



# While you wait...

### Virtual Meeting Tips

- Put your **questions in the Q&A** at the bottom of your Zoom screen
- Use the chat feature at the bottom of your Zoom screen for comments and conversation
- If you are having technical issues, please let us know in the chat and we will do our best to assist you

### New at NursingHome411

- Elder Justice Newsletter: "There's Just No Time for This"
- Last month's webinar: "Picking Patients for Profit: Admissions Discrimination in Nursing Homes"
- New Nursing Home Data: Star Ratings, Problem Facilities, and More!
- Calling on Sen. Schumer to Back the White House's Proposed NH Reforms
  - NursingHome411 Podcasts on the White House Reforms
- LTCCC's Family Council Toolkit
- Podcast: 'I Do Not Want to Come Back Here': Behind the Scenes of a Must-Watch VICE Documentary on the Nursing Home Industry

For materials from today's webinar, visit nursinghome411.org/webinar-staffing-recs/



Today's Agenda

- Current federal staffing requirements.
- New study on improving nursing home care from the National Academies of Science, Engineering, & Medicine (NASEM).
- Proposed White House reforms.
- Discussion on how YOU can respond to the request for public comments.
- ■Q & A.



# **Current Federal Nursing Home Staffing Standards**

Richard Mollot, Long Term Care Community Coalition

www.nursinghome411.org

## + The Long Term Care Community Coalition

■LTCCC is a nonprofit, nonpartisan organization dedicated to improving care & quality of life for the elderly & adult disabled in long term care (LTC).

## ■What we do:

- Policy research & analysis;
- Systems advocacy;
- Public education;
- Home to two local LTC Ombudsman Programs.

www.nursinghome411.org

# + Background

As a result of the 1987 Nursing Home Reform Law, U.S. nursing homes are subject to a range of standards.

The purpose of these standards is to ensure that every individual receives the care and services he or she needs to attain and maintain his or her highest practicable physical, emotional, and psycho-social well-being.

While the federal law and its implementing regulations are strong, weak enforcement over the years has resulted in persistent, system-wide failures to ensure that residents are safe and able to live with dignity.

# + Federal "Requirements of Participation"

- Standards of care that facilities must meet in order to be eligible for public reimbursement (Medicare or Medicaid or, most often, both programs).
- ■Standards apply to all residents in the facility equally.

## Key principles:

- \*Each resident is to receive care and services, based on individualized assessment and care plan, to attain and maintain "the highest practicable physical, mental, and psychosocial wellbeing."
- \*Regulations made clear: resident should not decline unless the decline was medically unavoidable for that resident.
- \*Quality of life and dignity are essential components of the standards of care.

# Regulatory Standards: Staffing

- The facility must have sufficient nursing staff with the appropriate competencies and skills sets to provide nursing and related services to assure resident safety and attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident, as determined by resident assessments and individual plans of care and considering the number, acuity and diagnoses of the facility's resident population....
- The facility must provide services by sufficient numbers of each of the following types of personnel on a 24-hour basis to provide nursing care to all residents in accordance with resident care plans...
  - [L]icensed nurses; and
  - Other nursing personnel, including but not limited to nurse aides.
- A facility must be administered in a manner that enables it to use its resources effectively and efficiently to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident.



# Regulatory Standards: Staffing



Advancing Quality, Dignity & Justice

### CONSUMER FACT SHEET: REQUIREMENTS FOR NURSING HOME CARE STAFF & ADMINISTRATION

Staffing is widely considered to be the most important factor in the quality of care provided in a nursing home. Too often, facilities fail to have sufficient staff or the staff does not have the appropriate knowledge and competencies to provide the care residents need. Thus, federal requirements for sufficient and competent staff are critical to support resident-centered advocacy to ensure that residents are safe and that they receive appropriate services. This is what we pay for and what every facility agrees to provide for all of its residents when it participates in Medicaid/Medicare.

Below are relevant standards with descriptions excerpted from the federal regulations, followed by some points for you to consider when you advocate on these issues. [Note: The brackets below provide, for reference, the applicable federal regulation (42 CFR) and the F-tag number used when a facility is cited for failing to meet the standard.]

#### I. Fundamental Requirements for Nursing Services [42 CFR 483.35 F-725]

The facility must have sufficient nursing staff with the appropriate competencies and skills sets to provide nursing and related services to assure resident safety and attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident, as determined by resident assessments and individual plans of care and considering the number, acuity and diagnoses of the facility's resident population....

### II. Sufficient Staffing Levels [42 CFR 483.35(a) F-725]

The facility must provide services by sufficient numbers of each of the following types of personnel on a 24-hour basis to provide nursing care to all residents in accordance with resident care plans:

(i) ...licensed nurses; and (ii) Other nursing personnel, including but not limited to nurse aides.

### III. Nurse Aide Competency [42 CFR 483.35(d) F-728]

**General rule**. A facility must not use any individual working in the facility as a nurse aide for more than 4 months, on a full-time basis, unless—

That individual is competent to provide nursing and nursing related services; and

That individual has completed a training and competency evaluation program, or a competency evaluation program approved by the State...; or

That individual has been deemed or determined competent [based on long-term experience and other federal requirements]....

**Non-permanent employees.** A facility must not use on a temporary, per diem, leased, or any basis other than a permanent employee any individual who does not meet the [above] requirements....

LTCCC Fact Sheet: Care Staff & Administration Requirements

#### Page 2

### Considerations for Resident-Centered Advocacy - Staffing Competency & Quantity:

- Note the reference to the 1987 Nursing Home Reform Law's requirement that nursing home services must be sufficient to assure that residents attain and maintain their "highest practicable physical, mental and psychosocial well-being." This means that services must be tailored to what residents need, <u>not</u> what the facility wishes to provide based on its profit margins and financial goals.
- Nursing services must be <u>both</u> sufficient and competent to fulfill the needs identified in each and every resident's assessment and care plan.
- 3. When a facility accepts a resident it is affirming that it has both enough staff to meet the care and service needs of that individual and that the staff it hires and retains are appropriately trained to carry out this promise. When a facility lacks sufficient staff to meet the needs of its residents it is breaking that promise and violating its agreement with the federal government.

### IV. Nursing Home Administration [42 CFR 483.70 F835]

A facility must be administered in a manner that enables it to use its resources effectively and efficiently to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident.

### Considerations for Resident-Centered Advocacy – Administration:

Federal guidelines state that, to order for a facility to be cited for substandard administration the surveyor's "investigation must demonstrate how the administration knew or should have known of the deficient practice and how the lack of administration involvement contributed to the deficient practice found."

This is important in two ways:

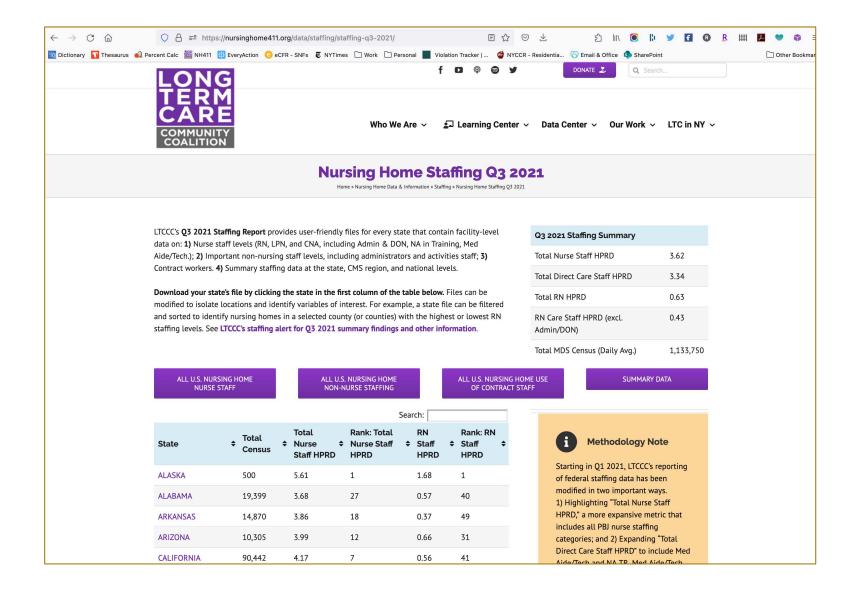
- Is the administrator aware of the specific problem or concerned about which you are advocating? Depending on the nature of the problem, and how long it has continued, it may be worth bringing it to the attention of the administrator and/or senior staff.
- Even if you do not know if the administrator has direct knowledge, there are numerous situations for which it is <u>expected</u> that an administrator is aware and accountable, including:
- a. "all alleged violations involving neglect, abuse, including injuries of unknown source, and/or misappropriation of resident property, by anyone furnishing services on behalf of the provider..."
- overall implementation of the facility policies/procedures, including to prohibit involuntary seclusion..." and
- c. any reasonable suspicion of a crime against a resident.

### RESOURCES

<u>WWW.NURSINGHOME411.ORG</u>. LTCCC's website includes materials on the relevant standards for nursing home care and a variety of resources on specific issues, such as dementia care, resident assessment and care planning, dignity and quality of life.

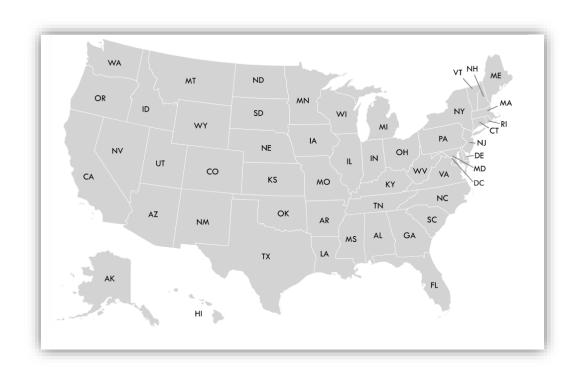


## **Nursing Home Staffing Info – Updated Quarterly**



# LTCCC's state pages

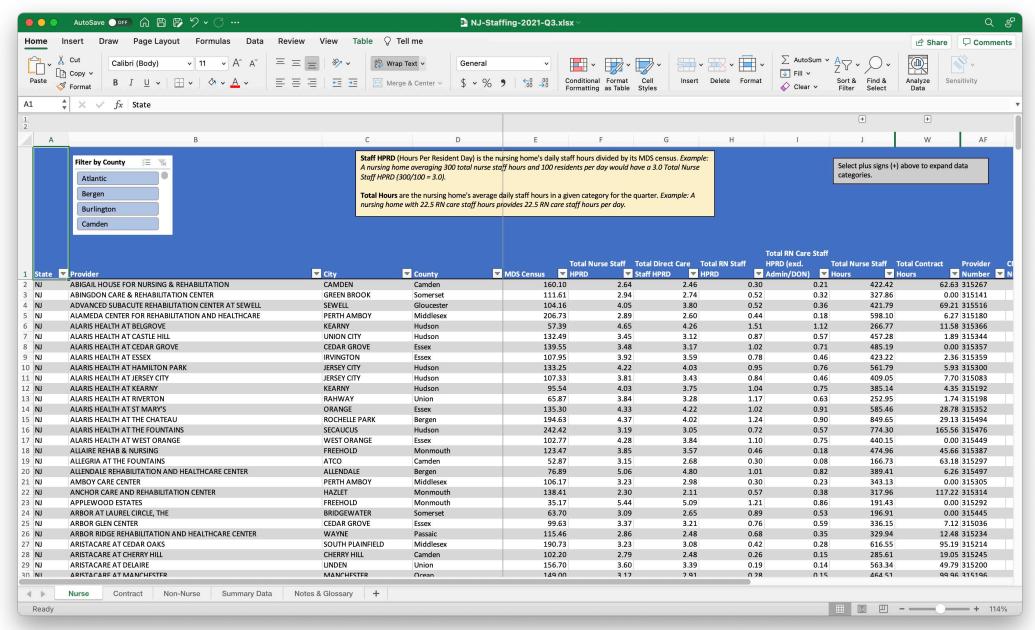
- Use clickable map to find your state
- State pages contain state-specific
  - Staffing
  - Ratings
  - Ombudsman resources
  - And more...



nursinghome411.org/states

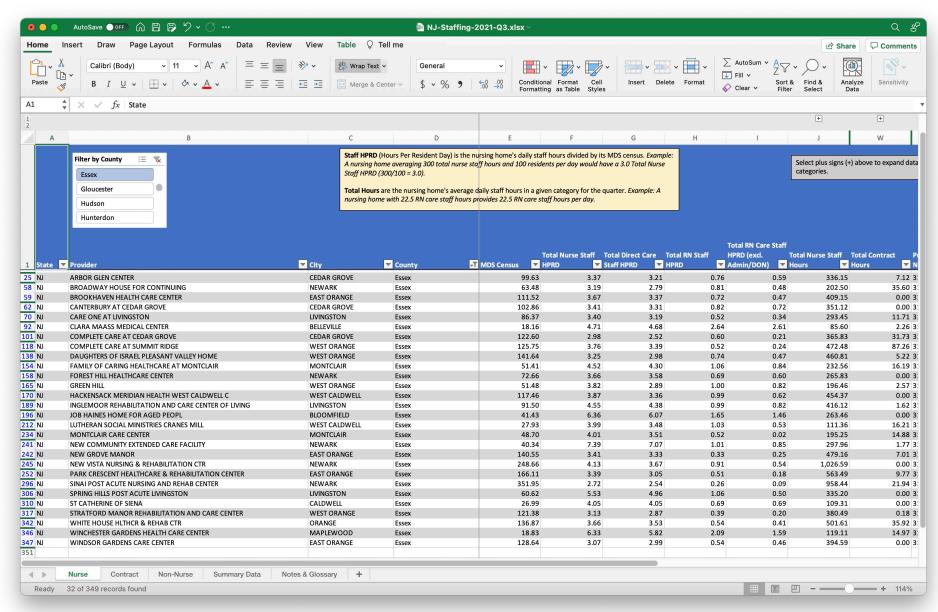
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# Example: State staffing data



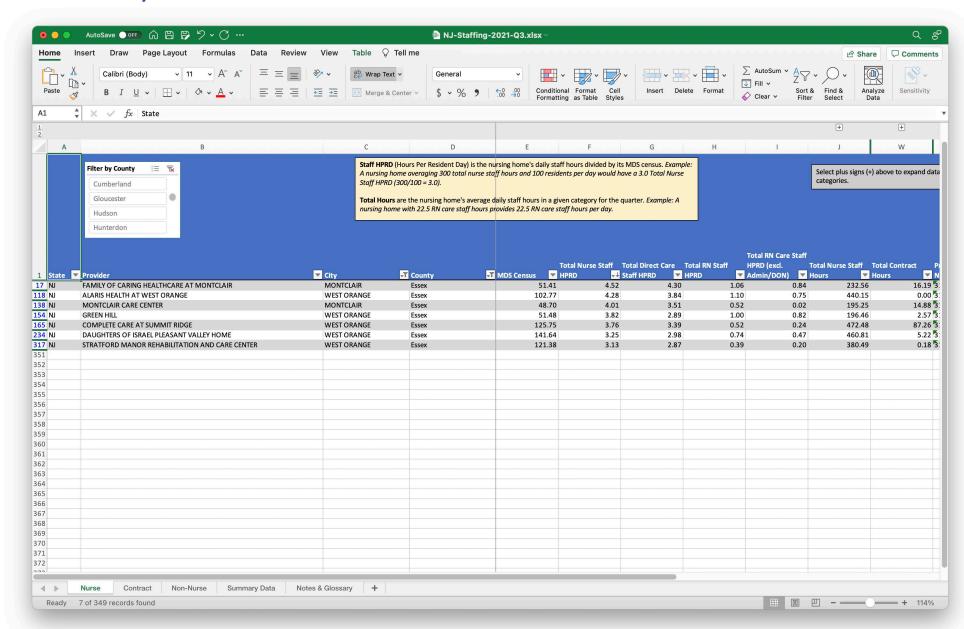


## Find and compare staffing data for your county...



## +

## ...or city



+

Resources



# **Learning Center**

Select boxes below to access our latest materials and resources to support good care and resident-centered advocacy. Scroll to the bottom of this page for LTCCC's most recent Learning Center resources. For COVID-19, see LTCCC's Coronavirus Resource Center.



#### Webinars

Learn about long-term care issues at LTCCC's monthly Zoom webinars. Attend programs live or watch recordings on YouTube.



### Get the Facts

Fact sheets providing information on care standards to support better care and quality of life for long-term care residents.



### Families & Ombudsmen

LTCCC's Family &
Ombudsman Resource Center
provides resources, tools, and
information to support
resident-centered advocacy.



### Dementia Care & Antipsychotic Drugging

Resources for promoting good dementia care and reducing dangerous antipsychotic drugging.



### Podcasts

Listen to interviews and conversations with a variety of leading experts in long-term care.



### Abuse & Neglect

Information and resources to to help identify and address nursing home resident abuse and neglect.



### Resident Advocacy

Forms and printouts to help you advocate for residents in long-term care and promote resident rights.



### Assisted Living

Guidebooks, reports, fact sheets, and other resources to advocate for residents in assisted living.

www.nursinghome411.org/learning-center/



Sign up for alerts at <a href="https://nursinghome411.">https://nursinghome411.</a> org/join/

## Visit

# www.nursinghome411.org

## for

- Staffing and quality info for everyU.S. nursing home,
- Guides & fact sheets on important resident care standards,
- Webinars and podcasts with useful information and insights; and
- Tools for resident-centered advocacy, including the Dementia Care Advocacy Toolkit.