

June 25, 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: Ensure LTC Residents' Timely Access to Nurses

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

The American Nurses Association (ANA) strongly opposes H.J. Res. 139, S.J. Res. 91, and H.R. 7513 and urges Congress not to enact these or any similar 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](#)) that sets minimum staffing standards for registered nurses (RNs) and nurse aides (NAs) in Medicare and Medicaid certified LTC facilities. In addition, some of these measures would prohibit the U.S. Department of Health and Human Services (HHS) or any of its subagencies from issuing similar regulations to address staffing concerns in the future. Safe staffing standards are paramount to guaranteeing the safety of nurses and health care personnel and the provision of timely, high-quality care to patients. These legislative actions also seek to impede HHS' ability to exercise its regulatory authority and oversight responsibility to ensure safe staffing standards in facilities under their purview.

ANA is the premier organization representing the interests of the nation's nearly 5 million RNs, through its constituent and state nurses associations, organizational affiliates, and individual members. RNs serve in multiple direct care, care coordination, and administrative leadership roles, across the full spectrum of health care settings. RNs provide and coordinate patient care, educate patients and the public about various health conditions, and provide advice and emotional support to patients and their family members. ANA members also include those practicing in the four advanced registered nurse (APRN) roles: nurse practitioners, clinical nurse specialists, certified nurse-midwives, and certified registered nurse anesthetists. ANA is dedicated to partnering with health care consumers, CMS, and Congress to improve practices, policies, delivery models, outcomes, and access across the health care continuum.

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 ANA recognizes that LTC facilities and the broader health care delivery system have long struggled with chronic staffing challenges, these challenges are not insurmountable and many 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. Consequently, we 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.

ANA knows that work environments with incidents of workplace violence, mandatory overtime, and unsafe staffing levels actively contribute to nurses leaving the bedside in acute care hospitals and LTC facilities. Unfortunately, the proposed bills do nothing to address the underlying workforce pipeline and environmental issues. Rather, they serve to keep the status quo of nurses continuing to work in environments with unsafe staffing levels, jeopardizing LTC residents' access to timely, high-quality nursing care. Allowing LTC facilities to avoid safe staffing standards will only perpetuate issues with recruiting and retaining health care workers and further incentivize the deployment of dangerous staffing and patient care plans. It is therefore incumbent on LTC facilities 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 and provides ample accommodations to help 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.

We are also concerned about language in the *Protecting America's Seniors' Access to Care Act* (H.R. 7513) that directs that HHS “[...] may not promulgate any substantially similar rule.” ANA’s concern is that this would bar HHS from issuing separate or other rulemaking requiring expanded presence of RNs onsite. ANA has long advocated 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 was recently suggested by the National Academies of Sciences, Engineering, and Medicine, which called 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 a RN in person and onsite 24/7 is a common sense and vital approach for LTC facilities to ensure the constant active contributions and clinical expertise of RNs 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, ANA urges 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. ANA also welcomes the opportunity to work with Congress to address other work environment factors resulting

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.

in health care worker burnout, including workplace violence and mandatory overtime. Finally, ANA supports 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. Information about these efforts is detailed in a 2024 ANA Congressional Priorities letter that was sent to Congress earlier this year.²

In closing, ANA stands 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,



Debbie Hatmaker, PhD, RN, FAAN
Chief Nursing Officer | EVP

cc. House Ways & Means Committee, Chairman & Ranking Member
House Energy & Commerce Committee, Chairwoman & Ranking Member
House Education & Workforce Committee, Chairwoman & Ranking Member
Senate Finance Committee, Chairman and Ranking Member
Senate HELP Committee, Chairman and Ranking Member
Jennifer Mensik Kennedy, PhD, RN, NEA-BC, FAAN, ANA President
Angela Beddoe, Interim Chief Executive Officer
Tim Nanof, MSW, Vice President, Policy & Government Affairs

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