will not maintain safe staffing levels on their own. However, many continue to argue against government mandated nurse staffing ratios. The primary arguments are: fear of increased costs and the putative lack of nurses and nurse aides to fill the needed positions.

### Challenge #1: Cost – A Look Under the Surface Reveals the High Costs of Low Staffing

Perhaps the leading argument against establishing minimum staffing standards is that the cost would be prohibitive. Many in the nursing home industry argue that they cannot afford to hire more direct care staff. Government leaders are disinclined to pursue policies that could lead to increased costs to the Medicaid system. *However, the financial benefits of safe staffing levels could substantially or entirely offset the increased cost of labor.*

Cost of resident care: Numerous studies show that the lower level of resident care resulting from insufficient staffing can be more expensive than maintaining higher staffing levels. For example, adding staff can improve continence care, which would bring significant savings in the cost of laundry and diapers.<sup>9</sup>

Another cost associated with resident care is that of psychotropic drugs. Studies have shown that increasing staffing levels allows staff to interact with residents in a productive way that reduces the need for psychotropic drugs.<sup>10</sup> Decreasing the use of psychotropic drugs not only reduces the cost spent for drug use, it can also help to prevent injurious falls resulting in hospitalization. A study found that patients hospitalized due to falls had 63% greater odds of exposure to antipsychotic medication.<sup>11</sup> Zolpidem, which was purported to be a safer sedative-hypnotic, was associated with a 95% increased risk of hip fracture.<sup>12</sup> Increasing RN staffing levels improves several indicators of health outcomes such as, continence care, mental health and pressure ulcers. This improved quality of care ultimately

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<sup>8</sup> Abt Associates, Cambridge, MA. Report to Congress: Appropriateness of Minimum Nurse Staffing Ratios in Nursing Homes. Phase II Final Report. Centers for Medicare and Medicaid Services (CMS). 2001 Dec. Contract No.: 500-0062/TO#3.

<sup>9</sup> Rudder, C and Phillips, C. "91 Ideas for Reducing Costs, Enhancing Revenue, and Maintaining Quality in Nursing Homes" (1998).

<sup>10</sup> Hughes C, Lapane K, Mor V. Influence of Facility Characteristics on Use of Antipsychotic Medications in Nursing Homes. *Med Care*. 2000;38(12): 1164-1173.

<sup>11</sup> Mustard CA, Mayer T. Case-control study of exposure to medication and the risk of injurious falls requiring hospitalization among nursing home residents. *Am J Epidemiol*. 1997;145(8):738-745.

<sup>12</sup> Wang PS, Bohn RL, Glynn RJ, Mogun H, Avorn J. Zolpidem use and hip fractures in older people. *J Am Geriatr Soc*. 2001;49(12):1685-1690.

reduces hospitalization rates, which leads to greater cost savings.<sup>13</sup> A study of RN staffing time found that an increase of 30 to 40 minutes per day could result in an annual savings of \$3,191 per resident.<sup>14</sup>

**Management costs:** Due to the high risk of worker injury in nursing homes and high rates of litigation against nursing homes, many insurance companies are not providing liability insurance for nursing homes. In a national study of nursing home litigation, the average recovery amount was \$400,000, more than double the average national recovery amount for malpractice suits. In addition, approximately 90% of cases against nursing homes settle out-of-court with plaintiff compensation (compared to the national average of 33%).<sup>15</sup> However, a report found that nursing homes that meet the RN recommended long-stay standards had a rate of litigation that was 23% less than those that did not meet the recommended standards.<sup>16</sup>

**Cost of staff turnover:** The problem of high staff turnover affects quality of care and adds significantly to labor costs. A meta-analysis of CNA, LPN and RN turnover rates found a wide range of turnover rates. CNA turnover rates vary from 14% to 346%.<sup>17</sup> The direct cost of turnover per employee ranges from \$4,200 to \$5,000, as calculated by using the rule of thumb for costing turnover at 25% of the employee's annual salary. Applying a conservative 45% turnover rate to the 2.6 million long term care workers results in a cost of over \$4 billion.<sup>18</sup> This does not include substantial indirect costs of turnover, such as those incurred as a result of increased injury to direct care workers, the costs associated with treating residents harmed as a result of inadequate care, etc.... It is also worth noting that high turnover rates are highly correlated with a decrease in quality of care, decline in productivity and damage to the nursing home's reputation.<sup>17</sup>

## Challenge #2: The Nursing Shortage

Opponents to staffing ratios sometimes claim that it will be impossible for nursing homes to meet the nurse staffing levels that CMS<sup>19</sup> and others have determined would yield quality improvements because there are just not enough nurses to hire. Addressing this concern requires a thoughtful examination of occupation growth trends in addition to asking why nurses

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<sup>13</sup> Horn S, Buerhaus P, Bergstrom N, Smout R.. RN Staffing Time and Outcomes of Long-Stay Nursing Home Residents. *Am J Nurs.* 2005;105(11):58-70.

<sup>14</sup> Dorr D, Horn S, Smout R. Cost Analysis of Nursing Home Registered Nurse Staffing Times. *J Am Geriatr Soc.* 2005;53:840-845.

<sup>15</sup> Stevenson D, Studdert D. The rise of nursing home litigation from a national survey of attorneys. *Health Affairs.* 2003;22(2):219-229.

<sup>16</sup> Johnson CE, Dobalian A, Burkhard J, Hedgecock DK, Harman J. Predicting Lawsuits against Nursing Homes in the United States, 1997-2001. *Health Serv Res.* 2004;39(6, Part 1):1713-1732.

<sup>17</sup> Castle, N. Measuring Staff Turnover in Nursing Homes. *Gerontologist.* 2006;46(2):210-210.

<sup>18</sup> Seavey D. The Cost of Frontline Turnover in Long-Term Care. *Better Jobs Better Care.* 2004. Available at: <http://www.bjbc.org/content/docs/TOCostReport.pdf>.

<sup>19</sup> US Centers for Medicare and Medicaid Services, Prepared by Abt Associates Inc. Appropriateness of Minimum Nurse Staffing Ratios in Nursing Homes. Report to Congress: Phase II Final. Volumes I-III. Baltimore, MD: CMS, 2001.

and nursing assistants are not entering the occupation, are leaving it or are bypassing nursing home work altogether.

Occupation trends: Despite forecasts of an insufficient nursing supply for the growing population, in 2010 the US Bureau of Labor Statistics reported that one of the fastest growing occupations is registered nurses.<sup>20</sup> In fact, one explanation for the apparent nursing shortage is the under-utilized workforce. For instance, one third of nurses in New York State are working part time. Another factor contributing to the lack of nurses is the lack of professors. Even if more people are recruited to become nurses, nursing schools do not have the space or instructors to train prospective nurses. In 2011, nursing schools nationwide turned away 75, 587 qualified applicants due to a lack of sufficient faculty, classroom space, and budget constraints.<sup>21</sup>

Working conditions: Many experts believe that poor working conditions in nursing homes are the primary motivation for nursing home workers to quit their jobs. Despite the growth of the RN profession, many RNs do not and will not choose to work in nursing homes so long as working conditions are intolerable. RNs in nursing homes report the highest levels of workload stress compared to all other RNs working in any other setting.<sup>22</sup> However, working conditions can be improved by increasing the staffing ratios. A study found that for each 1 hour increase in total staffing time per resident, there is a decrease of 2.4 injuries per 100 full-time equivalent workers.<sup>23</sup> By improving working conditions, nursing homes have a greater chance of maintaining the current staff and subsequently recruiting more new nurses.

Solutions: Innovative nursing homes have found solutions to the challenge of providing quality care.

As mentioned above, one of the most often cited challenges to increasing staffing levels is the nursing shortage. However, studies have shown that nursing homes that provide a positive work environment have low turnover and vacancy rates. The Long Term Care Community Coalition (LTCCC) conducted a focus group study of nursing home staff which identified four commonly cited aspects of good working conditions: 1) being treated with respect, 2) having enough staff to care for the residents, 3) having a good relationship with supervisors and 4) working together as a team.<sup>24</sup> Opportunities for career growth have also been identified as important to workers. While these and other challenges to improving working conditions will not be overcome overnight, it is crucial to take affirmative steps now to begin improving conditions for current and future staff and residents. Studies have shown that self managed

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<sup>20</sup> US Bureau of Labor Statistics, News Release, February 1, 2012. Available at: <http://www.bls.gov/news.release/pdf/ecopro.pdf>.

<sup>21</sup> American Association of Colleges of Nursing, 2011-2012 Enrollment and Graduations in Baccalaureate and Graduate Programs in Nursing.

<sup>22</sup> New York State Education Department. Registered Nurses in New York State, 2002 - Volume II: Organizational Climate Factors, Organizational Commitment, and the Culture of Retention, (2003). Available at: <http://www.op.nysed.gov/registered-nurses-2002-volume2.pdf>.

<sup>23</sup> Trinkoff AM, Johantgen M, Muntaner C, Le R, Staffing and Worker Injuring in Nursing Homes. Am J Public Health. 2005 Jul;95(7):1220-1225.

<sup>24</sup> Rudder, C. "What Makes for a Good Working Condition for Nursing Home Staff: What Do Direct Care Workers Have to Say?". 2003. Available at: [http://www.ltccc.org/documents/WorkingConditionsBooklet\\_000.pdf](http://www.ltccc.org/documents/WorkingConditionsBooklet_000.pdf).

work teams<sup>25</sup> and career ladders for workers effectively reduce turnover. The Extended Care Career Ladders Initiative implemented in Massachusetts reported fewer paraprofessional vacancies, lower agency staff costs and higher retention rates.<sup>26</sup>

The Win-A-Step-Up Program developed in North Carolina aims to train, educate, and provide incremental pay raises for improved performance. This program is funded through the North Carolina Department of Health and Human Resources with money collected from civil monetary penalties against nursing homes. An evaluation of this program found a modest improvement in turnover, and significant improvement in job performance, job quality and quality of care.<sup>27</sup>

## Nursing Home Residents Continue to Suffer

Nursing home residents and their families continue to suffer as they wait for attention to be paid to this issue. Meanwhile, the evidence is there: numerous studies have shown that higher nurse staffing levels are associated with higher quality of care. Higher staffing levels allow staff to ensure that their residents are properly fed to prevent malnutrition, repositioned to prevent and treat pressure sores, kept clean to maintain hygiene, receive correct medications, etc.... A study cited in the 2006 Institute of Medicine report found that more than half of the 350,000 Adverse Drug Events (ADEs) and 80% of the 20,000 fatal or life-threatening ADEs that occur in nursing homes are preventable.<sup>28</sup> This is approximately 191,000 preventable ADEs or fatalities that occur each year.

## Pressure Ulcers

Pressure ulcers are commonly used as an indicator of quality of care because they correlate closely with lack of attention from nursing home staff and because they are an important measure of resident health. Untreated pressure ulcers often lead to complications, including cellulitis, chronic infection and osteomyelitis.<sup>29</sup> Care for residents at risk of developing pressure ulcers requires nursing home staff to reposition residents several times each day. A study in 2005 found that an increase of CNA and LPN time correlated with a decrease in pressure ulcers.<sup>30</sup>

A pressure ulcer incidence study found that 2.1% of newly admitted residents developed

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<sup>25</sup> Yeatts DE, Seward RR. Reducing Turnover and Improving Health Care in Nursing Homes: The Potential Effects of Self-Managed Work Teams. *Gerontologist*.2000;40(3):358-363.

<sup>26</sup> Wilson R, Eaton SC, Kamanu A. Extended Care Career Ladder Initiative (ECCLI) Round 2: Evaluation Report. 2002. KSG Working Paper Series No. RWP03-006. Available at SSRN: <http://ssrn.com/abstract=385202>.

<sup>27</sup> Konrad TR, Morgan JC. "STEP UP NOW for Better Jobs and Better Care: The Evaluation of a Workforce Intervention for Direct Care Workers." Available at:

[http://www.aging.unc.edu/research/winastepup/reports/040406\\_UNC\\_Ex\\_Summary\\_Final.pdf](http://www.aging.unc.edu/research/winastepup/reports/040406_UNC_Ex_Summary_Final.pdf).

<sup>28</sup> Gurwitz JH, Field TS, Avorn J, McCormick D, Jain S, Eckler M, Benser M, Edmondson AC, Bates DW. Incidence and preventability of adverse drug events in nursing homes. *Am J Med*. 2000 Aug;109(2):166- 168.

<sup>29</sup> Landi F, Onder G, Russo A, Bernabei R. Pressure Ulcer and Mortality in Frail and Elderly People Living in Community. *Arch Gerontol Geriatr*. 2007;44 Suppl 1:217-223.

<sup>30</sup> Horn SD, Buerhaus P, Bergstrom N, Smout RJ. RN staffing time and outcomes of long-stay nursing home residents. *Am J Nurs*. 2005;105(11):58-70.



pressure sores within 90 days of admittance.<sup>31</sup> In 1996, there were 1.7 million admissions into nursing homes across the US.<sup>32</sup> If the rate of pressure ulcer development is 2.1%, this would mean that 35,700 new nursing home residents will develop pressure sores this year alone: almost 100 every day. Given that federal law requires that nursing homes provide sufficient care to prevent the development of pressure ulcers, unless they are unavoidable, this is especially disgraceful.

## Nutrition

The prevalence of undernourishment in nursing homes is reported to be as high as 65%.<sup>33</sup> Undernourishment increases the risk of both mortality and morbidity for the frail elderly. It weakens the immune system, making affected residents more vulnerable to infection and less able to recover from other health problems. In a trial in which residents received one-on-one feeding assistance, 50% of nursing home residents increased oral food and fluid intake.<sup>34</sup> More nursing home staff is needed to provide proper nutrition.

## Continence Care

Incontinence can exacerbate pressure sores and degrade the dignity of nursing home residents. Though federal law requires that nursing home residents who can be continent must be provided with assistance to maintain continence, a shortage of nursing home staff too often results in people being required to wear diapers when they would not otherwise have to. To add insult to injury, staffing shortages often prevents staff from changing soiled sheets, garments and bed pads in a timely manner. Studies have shown that increased staffing can improve continence care and even decrease the rate of incontinence. For example, one study indicated that following the implementation of an incontinence management program in which 60% of participants became dry, the rate of pressure ulcers decreased significantly from 16 people developing pressure ulcers to only 3 people developing pressure ulcers.<sup>35</sup>

## Conclusion

There are approximately 1.5 million nursing home residents in the United States, all of whom want - and deserve - to be living in nursing homes that are safe. As the demand for nursing homes care increases with the aging baby boomer generation and more and more people living to be among the "very old" elderly (into their 80s, 90s and beyond), the strain on our nursing home system will continue to increase, perhaps dramatically. Are our nursing homes prepared

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<sup>31</sup> Berlowitz DR, Brandeis GH, Anderson JJ, Ash AS, Kader B, Morris JN, Moskowitz MA. Evaluation of a risk-adjustment model for pressure ulcer development using the minimum data set. *J Am Geriatr Soc.* 2001;49(7):872-876.

<sup>32</sup> Gabrel CS. An overview of nursing home facilities: Data from the 1997 National Nursing Home Survey. Available at: <http://www.cdc.gov/nchs/data/ad/ad311.pdf>.

<sup>33</sup> Morely JE, Silver AJ. Nutritional issues in nursing home care. *Ann Intern Med.* 1995;123(11):850-859.

<sup>34</sup> Simmons SF. Improving Food Intake in Nursing Home Residents With Feeding Assistance: A Staffing Analysis. *J Gerontol A Biol Sci Med Sci.* 2001;56A(12):M790-M794.

<sup>35</sup> Frantz RA. Implementing an incontinence management protocol in long-term care. Clinical outcomes and costs. *J Gerontol Nurs.* 2003;29(8):46-53.

to care for our aging population?

The relationship between nurse home staffing levels and quality of care is well established by research. Our state and federal leaders must take the opportunity now to protect current residents and prepare for the aging baby boomers. We call on our elected leaders to step forward and pass legislation with meaningful staffing requirements. And we call on our regulatory leaders to act now to require that nursing homes have the staffing levels needed to fulfill the legal requirements promulgated over twenty-five years ago in the Nursing Law Reform Law. Too many of our most vulnerable elderly and disabled citizens – and their families – are suffering as they wait for their leaders to act.