

# CAPITOL STREET

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April 22, 2024

## Nursing Home Staffing Ratios Finalized

### Onerous Rules Irk SNFs & Hospitals

Relevant Companies



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### »» Our Take & Next Up

**CMS finalized harsh nursing home staffing mandates, with few changes from the proposal.** As a reminder, the Executive Order and Proposed rules drew in 46,000 comments. Dissenters, and bipartisan members of Congress, took issue with the lack of staff to fill the positions, and the overall inability to fulfill these requirements. Despite backlash from facilities, the finalized nursing rules are no less rigorous than the ones in the [proposed rule](#). See the 329-page [final rule here](#).

### »» Key Points

**Hospitals quickly excoriated the rules.** AHA notes “This final rule could lead nursing homes to reduce capacity or close outright, including those that are otherwise high performers on quality and safety metrics. The loss of these beds could adversely impact patients who have completed their hospital treatment and need continuing care in nursing facilities. The AHA has documented rising lengths of stay for hospital patients in need of skilled post-acute care, with patients waiting days, weeks or even months for post-acute care placements. As those patients continue to occupy hospital beds, other patients awaiting elective surgeries or other scheduled procedures may find their care disrupted because there is no bed for them in the hospital. Even more troubling, the final rule could lead to delays in urgent care as patients coming into hospital EDs may experience longer waits as EDs and inpatient beds are occupied by patients awaiting nursing home placements.”

**The rules have few changes from the proposal (2023).** CMS still requires 24/7 onsite RN coverage and to meet minimum staffing standards for RNs and NAs. Additionally, CMS has added a new requirement for total nurse staffing that was absent in the proposal.

**Implementation of the new requirements will be staggered (somewhat) but are very similar to the proposal from CMS.** CMS is still allowing a period of up to 5 years for rural facilities and 3 years for non-rural

facilities to comply with the new requirements. The two changes made are (1) extending the phase 1 timeline from 60 days to 90 days, and (2) adding a new total nurse staffing requirement in phase 2.

**The final requirements are below:**

- **Phase 1:** Enhanced facility assessment requirements, which go into effect 90 days (updated from 60 in the proposed rule) after the publication date of the final rule for both urban and rural
- **Phase 2:** RN must be onsite 24/7 AND facilities must meet the 3.48 HPRD total nurse staffing requirement two years after final rule release for urban facilities, three years for rural
- **Phase 3:** Minimum staffing requirement of 0.55 and 2.45 HPRD for RNs and NAs, respectively, three years after publication for urban, five years for rural

**Some new requirements are below:**

- The new rule requires nursing homes that participate in Medicare and Medicaid to have a registered nurse on site 24 hours a day, seven days a week.
- Facilities must also ensure registered nurses work a certain number of hours per day based on the number of residents (For instance, a home with 100 residents must have at least two or three registered nurses and at least 10 to 11 nurses' aides in addition to two nurse staff per shift, according to a fact sheet released Monday)

**The final rule estimates the total cost over 10 years will be \$43 B with an average annual cost of \$4.3 B, up from the \$40.6 B estimated in the proposed rule.**

**BACKGROUND.** On April 18, 2023, Biden signed an executive order to create higher standards for staffing ratios for nursing homes. The implementation of the final rule is as follows. Note that the timelines for each phase differ between urban and rural facilities. **Phase 1:** Enhanced facility assessment requirements, which go into effect 60 days after the publication date of the final rule for both urban and rural. **Phase 2:** RN must be onsite 24 hours and seven days/week two years after final rule release for urban facilities, three years for rural. **Phase 3:** Minimum staffing requirement of 0.55 and 2.45 HPRD for RNs and NAs, respectively, three years after publication for urban, five years for rural. The proposed rule was estimated to cost \$40 B over ten.

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