



November 2, 2023

Brian W. Frazee
President & CEO

Administrator Chiquita Brooks-LaSure
Centers for Medicare & Medicaid Services,
Department of Health and Human Services,
P.O. Box 8016, Baltimore, MD 21244-8016

Re: DHA CMS-3442-P Comments

Nemours Children's Health
Mark Mumford,
Executive Vice President
Chief Executive,
Nemours Delaware
Valley Operations

Dear Administrator Brooks-LaSure:

On behalf of the Delaware Healthcare Association (DHA), I am writing to express our concerns with CMS proposed rule CMS-3442-P, the minimum staffing requirement for nursing facilities that the Administration released on September 1, 2023.

Bayhealth
Terry Murphy,
President & CEO

DHA represents hospitals, health systems, and related health care organizations that are providing a continuum of appropriate, cost-effective, quality care to improve the health of all Delawareans. The primary role of the Association is to lead the promotion of effective and innovative strategies through collaboration and consensus building across the continuum of care, including social drivers of health. DHA serves hospitals, behavioral health providers, and post-acute rehabilitation hospitals across the state, several of which have long-term care (LTC) units within their facilities.

Beebe Healthcare
David A. Tam,
MD, MBA,
President & CEO

ChristianaCare
Janice E. Nevin,
MD, MPH
President & CEO

TidalHealth Nanticoke
Penny Short, MSM, BSN,
RN
President & CEO

While DHA shares CMS' commitment to improving patient safety and quality of care for older Americans, we have significant concerns about this unfunded staffing mandate for nursing homes due to several broad discrepancies, potential unintended consequences, and unique healthcare landscape in Delaware.

Saint Francis Hospital
James Woodward
President, & CEO
Trinity Health Mid-
Atlantic Region

The proposed minimum standards do not provide necessary flexibility based on real-time acuity needs of the facility. The American Organization for Nursing Leadership agrees that outcomes are not guaranteed with minimum staffing standards. Implementation of the rule could result in reduced bed availability in LTC, thereby limiting access to care especially in rural and underserved areas. Further, the proposed rule only addresses staffing for Registered Nurses (RNs) and Nursing Assistants (NAs) and is not based on the current care models that include many other types of providers and technology such as remote patient monitoring.

Delaware Healthcare Association
Brian W. Frazee
President & CEO

It is well known that the COVID-19 pandemic was incredibly challenging for the healthcare workforce. Long-term care facilities were challenged from the very beginning and continue to experience obstacles with recruiting and retaining qualified staff. According to a Delaware Department of Health and Social Services survey completed in 2021, 45% of Delaware

nurses surveyed reported they planned to leave the healthcare field in the next 6 months. A minimum staffing requirement in LTC facilities will exacerbate the shortage.

In Delaware, there is an existing staffing mandate that requires facilities to monitor and reduce or control their census based on available staff. This has resulted in reduced access to care and created tremendous delays for patients transitioning to LTC from acute-care hospitals. Delaying the discharge of an elderly person to post-acute nursing care further complicates their recovery and increases their risk of poor health outcomes. This will be felt acutely in Delaware with our increasingly aging population as we are home to the fifth oldest state in the nation.

Thank you for the opportunity to comment on CMS proposed rule CMS-3442-P. DHA and our members are committed to working collaboratively across the healthcare continuum to achieve our collective goal of enabling every Delawarean to reach optimal health. Please do not hesitate to contact me with any questions and we appreciate your consideration.

Sincerely,



Brian Frazee
President & CEO
Delaware Healthcare Association