

**Testimony to the House Committee on Energy & Commerce Subcommittee on Health
“Supporting Access to Long-Term Services and Supports: An Examination of the
Impacts of Proposed Regulations on Workforce and Access to Care”**

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Thank you, Chairwoman Rogers, Chairman Guthrie, and members of the House Energy and Commerce Subcommittee on Health. My name is Shelly Hughes, and I am a certified nurses aide at a nursing home in Bellingham, Wash.

I would like to start this testimony with a heartwarming story or introduction, but there is no time for pleasantries. It would be a disservice to my fellow nursing home workers and our residents to delay the main message of my testimony, considering how serious this situation is. I speak before this Committee on behalf of the millions of nursing home workers across the country whose lives depend on the choices and actions of our lawmakers. We have one united thesis:

Our long term care system is on the verge of collapsing, and short staffing is the catalyst. A strong federal minimum staffing standard is the best way to rectify the devastating and deadly consequences short staffing imposes on our nation’s nursing home workers and residents. CMS has proposed such a standard, and it is imperative that we strengthen, implement and enforce this rule to the fullest extent.

If there was anything good to come out of COVID-19, it was that our country was finally forced to confront the dire straits nursing homes are in. The industry was in the midst of a staffing crisis long before I started this job, and workers have been sounding the alarm for decades. Unfortunately, it took a global pandemic and the deaths of nearly 200,000 nursing home residents and workers for the public to see how severe that crisis is.¹

Growing up, I watched my mother work as an aide in nursing homes and as an in-home caregiver. She worked hard to support our family and kept us afloat when my father was unable to continue working as an attorney. I was in awe of the love, respect and dedication my mother had for taking care of other people — not only our family, but for her residents and coworkers as well.

But I also saw the toll of caregiving. My mother came home physically and mentally exhausted, and still had to take care of me and my two brothers. I remember hearing her talk about challenges at work like falls, racism directed at her and her coworkers, working short-staffed and the passing of favorite residents. But she had a job to do, and she was committed to upholding that responsibility.

¹ KFF. (2022). Available: <https://www.kff.org/policy-watch/over-200000-residents-and-staff-in-long-term-care-facilities-have-died-from-covid-19>

It was my mother's example that inspired me to carry on her legacy of grace and compassion for people in need, even when times are tough. So I became a CNA 15 years ago, and entered the industry with high hopes of making a difference in others' lives.

But when I began my career, I immediately experienced the same issues my mother had spoken about. I started out making just over nine dollars an hour. It wasn't enough, but I kept going because my residents needed me.

My experience is all too familiar for nursing home workers. As a leader in my union, I've spoken to CNAs across the country who say short staffing, poverty wages, a lack of benefits and training opportunities and so much more have made the nursing home jobs we love impossible to do. Our population is rapidly aging, and between 2020 to 2030, the nursing assistant workforce will have 613,500 total job openings.² There are plenty of people who want to do this work, and one would expect these positions to be filled quickly; But CNA turnover is at nearly 100 percent.³

We are stuck in an existential loop where low staffing leads to even more low staffing — if staffing levels were higher, there would be less turnover, workers would have less of a reason to find another job and younger people would be more likely to start their careers in nursing homes. I would feel much better about going to work everyday when I know that I will have enough time with each resident to do my job well.

All of our residents have unique needs and require specialized care, so it is important that CNAs approach our jobs with patience and close attention. On average, nursing assistants support 13 residents during a typical shift, but I've spoken with CNAs who have been responsible for upwards of 30 residents — alone. The math doesn't add up. How can you care for 30 individuals in just 12 hours?

Tasks that take only a few minutes for someone like me or you to complete could take 45 minutes for a resident. Something as simple as taking a morning shower or getting dressed could be an incredibly demanding task. You have to move at the pace of the individual. But when you have 30 residents to assist, you don't have the luxury of time.

I work nights, but the urgency of care does not set with the sun. Because of short staffing, I regularly care for more than 30 residents as one of 2 CNAs for the 60 people in our long-term care unit.

Because of short staffing, CNAs are forced to make impossible, painful choices every day. What would you do in this hypothetical scenario:

² PHI. (2022). "Direct Care Workers in the United States: Key Facts." Available: <https://www.phinational.org/resource/direct-care-workers-in-the-united-states-key-facts-3/>

³ PHI. (2022). "Direct Care Workers in the United States: Key Facts." Available: <https://www.phinational.org/resource/direct-care-workers-in-the-united-states-key-facts-3/>

You are the only CNA on the floor for 18 residents, and Mr. Smith is ready for his bath. You've gotten Mr. Smith undressed and are helping him into the tub. Suddenly, a few rooms down, you hear a bang and Ms. Jones calling for help. Do you leave Mr. Smith naked and alone in the bathroom? Or do you run to Ms. Jones, who may have fallen and injured herself? All the while, Mr. Johnson urinated in bed, and is laying in soiled clothes and sheets.

Who do you go to first? How do you make that choice in full confidence?

I walk out of work each morning feeling like my best wasn't enough. I've dedicated my life to this work but because of short staffing, I feel helpless and defeated. I get in my car and sob because my residents were robbed of the quality care and time I promise to give them. I worry about my patients shivering in the bath, laying on the ground with a head injury, and feeling ashamed and embarrassed while covered in human waste.

I cannot describe the pain and heartbreak CNAs experience when we have to tell a resident "I can't" or "not now," or when we can't speak to them at all.

Our country's long-term care needs are changing, and we need to accommodate those changes. The baby boomer generation is aging and we need to be able to take care of them. Residents in nursing homes also have more care needs than they did in the past. This is because more older Americans are staying in their homes and communities when their care needs can be met by a home care worker — and that's a good thing.

However, not everyone can stay at home in their time of need, and that's what nursing homes are for. This proposed rule would help make nursing homes into the kind of places they are supposed to be — a home — where residents and staff are well taken care of.

Nursing home residents are living, breathing people with fears and passions and ambitions. We work with our residents every day and we know their specific needs better than anyone. Many of our residents have been under our care for months or years. We are like family members.

It's beyond frustrating when people who sit behind a desk all day dictate staffing needs. Without being on the floor and interacting with residents daily, how could someone possibly make an accurate assessment of the necessary staff, training or resources? You can look at numbers on a spreadsheet and words on a report, but a human being's needs do not exist in a vacuum.

The needs of residents in our care change daily and unexpectedly. We care for individuals with Alzheimer's and dementia, and individuals who experience seizures or other health emergencies that can't always be predicted. We are seeing more and more residents with mental health needs, which requires a total sea change in how a facility operates. A 2022 study from the University of Chicago found that approximately 4 in 5 nursing home residents have a behavioral health diagnosis.⁴ Taking care of residents with complex needs requires an advanced

⁴ NORC at The University of Chicago. (2022). "Understanding the Health Needs and Spending of Senior Housing Residents." Available: <https://www.nic.org/wp-content/uploads/pdf/Understanding-Health-Needs-and-Spending-of-Senior-Hsg-Residents.pdf>

skill set, and it also requires there being enough staff to perform the necessary tasks. As it is, we don't have the training or the staff to adapt to this new reality.

The proposed rule is the first federal staffing standard for nursing homes in US history. Nursing home workers and residents have been waiting for this rule for decades. We need this rule. It's not hyperbole when I say lives depend on safe staffing. The requirements laid out in CMS's proposed rule would exceed those of nearly all states that currently have CNA specific staffing requirements, although less than ten states have CNA specific staffing requirements.⁵ The proposed rule also states that nursing homes will be required to have a registered nurse on site 24 hours per day. This is an increase from the current requirement of 8 hours per day of RN staffing.

Residents cannot receive high quality care without a minimum number of CNAs. We are the fuel that runs the engine in nursing homes because we provide most of the direct care that residents receive and we are often the first to realize something is wrong. But we must consider this proposal to be a foundation, not a ceiling. That's why I'm calling for stronger standards that meet the moment we're in.

Further, CMS proposes to significantly strengthen the current process nursing homes use to assess their staffing needs, with the expectation that if residents of a facility have higher acuity needs a higher staffing level would be required. This would be game-changing for nursing home workers across the country, as facilities would be required to get input from us — the workers — and our representatives. Using our lived experiences and intimate knowledge of our residents' needs, we would have a direct role in developing the assessment and would need to consider staffing needs by unit and shift.

Every shift must be appropriately staffed so residents — our nation's parents, grandparents and loved ones with disabilities — can live with dignity and get the care they deserve and depend on. A federal minimum staffing standard would ensure public funding for nursing homes goes to the bedside, not into pocketbooks.

We want to bring quality care to these facilities. We want residents and families to feel secure and well-cared for. But, we can't do that without good jobs and safe residents. We are ready for the federal government to take action and hold nursing home owners accountable for what they allow to happen in their facilities. Too many nursing home owners have proven they can't be trusted to make the right choices that prioritize our residents and those of us who care for them. Workers need a seat at the table to have more transparency with our employers. It's time to take action and hold nursing home owners accountable for what they allow to happen. We also need paid time off and affordable healthcare. We need livable wages that allow us to provide for our families. And every nursing home worker must have a seat at the table to be able to negotiate a better life. We all rise because of unions. All working people, especially

⁵ The National Consumer Voice for Long-Term Care. (2022). "State Nursing Home Staffing Standards." Available: https://theconsumervoicet.org/uploads/files/issues/CV_StaffingReport.pdf

long-term care workers, must have the right to join together in a union if we have any hope of righting the wrongs in this industry.

We need to make sure that the nursing home industry is putting that money into workers and care, not lining their pockets. The proposed rule would provide a closer look at what percentage of Medicaid dollars nursing homes are spending on resident care. This is an important first step before setting a requirement that nursing homes must spend at least a certain percentage of their Medicaid taxpayer dollars on resident care, which includes worker wages and benefits. In the future, we also need to look at how nursing homes are spending Medicare dollars because they receive higher payments per resident from Medicare than they do from Medicaid.

We've called for help for decades, and we hear over and over that decision-makers are committed to taking action. When our elected leaders and employers say we're in this together, we want to trust that they mean it. But increased funding and resources are dangled before us like a carrot on a stick.

We have an opportunity to end the dangerous game of cat and mouse. A strong federal minimum staffing standard for nursing homes is the best action we can take to move toward a long-term care system that provides compassionate and dignified care to those that need it, that attracts, retains and sufficiently compensates a professional workforce. Only then can we meet the challenges we will face in the coming decades.

So I'll close by repeating what I stated at the beginning: Our long term care system is on the verge of collapsing, and short staffing is the catalyst. A strong federal minimum staffing standard is the best way to rectify the devastating and deadly consequences short staffing imposes on our nation's nursing home workers and residents. CMS has proposed such a standard, and it is imperative that we strengthen, implement and enforce this rule to the fullest extent.