

November 20, 2024

The Honorable Mike Johnson
Speaker, U.S. House of Representatives
Washington, DC 20515

The Honorable Charles Schumer
Democratic Leader, U.S. Senate
Washington, DC 20510

The Honorable Hakeem Jeffries
Democratic Leader, U.S. House of Representatives
Washington, DC 20515

The Honorable Mitch McConnell
Republican Leader, U.S. Senate
Washington, DC 20510

Subject: Improve LTC Residents' Timely Access to Nurses

Dear Speaker Johnson, Leader Schumer, Leader Jeffries, and Leader McConnell:

The American Nurses Association (ANA) and the undersigned nursing organizations strongly oppose H.J. Res. 139, S.J. Res. 91, and H.R. 7513 and urge Congress not to enact these or any legislation that would overturn the Centers for Medicare and Medicaid Services' (CMS) Long-Term Care (LTC) Minimum Staffing Standards for Long-Term Care Facilities Final Rule ([CMS-3442-F](#)). This important rule sets minimum staffing standards for registered nurses (RNs) and nurse aides (NAs) in Medicare and Medicaid certified LTC facilities. These legislative measures are blunt instruments that would also prohibit the U.S. Department of Health and Human Services (HHS) from issuing other regulations to address staffing concerns in the future. Impeding the agency's ability to exercise its regulatory authority and oversight responsibility to ensure safe staffing standards in LTC facilities is very dangerous for patients and health care workers across our health care system. Our organizations know that safe staffing standards are paramount to the safety of nurses and health care personnel and the administration of timely, high-quality care to patients.

Proponents of legislation to overturn the Final Rule cite persistent workforce challenges as their primary reason for opposing minimum staffing standards for LTC facilities. While our organizations recognize that some LTC facilities have long struggled with staffing challenges, these challenges are not insurmountable. Often, we see that these challenges are a result of industry inaction and cost-cutting measures to improve facilities' bottom lines. The work environment in these facilities and other care settings must be improved to attract and retain nurses where they are needed the most. ANA and the broader nursing community continue to call on all stakeholders, including Congress and the Administration, to take robust and immediate action to address nurses' work environment and enhance the nursing workforce pipeline across the care continuum.

Nurses providing care in LTC facilities often experience challenging work environments that include incidents of workplace violence, mandatory overtime, and unsafe staffing levels which result in exhaustion, burnout, and errors in patient care. These conditions actively contribute to nurses leaving the bedside in acute care hospitals and LTC facilities, which in turn hampers residents' timely access to care. Unfortunately, the proposed bills do nothing to address the underlying workforce pipeline and environment issues, but rather serve to keep the status quo. Allowing LTC facilities to avoid complying with these standards only serves to exacerbate persistent issues with recruiting and

retaining the appropriate level of nurses needed to provide care. LTC facilities need to be held responsible for ensuring safe staffing standards for their nurses and the patients they serve—and for CMS to oversee and ensure compliance with such standards.

CMS also recognizes the ongoing workforce challenges faced by LTC facilities acting in good faith and provides ample accommodations to help these facilities come into compliance with the Final Rule. These accommodations include a multi-year implementation phase-in period, as well as exemptions for facilities facing unsurmountable staffing challenges. In addition, CMS plans to provide financial incentives for nurses to work at LTC facilities and will partner with states to support nurse recruitment, training, and retention. ANA and the undersigned organizations support these provisions in the Final Rule, as they signal the agency's desire to balance the need to institute critical staffing standards with the real challenges facing the healthcare workforce.

In addition, we are concerned with language in the proposed measures that would prohibit HHS from issuing a rule that is “substantially in the same form” as the disapproved rule. Should any of these bills be enacted, HHS would be barred from issuing separate or other rulemaking requiring expanded presence of RNs onsite. ANA has long led on this issue—advocating for CMS to require LTC facilities to have an RN in a facility 24 hours a day, seven days a week and was pleased to see the agency include it in the final LTC staffing rule. This provision is also suggested by the National Academies of Sciences, Engineering, and Medicine, which calls for 24/7 direct care RN coverage—in addition to the director of nursing—with additional RN coverage as part of a larger recommendation to enhance staffing standards in nursing homes.¹ Requiring the presence of an RN in-person and onsite 24/7 is a common sense and vital approach for LTC facilities to ensure that the contributions and clinical expertise of RNs are available to address emergent medical situations and provide quality, skilled nursing care to patients. This requirement is independent of the RN and NA staffing standards in the rule and should be considered as such. Patients within skilled nursing facilities expect consistent access to skilled nursing care provided and led by RNs and a 24-hour presence should be a minimum standard to meet patient care expectations and needs.

Rather than striking the Final Rule, our organizations urge Congress to work closely with the Administration and stakeholders to find a balanced approach to achieving safe staffing levels that ensure that LTC residents and patients in other health care settings have timely access to quality care. We welcome the opportunity to work with Congress to address other work environment factors resulting in health care worker burnout, including workplace violence and mandatory overtime. Finally, we support ongoing efforts by lawmakers to rebuild our nation's nursing workforce through many measures that aim to attract nursing students, nurse faculty, and nurse preceptors. ANA detailed these efforts in a 2024 ANA Congressional Priorities letter, sent to Congress earlier this year, and looks forward to opportunities to advance these efforts with the next Congress.²

¹ National Academies of Sciences, Engineering, and Medicine. “The National Imperative to Improve Nursing Home Quality.” Consensus Study Report. 2022. <https://nap.nationalacademies.org/catalog/26526/the-national-imperative-to-improve-nursing-home-quality-honoring-our>. Accessed March 2024.

² [2024-ana-congressional-priorities-letter.pdf \(nursingworld.org\)](https://www.nursingworld.org/2024-ana-congressional-priorities-letter.pdf)

ANA and the undersigned nursing organizations stand ready to work closely with policymakers to find pragmatic and lasting solutions to ensure safe staffing in nursing homes and all care facilities across the country. Please contact Tim Nanof, Vice President of Policy and Government Affairs, at (301) 628-5081 or Tim.Nanof@ana.org with any questions.

Sincerely,

Alabama State Nurses Association
American Academy of Ambulatory Care Nursing
American Association of Neuroscience Nurses
American Nurses Association
American Nurses Association Massachusetts, Inc. (ANAMASS)
American Nurses Association - New York
ANA\California
ANA-Illinois
ANA-Michigan
Arizona Nurses Association
Arkansas Nurses Association
Association of periOperative Registered Nurses
Association of Rehabilitation Nurses
Colorado Nurses Association
Delaware Nurses Association
Dermatology Nurses' Association
Guam Nurses Association
Hawai'i - American Nurses Association
Hospice and Palliative Nurses Association
Indiana State Nurses Association
International Association of Forensic Nurses
Iowa Nurses Association
Maryland Association of Clinical Nurse Specialists
Michigan Association of Clinical Nurse Specialists
Missouri Nurses Association
Montana Nurses Association
New Hampshire Nurses Association
New Jersey State Nurses Association
New Mexico Nurses Association
Oregon Nurses Association
Orthodox Jewish Nurses Association
National Association of Clinical Nurse Specialists (NACNS)
National Association of Nurse Practitioners in Women's Health
National Association of School Nurses
New Jersey State Nurses Association
New Mexico Nurses Association
Pennsylvania State Nurses Association

Nursing Organizations' Letter to Congressional Leadership

Improve LTC Residents' Timely Access to Nurses

Page 4 of 4

Preventive Cardiovascular Nurses Association

Rhode Island State Nurses Association

South Carolina Nurses Association

Utah Nurses Association

Virginia Nurses Association

Washington State Nurses Association

Wound, Ostomy, and Continence Nurses Society

cc: House Ways & Means Committee, Chairman & Ranking Member
House Energy & Commerce Committee, Chairwoman & Ranking Member
House Education & Workforce Committee, Chairwoman & Ranking Member
House Appropriations Committee, Chairman & Ranking Member
Senate Finance Committee, Chairman and Ranking Member
Senate HELP Committee, Chairman and Ranking Member
Senate Appropriations Committee, Chairwoman & Ranking Member