November 3, 2023

Administrator Chiquita Brooks-LaSure
Centers for Medicare and Medicaid Services (CMS)
Department of Health and Human Services
Attention: CMS-3442-P
P.O. Box 8016
Baltimore, MD 21244-1816

RE: CMS-3442-P – Medicare and Medicaid Programs; Minimum Staffing Standards for Long-Term Care Facilities and Medicaid Institutional Payment Transparency Reporting; published at Vol. 88, No. 171 Federal Register 61352-61429 on September 6, 2023.

Submitted electronically via http://www.regulations.gov

Dear Administrator Brooks-LaSure,

UnityPoint Health appreciates this opportunity to provide comments on this proposed rule related to the minimum staffing standards for long-term care facilities and Medicaid institutional payment transparency reporting for Calendar Year (CY) 2024. UnityPoint Health is one of the nation’s most integrated health care systems. Through more than 32,000 employees and our relationships with more than 370+ physician clinics, 36 hospitals in urban and rural communities, and 13 home health agencies throughout our 8 markets, UnityPoint Health provides care throughout Iowa, central Illinois, and southern Wisconsin. On an annual basis, UnityPoint Health hospitals, clinics, and home health agencies provide a full range of coordinated care to patients and families through more than 8.4 million patient visits.

UnityPoint Health appreciates the time and effort of CMS in developing this proposed rule. As a member of the American Hospital Association and Iowa Health Care Association, UnityPoint Health supports their formal comment letters. Additionally, we respectfully offer the following input.

MINIMUM STAFFING STANDARDS

CMS proposes to establish minimum staffing standards for long-term care facilities. Staffing standards would require a registered nurse (RN) to be onsite 24 hours per day, 7 days per week to provide skilled nursing care. Minimum staffing type standards would require facilities to provide at least 0.55 RN hours per resident day (HPRD) and 2.45 Nurse Aide HPRD, and HPRD standards would apply regardless of a facility’s patient case-mix.

Comment: UnityPoint Health opposes these mandatory staffing requirements for long-term care facilities. While we agree with the goals of providing access to high-quality care and supporting caregivers, this proposed rule is ill-advised and may actually decrease overall access to quality care throughout the care continuum. As proposed, the RN staffing requirement itself appears to be higher than corresponding requirements in all states and only lower than that of D.C., and the burden of complying will create a
national crisis and exacerbate nursing workforce issues\(^1\).

In terms of long-term care facilities, 17 nursing facilities closed in Iowa in 2022, including 15 that were in rural communities.\(^2\) Micromanaging staffing levels by staffing type does not represent care tailored to patient acuity and/or needs and will likely lead to more facility closures. According to the Iowa Health Care Association, roughly 98% of Iowa nursing facilities would not currently meet these minimum staffing proposals, and complying with these mandates would necessitate hiring an additional 1,417 direct care staff or reducing patient count by 2,559 in Iowa (a reduction of 13%).\(^3\) Iowa simply does not have the trained personnel to meet the proposed staffing requirements, putting in further jeopardy the state’s limited bed capacity. We are gravely concerned that staffing mandates and overregulation removes operational flexibilities for our nursing facility partners, such as team-based care models and technological extenders.

As an integrated health system, UnityPoint Health has sites of service across the care continuum. Hospitals represent the appropriate care setting for emergent and high acuity patients. Once patients are stabilized in our hospitals, it has become increasingly difficult to locate post-acute placement. One of our biggest barriers in post-acute placement is the availability of nursing facility and skilled beds. **When nursing facility capacity is limited, hospitals experience increased delays in post-acute placement.** Boarding patients in higher acuity hospital beds awaiting alternative placement does not further efficient patient care, is a patient dissatisfier, and results in higher costs for Medicare. It impacts not only patients awaiting discharge but those who require care in hospital beds being occupied by those awaiting discharge. In addition, Medicare is on the hook for potential “boomerang costs” associated with higher readmission rates when nursing facility and skilled beds are unavailable.

Lastly, **it appears that CMS has underestimated the administrative burden and cost of complying with this regulation.** In addition to the minimum standard floor, each long-term care facility will be required to use facility assessment findings to determine if additional resources and/or staffing is necessary for its residents. So the rule not only mandates staffing but also requires additional administrative burdens.

UnityPoint Health urges CMS to pause this rule and involve stakeholders in future discussions prior to releasing well-intended but disruptive care proposals. To discuss our comments or for additional information on any of the addressed topics, please contact Cathy Simmons, Executive Director, Government & External Affairs at cathy.simmons@unitypoint.org or 319-361-2336.

Sincerely,

Cathy Simmons, JD, MPP
Executive Director, Government & External Affairs

---

\(^1\) A shortage of RNs is expected to intensify as Baby Boomers age and the need for health care grows - [https://www.aacnnursing.org/Portals/0/PDFs/Fact-Sheets/Nursing-Shortage-Factsheet.pdf](https://www.aacnnursing.org/Portals/0/PDFs/Fact-Sheets/Nursing-Shortage-Factsheet.pdf)
