



September 18, 2024

The Honorable Cathy McMorris Rodgers
Chair
House Energy and Commerce
Committee
2188 Rayburn House Office Building
Washington, DC 20515

The Honorable Frank Pallone
Ranking Member
House Energy and Commerce
Committee
2107 Rayburn House Office Building
Washington, DC 20515

RE: Opposition to H.J. Res 139 Providing for congressional disapproval of the rule submitted by the Centers for Medicare & Medicaid Services relating to *Minimum Staffing Standards for Long-Term Care Facilities and Medicaid Institutional Payment Transparency Reporting*

Dear Chair Rodgers and Ranking Member Pallone:

The undersigned co-chairs of the Consortium of Constituents with Disabilities (CCD) the Long-Term Services and Supports (LTSS) Task Force strongly oppose H.J. Res 139 providing congressional disapproval of the minimum staffing standards for long-term care facilities published earlier this year. CCD is the largest coalition of national organizations working together to advocate for federal public policy that ensures the self-determination, independence, empowerment, integration, and inclusion of children and adults with disabilities in all aspects of society, free from racism, ableism, sexism, and xenophobia, as well as LGBTQ+ based discrimination and religious intolerance.

CCD submitted comments to CMS highlighting the importance of minimum staffing standards for older adults and people with disabilities. Far too many residents of long-term care facilities faced serious harm, negligence, and even death which would have been prevented with increased nursing staff. Disability and aging advocates and experts have long called for a minimum staffing standard to protect residents.

Decades of research show higher nurse staffing at all levels, including Registered Nurses (RNs) and Nurse Aides (NAs), leads to improved health outcomes for

residents.¹ Relatedly, research shows higher rates of hospitalizations, infections, pressure sores, and even premature death for residents in poorly staffed facilities.² Prohibiting CMS from exercising its authority to prevent these horrible outcomes further jeopardizes the basic health and safety of people with disabilities, who rely on a high quality workforce to meet their essential care needs.

The rule sets “minimum” standards - not a “once-size-fits-all” approach. The staffing ratios provide a floor to prevent critical injury or illness to residents, while still allowing facilities to increase their staffing beyond the standards to meet residents’ care needs.

Additionally, the rule gives facilities several years to become compliant with the minimum staffing ratios. Currently, 60% of facilities meet the rule’s overall minimum staffing standard of 3.48 hours per resident per day.³ Other facilities have up to five years to hire staff to meet the minimum staffing ratios. Even after the deadline for compliance, facilities are given additional leeway through numerous waivers and hardship exemptions if they cannot meet the requirements in the rule.

This resolution not only impacts the essential staffing standards, but also effects the rule’s much needed transparency requirements to ensure Medicaid dollars are appropriately spent on residents’ care. As stewards of federal dollars, it is essential for CMS to verify where and how Medicaid funds are spent to maintain program integrity.

To summarize, the minimum staffing rule is needed to prevent serious injury to residents, was developed after consideration of comprehensive, evidence-based data, provides significant time for facilities to comply with the standards, allows exemptions if facilities cannot meet the standards, and sets criteria to confirm federal funds are appropriately spent. Unlike the minimum staffing rule, this resolution provides no warranties to ensure residents receive adequate care, instead further jeopardizing older adults and people with disabilities.

For the reasons stated above, we strongly oppose H.J. Res 139. We thank you for the opportunity to respond, and request Congress work to ensure people with disabilities receive a quality workforce to address their care needs.

¹ See Nicholas Castle, *Nursing Home Caregiver Staffing Levels and Quality of Care: A Literature Review*, 27 J. of Applied Gerontology 375, 375- 405 (2008); Nicholas G. Castle & Ruth A. Anderson, *Caregiver Staffing in Nursing Homes and Their Influence on Quality of Care*, 49 Medical Care 545, 545-552 (2011).

² KFF Health News, [Avoidable Sepsis Infections Sent Thousands of Seniors to Gruesome Deaths](#), (Sept. 5, 2018).

³ KFF, [With Current Staffing Levels, About 1 in 5 Nursing Facilities Would Meet Fully-Implemented Minimum Staffing Standards in the Final Rule](#), (Apr. 22, 2024).

Respectfully,

Jennifer Lav, National Health Law Program

Tory Cross, Caring Across Generations

Gelila Selassie, Justice in Aging

CCD LTSS Task Force Co-Chairs