

# United States Senate

WASHINGTON, DC 20510

January 20, 2023

The Honorable Chiquita Brooks-LaSure  
Administrator  
Centers for Medicare & Medicaid Services  
200 Independence Avenue, S.W.  
Washington, D.C. 20201

Dear Administrator Brooks-LaSure,

We write to express our concerns regarding the Centers for Medicare and Medicaid Services' (CMS) intent to issue staffing mandates for nursing homes.

Like you, we understand the importance of ensuring beneficiaries of federal health care programs have access to safe and high-quality nursing care. However, we fear a one-size-fits-all staffing mandate would undermine access to care for patients, particularly in rural communities. Instead, we urge you to work with Congress and rural stakeholders on tailored solutions that address the severe workforce challenges in our states' underserved areas.

While we support evidence-based policies to improve beneficiary care in nursing homes, staffing mandates are not the only solution. First, sweeping staffing mandates do not account for individual facilities' operational capabilities and local workforce conditions. For example, minimum staffing standards that establish strict staff-to-patient ratios and/or minimum hours per resident day requirements may not reflect optimal staffing levels given differences in patients' needs and underlying conditions, as well as the skills of the personnel at-hand.<sup>1</sup>

Additionally, blanket staffing standards may not provide enough flexibility to nursing homes in light of well-known and long-standing obstacles to the recruitment and retention of direct care workers, especially in rural and underserved areas.<sup>2</sup> This challenge is exacerbated by the fact that the health care sector is projected to have a shortage of nurses (10 to 20% based on a spring 2022 estimate) in the coming years.<sup>3</sup>

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<sup>1</sup> "Comment on CMS-2022-0069-0002," Regulations.gov, accessed January 19, 2023, <https://www.regulations.gov/comment/CMS-2022-0069-5028>


<sup>2</sup> Bhatnagar, Sabah, et al., "The Impact of COVID-19 on the Rural Health Care Landscape: Challenges and Opportunities," *Bipartisan Policy Center*, May 2022, [https://bipartisanpolicy.org/download/?file=/wp-content/uploads/2022/05/BPC-Medicare-Rural-EmerHsp\\_R02.pdf](https://bipartisanpolicy.org/download/?file=/wp-content/uploads/2022/05/BPC-Medicare-Rural-EmerHsp_R02.pdf)

<sup>3</sup> Berlin, Gretche, et al., "Assessing the Lingering Impact of COVID-19 on the Nursing Workforce," *McKinsey & Company*, May 11, 2022, <https://www.mckinsey.com/industries/healthcare-systems-and-services/our-insights/assessing-the-lingering-impact-of-covid-19-on-the-nursing-workforce>


Finally, meeting staffing mandates will place nursing homes in financial jeopardy.<sup>4,5,6</sup> This could lead to the shuttering of facilities, especially in rural communities. There is no question such a scenario would only amount to a counterproductive regulatory environment that leaves vulnerable patients and their families with far less access to care.

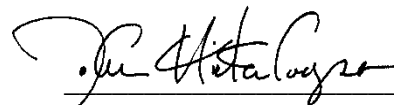
Going forward, we recognize CMS as a crucial partner in identifying, mitigating, and preventing future health and safety problems in nursing homes. We stand ready to work with your agency on proposals to improve long-term care for patients. The best way to accomplish this goal is working with Congress and stakeholders to ensure any future actions do not further exacerbate the serious challenges already facing facilities in rural America.

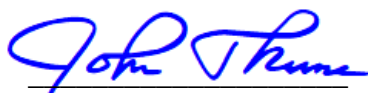
Sincerely,

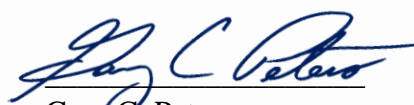
  
John Barrasso, M.D.  
United States Senator

  
Jon Tester  
United States Senator

  
Steve Daines  
United States Senator

  
John Hickenlooper  
United States Senator

  
John Thune  
United States Senator

  
Gary C. Peters  
United States Senator

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<sup>4</sup> Reiter, Kristin L., et al., "Minimum Nurse Staffing Legislation and the Financial Performance of California Hospitals," *Health Services Research* 47, No. 3 Part 1 (June 2012), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3337946/>.

<sup>5</sup> Buerhaus, Peter L., "What is the Harm in Imposing Mandatory Hospital Nurse Staffing Regulations?," *Nursing Economics* 28, No. 2 (March-April 2010), <https://pubmed.ncbi.nlm.nih.gov/20446379/>

<sup>6</sup> Buerhaus, Peter L., "Avoiding Mandatory Hospital Nurse Staffing Ratios: An Economic Commentary," *Nursing Outlook* 57, No. 2 (March-April 2009), <https://pubmed.ncbi.nlm.nih.gov/19318170/>



Kevin Cramer  
United States Senator



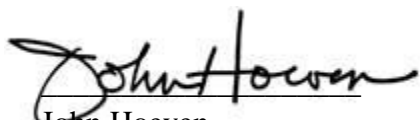
Joe Manchin III  
United States Senator



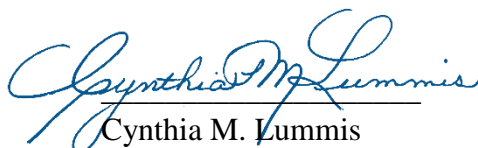
Deb Fischer  
United States Senator



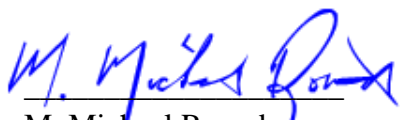
Kyrsten Sinema  
United States Senator



John Hoeven  
United States Senator



Cynthia M. Lummis  
United States Senator



M. Michael Rounds  
United States Senator