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Welcome. Today, AHCA/NCAL is sharing the diverse and widespread opposition to the staffing mandate as evidenced by the historic Congressional Briefing attendance and a coalition of representatives from multiple national associations and provider groups. I want to thank my colleagues for taking time to be here with us today to share this important message. Thanks to Katie Smith Sloan, president and CEO, LeadingAge; Nate Schema, president and CEO, Good Samaritan Society; Alexa McKinley Abel, J.D., director of government affairs and policy, National Rural Health Association; Melissa Jackson, past president and current liaison officer, National Association of State Veterans Homes; Patricia Horn, co-owner, Cedar Hill Continuing Care Community; and my colleague Clif Porter, senior vice president of government relations at AHCA/NCAL.

Today we're discussing the Staffing Mandate. The reality is that there is no scenario in which the staffing mandate works. Only six percent of nursing homes currently meet all four requirements. We know that 80 percent of nursing homes will have to hire more RNs to meet the 24/7 RN requirement, including 92 percent of rural facilities.

Nursing homes will have to hire an additional 102,000 nurses and nurse aides to comply with the mandate, and it will cost nursing homes an estimated $6.5 billion annually to hire these additional caregivers.

There is a strong correlation between Medicaid census and compliance; facilities that predominantly serve residents on Medicaid are less likely to meet each of the four requirements. Nearly one-quarter of nursing home residents (more than 290,000) may be at risk for displacement, as facilities are forced to reduce their census in order to comply with the mandate, or ultimately close altogether.

Rural Communities and small facilities (<100 beds**)** are particularly impacted and are less likely to meet the 24/7 RN requirement.

There is a larger issue at stake – access to care for seniors. The pandemic and an ongoing workforce crisis are already threatening access, and the mandate will only make this worse. Since 2020, 740 nursing homes have closed. There are 45,000 fewer nursing home beds since 2020. We learned from our provider survey that 99% of nursing homes currently have open jobs, including 89 percent who are actively trying to hire for registered nurse (RN) positions. Twenty percent of facilities have already closed a unit, wing, or floor because of labor challenges, and 66 percent of facilities are concerned that if the workforce crisis is not resolved, they may have to close their facility.

We've taken legal action, but that is only one aspect of how we move forward from here. The fact that hundreds of professionals are here on Capitol Hill is a testament to our work: there are legislative opportunities that we will pursue. We will continue to develop relationships with Members of Congress to find other solutions.

Clearly, this mandate is going to hurt the very people it intends to help. Each of our guests today will share a little bit about what they're experiencing on the ground in their own facilities and how this mandate will impact their residents and access to care – especially in our rural communities and across the continuum of care.

With that, I'll hand it over to Katie Smith Sloan, president and CEO, of LeadingAge.

Katie Smith Sloan
President and CEO
LeadingAge

LeadingAge is the association based here in D.C. that represents nonprofit and mission-driven providers of aging services of all kinds, including thousands of nursing homes – rural and urban – nationwide.

Many of our members have served their communities for decades and even 150-175 years - caring for older adults and families over generations. They know deeply the essence of caregiving – which is why, at the outset of the Biden Administration's first mention of possible mandates, way back in 2022, we made our position clear: we fully share the goal of ensuring quality care AND we were clear that our current infrastructure of long term care cannot sustain staffing mandates until they are supported by adequate funding and available staff.

We know that quality care and staffing are tightly connected. Without the nurse aides, registered nurses, licensed practical nurses and others who serve nursing home residents, there is **simply is no care**.

LeadingAge has shared its intention to join with AHCA in the lawsuit to stop these requirements because mandates with no funding are a recipe for disaster.

By our calculations, at least 27,000 additional full-time equivalent registered nurses (RNs) and 78,000 additional full-time equivalent nurse aides are needed (not including exemptions or waivers), just in the first full year of implementation. Where will those 100,000 caring, qualified individuals come from?

As to cost, additional staff, both RNs and nurse aides, will cost over $7 billion for the first full year based on fourth quarter 2023 data (also not factoring in exemptions or phase ins).

Care costs money. Quality care costs MORE money… money that pays for the wages these professionals deserve and for training to build the basic and advanced competencies that are essential.

We must also consider workforce supply. We have a math problem – supply and demand are far out of line.

Between 2021 and 2031, nearly 9.3 million total direct care jobs will need to be filled, including one million new jobs and job vacancies that are created as existing workers leave the field or exit the labor force.

There are not enough nurses in the United States to fill the positions that are currently open in long term care settings, and schools are not graduating enough nurses to fill either existing open jobs or those that are projected to open

We are opposed to this mandate because it does not acknowledge the interdependence of funding, care, staffing and quality.

Unintended consequences: Already, our members are telling us that worker shortages are forcing them to make hard choices: paring back admissions, taking beds off line. A member in rural Connecticut has reduced census from 91 beds to 65….. 26 people in need of nursing home care who won't be served by that community. Some – like our member in Rhode Island that made valiant efforts to stay in business, whose residents and staff even held a bake sale to raise funds – are closing. 40% of nursing homes in Maine have already closed – Maine being the oldest state in the nation.

What we should ALL be concerned about is the lack of access to services when they are needed. We've all heard the stories of people backed up in hospitals, unable to be discharged because there are not available home health services or nursing home beds. This is not good for hospitals, for older adults or for aging services providers.

Limited admissions and closures strain the entire system. The impact of this rule, if it is not stopped, will ripple across the aging services continuum.

Direct care workers – nurse aides – are critical to home health, to hospice, to assisted living – as are registered nurses and LPNs. The mandate will create intense workforce competition between post acute care providers and hospitals. Just as we are seeing people unable to access nursing home beds, we are seeing the same happen to those seeking home health services….largely due to staffing shortages.

The bottom line - We need to stop the mandate and address long term care workforce needs. A range of actions is needed.

- Align Reimbursement to the actual cost of care, including paying staff a living wage

- Support Education and Training – these are highly specialized jobs that need to be supported through ongoing education and training, including aligning federal and state training requirements and lift limits on clinical training sites

- Fix our Immigration system to allow more foreign-born workers to come to the U.S.

At a time when we are facing an unprecedented shift in population – with older adults outnumbering those under the age of 16 – for the next 25 years or more – we should not be adopting measures that will curtail services – we should be investing in what is needed to ensure that every older adult can live their best life, with access to the services they need when they need them.

Thank you.

Nate Schema
President and CEO
Good Samaritan Society

My name is Nathan Schema, and I am the president and CEO of the Good Samaritan Society.

We are the nation's largest non-profit provider of skilled nursing services with 139 nursing homes. We also provide assisted living, memory care, independent senior housing and home care services.

We are part of Sanford Health, the largest rural health system in the nation. Together, we provide the full range of health services to our communities.

70 percent of the long-term care residents we serve live in rural communities, primarily in the Upper Midwest. These are communities of 500 to 5,000 people, where our residents are retired teachers, farmers, pastors, business owners and veterans.

As a rural health system, we wake up every day asking ourselves how we can solve the unique challenges of rural health care delivery so we can protect access to care.

I appreciate the opportunity to share with you today what a federal staffing standard will mean for our nursing home residents and their families.

Joining me in Washington DC this week is Laura Salonek. Laura has served as the administrator of the Good Samaritan Society's skilled nursing location in Howard Lake, Minnesota for 15 years.

Howard Lake is a rural community with a population of 2,000 located an hour west of Minneapolis. In this community, we provide care to Howard Lake locals, and also serve as a lifeline to hospitals in Minneapolis that struggle discharging patients to nursing homes in the metro area.

Through a team-based approach, Laura and her staff provide excellent care to 32 residents. They are a 5-star location.

They also have a strong and vibrant workplace culture, with a turnover rate below the industry average at 22 percent.

It's rare for Laura to have staff openings, but when she does, RN and CNA positions are the most difficult to fill.

On average, it takes Laura a year to fill these positions. She recently had a nurse leave because her husband got a new job out of town. The job was posted for one year before Laura could fill it. Despite heavy recruitment efforts and offering a sign-on bonus and competitive wage, she had very few applicants and even fewer that were qualified for the role.

Under the Administration's new staffing requirements, Laura will need to hire at least three more caregivers. When it takes a year to fill one job opening, this puts Laura and her 5-star location in a difficult position.

If they cannot hire staff to meet the increased requirements, they will need to reduce the number of residents they serve. Howard Lake locals will be forced to move away to receive care because we're the only nursing home in town.

Patients from Minneapolis will have a harder time accessing nursing home care and getting out of the hospital.

It's dangerous and unnecessary to make it harder for rural seniors to access care in communities like Howard Lake when we already provide exceptional quality care today, with a team that is dedicated to our mission and treats residents like members of their own family.

Unfortunately, access to care has already become more difficult because of the historic hiring challenges we've had since the pandemic. The staffing rule will only make matters worse.

Across our skilled nursing facilities, 1,500 positions remain unfilled – that's a shortage of nearly 20 percent of our workforce, or an average of 11 openings per location.

We're addressing the issue from all sides – we've invested over $75 million in pay raises, created positions that offer more flexibility, launched new programs to support hiring and retention, and offered bonuses, incentives and scholarships.

These efforts are making a difference. In a recent employee satisfaction survey, three out of four employees shared their feedback, and since the pandemic, we've seen steady and significant growth in the number of employees who rate our work culture in the highest category.

Despite this, workforce remains a very real concern, and in combination with chronic Medicaid underfunding, it's the primary reason why we've had to permanently close 14 nursing homes since 2020. Nearly all were in communities of less than 3,000 people.

Closure is a last resort, and it is devastating and disruptive to our seniors and their families, especially in rural areas where the next closest nursing home can be an hour-drive away.

Enforcing a one-size-fits-all staffing requirement will create an access crisis for our rural communities where the availability of qualified caregivers is already limited.

For perspective:

- Less than five percent of our locations meet the rule's requirement to have an RN on-site 24 hours a day.
- To meet the standards, we would need to hire over 100 RNs and over 300 CNAs.
- It's impossible to imagine how a skilled nursing facility in a town of 1,500 people will be able to find 24-7 coverage for an RN, when they already have open RN positions they can't fill today.

The mandate will not magically create more applicants or RN degrees. It will not improve quality. It will only reduce access and remove seniors from their loved ones and the lives they know.

Quality is not just a numbers game. We use a team-based approach to care for our residents and make staffing decisions based on their unique needs.

Consider the community of Canistota, South Dakota, population 600 where we serve 50 residents and have a licensed behavioral health program.

Due to the high demand for these services, we are always at full capacity.

We take pride in our robust life enrichment program that keeps residents engaged in meaningful activity – which is critical for individuals with behavioral health needs.

Through the Administration's narrowly focused staffing rules, the critical role of our activities staff is disregarded.

In this rural area, it is extremely challenging to find qualified candidates for caregiver positions, and Canistota will be required to hire 2 more RNs and 3 more CNAs to meet the requirements.

This town of 600 is considered "urban" by federal regulators, and like every other facility in the states of South Dakota, Nebraska and Wyoming, it is not eligible for an exemption.

The residents and families we serve will ultimately pay the price for the impossible standards being set.

Is our 5-star facility in Howard Lake, and our behavioral health program in Canistota the types of nursing homes the Administration wants to put out of reach for our nation's seniors?

The residents and families we serve, and the caregivers who have dedicated their life to this work, are worth fighting for.

I am urging the Administration to refocus its efforts and energy on solutions that will build back the caregiving workforce and protect access to high quality care for our seniors close to home.

Thank you.

Alexa McKinley Abel, J.D.
Director of Government Affairs and Policy,
National Rural Health Association

Good morning. My name is Alexa McKinley, and I am the director of government affairs and policy at the National Rural Health Association. I am grateful to be here today in our nation's capital to discuss an extremely important issue that should be top of mind for our lawmakers.

I am here to talk specifically about the implications this flawed federal staffing mandate will have on our rural communities and the ripple effect it will have on our entire health care system.

There's a perfect storm happening in rural communities: we are facing historic nursing shortages, inflation, and inadequate reimbursement. More than 500 nursing homes have closed their doors as a result. We're in desperate need of RNs, as our shortages of RNs is even more critical that what we see in urban areas.

But it's not just nursing homes that will be impacted.

Hospitals will have to manage longer patient stays – days, weeks or even months – because there isn't a nearby nursing home with enough capacity to manage their recovery. Hospitals will become further strained, unable to discharge patients, and most importantly, seniors will struggle to find care.

For rural communities, where distances between nursing homes can be significant, the impact would be especially devastating, particularly for residents and families who would have to search farther to find the care they need.

We're facing nursing home deserts. There are now 39 counties in the United States where there are zero nursing home providers available. Thirty-two of these counties are rural.

Ninety-two percent of rural facilities do not meet the 24/7 RN requirement. Fundamentally, this mandate does a disservice to our hardworking licensed practical nurses. LPNs work hand-in-hand with registered nurses (RNs) and are critical members of our workforce, but don't count toward the 24/7 RN requirement.

Despite nursing homes making unprecedented efforts to hire more RNs, the labor force we need isn't there – and this rule does nothing to address that.

While CMS and federal regulators may argue that the exemptions they've carved out can be met, the reality is that they are unworkable. Similarly, the extended timeline provided to rural communities is truly a double-edged sword. It's likely that urban facilities and other sectors of health care will have hired the limited number of RNs available—leaving rural facilities in yet another stage of the workforce crisis, but this time with the mandated timeline for finding a solution.

We will continue to advocate for our seniors and our health care system and urge our lawmakers to put a stop to this mandate before it's our seniors, especially those in historically underserved communities, who are left to pay the price.

Thank you.

Melissa Jackson
Past President and Current Liaison Officer
National Association of State Veterans Homes

Good morning. My name is Melissa Jackson, and I'm here on behalf of the National Association of State Veterans Homes.

I am the administrator of the Vermont Veterans' Home. We, too, are facing significant challenges that are impacting access to care for our veterans, and the federal staffing mandate is doing nothing to help us.

Workforce shortages have limited our ability to welcome new residents. We have 60 people on our waiting list. We used to admit two or three veterans each month, but now we are lucky if we can admit one each quarter.

To combat these staffing issues, we are spending $11 million per year on agency staffing for nursing positions alone. This is simply not sustainable.

I can attest to Alexa's remarks about the impact on the whole health care continuum. We get alerts from the Vermont Department of Health indicating that our hospitals are full and asking what long term care facilities can do to help. We are already doing everything we can to admit more residents, but our capacity to alleviate the burden on hospitals is severely limited.

Vermont faces a broader challenge compared to other states, with our high cost of living making it even more challenging to attract and retain staff. While we offer competitive starting wages and great benefits, the reality is that money talks when it comes to hourly rates.

Demand for veteran care is only going to increase. Demographic trends anticipate a 73 percent increase in enrollees ages 85 or older between 2023 and 2035.

We need lawmakers to address these issues comprehensively. This staffing mandate will have a negative trickle-down impact on the entire health care system. Veterans need skilled care. We are struggling to keep our facilities open. The demand is only going to grow, and a mandate isn't making this situation better.

It is not just about filling positions; it's about ensuring that our veterans can access the care that they need and deserve. I encourage our leaders to come together to find sustainable solutions, and I want to publicly acknowledge and thank those leaders who have already

taken positive action, such as Senators King and Cramer for introducing their bill that would require the VA to conduct a study on the mandate in an effort to put real-world context on the impact of the requirements on our nation's veterans.

Thank you.

Patricia Horn
Co-Owner
Cedar Hill Continuing Care Community

Good morning. I'm Patricia Horn, and I represent Cedar Hill Continuing Care Community, a campus of care offering skilled nursing, assisted living and independent living in Vermont. As an independent operator, I'm particularly concerned about what this mandate and ongoing workforce challenges will mean for my center and our surrounding community.

Like you've heard from my fellow providers, we are doing all we can to meet the needs of our residents under increasingly challenging conditions. I'm proud to say that we're a 5-Star facility. But even before CMS announced the federal staffing mandate, one of our biggest obstacles was maintaining 24/7 RN coverage.

We have RN managers who can cover the day shift, but securing consistent coverage for the evening and overnight shifts is very difficult.

While I believe it would be ideal to have a consistent RN presence, it is not always necessary for every single nursing home – the reality is that not every nursing home is the same. That's why rigid mandates in situations like these are so flawed.

At our facility, we have been raising wages to attract staff, currently paying up to $80 per hour for LPNs. Because of this, I have had to seek financial relief from the state. I'm lucky—we received grant money to make this relief possible. But I know these funds do not exist in perpetuity, and they don't exist for every provider. What resources do we turn to then?

Meeting the mandated staffing ratios will be a real challenge, particularly on weekends. It isn't that we don't want to hire staff – it's just that it's often impossible to find staff.

Our team has gone above and beyond, taking on multiple roles and shifts to ensure our residents are cared for. I have even been so desperate to bring my husband in to help with the dishes from time to time. But you can't do that with care. We need more trained staff with the right qualifications to care for our residents.

We have explored innovative programs to recruit and retain more staff, including recruiting international caregivers and developing apprenticeship initiatives along with wage increases, but these efforts alone – and without proper government support - are not enough.

The staffing mandate feels like putting the cart before the horse. We need to build and train our workforce before strict mandates and requirements are placed upon our facilities.

This is not a problem that we can solve alone; we need national support. This mandate is setting us up for failure, despite our best efforts to succeed.

Thank you for your time today.

Clif Porter
Senior Vice President, Government Relations
AHCA/NCAL

Hello, everyone. My name is Clif Porter, and I'm the senior vice president of government relations at the American Health Care Association and National Center for Assisted Living. I just want to thank: Katie, Alexa, Nate, Melissa and Patricia for coming here today and being willing to share their stories. What you heard today is real life. Access to care is in serious jeopardy because of this mandate, and we will not stand idly by while our seniors struggle to find the care they need.

So where do we go from here? This is our priority issue. The mandate is a flawed, outdated approach. There are legislative avenues to help stop this mandate and protect access to care, especially for those in rural and underserved communities. And that's one of the things we're discussing with lawmakers during this Congressional Briefing.

Before CMS announced the mandate, opposition on both sides of the aisle was already coalescing on Capitol Hill against it. A group of bipartisan lawmakers in both the House and Senate introduced The **Protecting Rural Seniors' Access to Care Act**. This bill would prohibit the administration from implementing the rule, and it has already passed out of the House Ways and Means Committee. Nearly 1100 national, state, and care provider organizations endorse it.

Lawmakers are hearing from us. They're aware of the real consequences of this policy. They're with us, and they want to do something about it. These two days we're spending on Capitol Hill are a tremendous opportunity for AHCA/NCAL, for providers and our state associations to get in front of our representatives and talk about the real impacts of this misguided policy.

We all know the legislative process is not an easy one. But we will not give up this fight. We will continue to speak up and speak out and ensure that our seniors continue to have access to the high-quality care they deserve. It's great to have this coalition of providers united on this issue and fighting together, because we're all impacted, and change will require fortitude, patience, and the sharing of stories much like those that we heard today.

We appreciate everyone's time today, and with that, we'll take your questions.