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The Evolution and Demise of the Nursing Home Minimum Staffing Rule

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Long term care facilities (LTC) in the United States have experienced a whirlwind of regulatory changes from the federal government over the past few years with regards to minimum staffing requirements. Since its proposal by the Department of Health and Human Services (HHS) and Centers for Medicare & Medicaid Services (CMS) in September 2023,^[1] the contentious “Nursing Home Minimum Staffing Rule” received significant backlash during the public comment phase of the

proposal.^[2] Nevertheless, CMS and HHS finalized the Rule in May 2024 with minimal changes from the proposed rule,^[3] and was immediately challenged in federal courts.^[4] The Biden administration did not waiver in its support of the Rule, even after it was struck down by several federal courts.^[5] The Rule was then opposed by the Trump administration, and ultimately repealed by HHS and CMS in December 2025.^[6] This article details the requirements set forth by the Rule, the support and challenges it received, and its ultimate demise.

Background Nursing Home Minimum Staffing Rule

The Nursing Home Minimum Staffing Rule set minimum staffing requirements for federally funded LTCs throughout the United States such as skilled nursing facilities (SNFs) and nursing facilities (NFs) receiving Medicare or Medicaid reimbursement.^[7] The Rule was proposed in connection with the Biden administration's 2022 Reform Plan for improving the quality of health care in LTCs.^[8] Specifically, as part of the Reform Plan, President Biden issued an Executive Order 14095 on April 18, 2023, titled "Increasing Access to High-Quality Care and Supporting Caregivers," which directed HHS to contemplate actions to effectuate the Reform Plan and consider negative impacts on safety and quality of care, including the reduction of nursing staff turnover.^[9] This Executive Order eventually led to CMS and HHS proposing the Nursing Home Minimum Staffing Rule in September 2023 (Proposed Rule).^[10]

The Proposed Rule aimed to improve working conditions and wages for LTC staff and to provide safe and higher quality of care to residents of LTCs.^[11] CMS reasoned that studies showed the close correlation between nurse staffing levels and improved health outcomes due to better quality of care.^[12] Burnout and chronic understaffing are examples of issues that led to high staff turnover at LTCs. The Proposed Rule aimed to resolve such issues.^[13] The Proposed Rule received almost 47,000 public comments.^[14] It was made final in May 2024, amending the sections of the Code of Federal Regulations (CFR) governing staffing requirements for LTCs.^[15]

The Requirements

The final Nursing Home Minimum Staffing Rule (Final Rule) revised 42 C.F.R. Parts 438, 442, and 483.^[16] The Final Rule required LTCs to provide a minimum total nurse staffing standard of 3.48 hours per resident day (HPRD) with at least 0.55 hours of direct registered nurse (RN) care per resident day and 2.45 hours of direct nurse aide (NA) care per resident day.^[17] In addition, the Final Rule required LTCs to have an RN on site 24 hours a day, seven days a week to provide skilled nursing care.^[18] The Final Rule provided for a limited hardship exemption, which was only available if the applicable licensed nurse population ratio in the area was a minimum of 20% below the national average.^[19]

These were significant changes. For example, the previous Section 483.35(b)(1) only required an RN to be present for at least eight consecutive hours a day, seven days a week, but there was no requirement that the RN had to provide direct resident care.^[20] In addition, the previous Section 483.35(a)(1) and (2) required LTCs to only provide the services of a "sufficient number" of licensed nurses (RNs and LPNs) and other nursing personnel, such as nurse aides (NAs), 24 hours a day to provide nursing care.^[21]

The Final Rule did more than just increase staffing requirements. The Final Rule also revised the annual facility assessment requirements to ensure better oversight of LTCs.^[22] The punishments for non-compliance were significant including termination of Medicare participation, civil monetary penalties, or even closure of the facility.^[23]

Federal Courts Strike Down Rule

Industry players immediately challenged the Final Rule, armed with a new review standard after the *Chevron* Doctrine was eliminated by the U.S. Supreme Court in *Loper Bright Enterprises v. Raimondo*.^[24] In May 2024, the American Health Care Association and the Texas Attorney General challenged the Final Rule's minimum staffing requirements in federal court.^[25] The U.S. District Court for the Northern District of Texas ultimately vacated the Final Rule in April 2025, holding that the minimum staffing requirements "flout" the Administrative Procedure Act.^[26] Specifically, the district court held that because Congress had already specified that nurses in LTCs should be present eight hours per day, a regulatory agency such as CMS did not have the authority to impose a stricter standard pursuant to the *Loper* decision.^[27] Thus, the court vacated the 24/7 requirement and other minimum staffing standards under the Final Rule.^[28]

Shortly after the decision in *American Health Care Association*, the U.S. District Court for the Northern District of Iowa decided two cases, *Kansas v. Kennedy* and *Kansas v. Becerra*, that also vacated the minimum staffing requirements of the Final Rule.^[29] Relying on the *Loper* decision, the court held that CMS acted in excess of its authority when it promulgated rules requiring LTCs to have RNs on site 24/7 and setting the minimum staffing standards in the Final Rule.^[30] As a result, the court vacated portions of the Final Rule's minimum staffing standards.^[31] The court reasoned, as in *American Health Care Association*, that Congress already established a floor of at least eight hours per day, which CMS attempted to replace with a 24-hour per day requirement.^[32] Thus, CMS did not have the authority to "re-write" the statute so as to replace one term with another.^[33]

HHS filed appeals in the Fifth and Eighth Circuits,^[34] but these appeals were withdrawn by the Trump administration following the passage of the One Big Beautiful Bill Act (Act).^[35]

The Final Interim Rule

On Dec. 3, 2025, HHS and CMS published an interim final rule (Interim Rule) repealing the minimum staffing requirements set forth in the Final Rule.^[36] The Interim Rule repealed the specific provisions of the Final Rule setting minimum staffing requirements, including the requirements that a RN be onsite 24 hours, seven days per week and that each facility provide a minimum of 0.55 RN, 2.45 NA, and 3.48 total nurse staffing hours per resident day.^[37] CMS stated that the repeal was due to the Act, which precludes HHS and CMS from implementing, administering, or enforcing these requirements until September 30, 2034.^[38] As a result, according to HHS and CMS, the repeal was necessary to ensure that the regulations reflect current legal authority and HHS policy, and that LTCs comply with the staffing requirements that were in existence before the Final Rule.^[39]

Some provisions of the Final Rule survived the repeal, including the facility assessment requirements at Section 483.71 and the Medicaid institutional payment transparency reporting provisions at Sections 438.72 and 442.43.^[40]

Conclusion

The removal of the nurse staffing requirements in the Final Rule relaxes the staffing requirements for LTC facilities back to what they were prior to the Rule's implementation. While LTC facilities are likely relieved to be unencumbered by the prior proposed staffing requirements that would increase staffing costs and the need for more stringent oversight to ensure compliance with the related standards, it is important for LTC facilities to also be mindful of state law requirements, which may be stricter than the federal nurse staffing requirements.

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[1] See Medicare and Medicaid Programs; Minimum Staffing Standards for Long-Term Care Facilities and Medicaid Institutional Payment Transparency Reporting, 88 Fed. Reg. 61352 (Sept. 6, 2023).

[2] See Medicare and Medicaid Programs; Minimum Staffing Standards for Long-Term Care Facilities and Medicaid Institutional Payment Transparency Reporting, 89 Fed. Reg. 40876 (May 10, 2024).

[3] *Id.*

[4] See *Am. Health Care Ass'n v. Kennedy*, 777 F. Supp. 3d 691 (N.D. Tex. 2025); *Kansas v. Kennedy*, 787 F.Supp.3d 906 (2025).

[5] See *Am. Health Care Ass'n v. Kennedy*, 777 F. Supp. 3d 691 (N.D. Tex. 2025); *Kansas v. Kennedy*, 787 F.Supp.3d 906 (2025).

[6] See Medicare and Medicaid Programs; Repeal of Minimum Staffing Standards for Long-Term Care Facilities, 90 Fed. Reg. 55687 (Dec. 3, 2025).

[7] See Medicare and Medicaid Programs; Minimum Staffing Standards for Long-Term Care Facilities and Medicaid Institutional Payment Transparency Reporting, 89 Fed. Reg. 40876 (May 10, 2024).

[8] See Medicare and Medicaid Programs; Minimum Staffing Standards for Long-Term Care Facilities and Medicaid Institutional Payment Transparency Reporting, 88 Fed. Reg. 61352 (Sept. 6, 2023).

[9] See Medicare and Medicaid Programs; Minimum Staffing Standards for Long-Term Care Facilities and Medicaid Institutional Payment Transparency Reporting, 89 Fed. Reg. 40876 (May 10, 2024).

[10] See Medicare and Medicaid Programs; Minimum Staffing Standards for Long-Term Care Facilities and Medicaid Institutional Payment Transparency Reporting, 89 Fed. Reg. 40876 (May 10, 2024).

[11] White House, Fact Sheet: Protecting Seniors and People with Disabilities by Improving Safety and Quality of Care in the Nation's Nursing Homes, (Feb. 28, 2022).

[12] *Id.*

[13] See Medicare and Medicaid Programs; Minimum Staffing Standards for Long-Term Care Facilities and Medicaid Institutional Payment Transparency Reporting, 88 Fed. Reg. 61352 (Sept. 6, 2023).

[14] See Medicare and Medicaid Programs; Minimum Staffing Standards for Long-Term Care Facilities and Medicaid Institutional Payment Transparency Reporting, 89 Fed. Reg. 40876 (May 10, 2024).

[15] *Id.*

[16] *Id.*

[17] *Id.*

[18] *Id.*

[19] *Id.*

[20] *Id.*

[21] *Id.*

[22] *Id.*

[23] *Id.*

[24] See *Loper Bright Enters. v. Raimondo*, 603 U.S. 369 (2024).

[25] *Am. Health Care Ass'n v. Kennedy*, 777 F. Supp. 3d 691 (N.D. Tex. 2025).

[26] *Id.*

[27] *Id.*

[28] *Id.*

[29] See *Kansas v. Becerra*, 764 F. Supp. 3d 801 (N.D. Iowa 2025); *Kansas v. Kennedy*, 787 F. Supp. 3d 906 (N.D. Iowa 2025).

[30] *Kansas v. Kennedy*, 787 F.Supp.3d 906 (2025).

[31] *Id.*

[32] *Id.*

[33] *Id.*

[34] See *State of Kansas v. Kennedy*, No. 25-2643 (8th Cir.); *American Health Care Association v. Kennedy*, No. 25-10700 (5th Cir.).

[35] Pub. L. No. 119-21, 199th Cong. (2025), One Big Beautiful Bill Act, 139 Stat. 72.

[36] See Medicare and Medicaid Programs; Repeal of Minimum Staffing Standards for Long-Term Care Facilities, 90 Fed. Reg. 55687 (Dec. 3, 2025).

[37] *Id.*

[38] Pub. L. No. 119-21, 199th Cong. (2025), One Big Beautiful Bill Act, 139 Stat. 72.

[39] See Medicare and Medicaid Programs; Repeal of Minimum Staffing Standards for Long-Term Care Facilities, 90 Fed. Reg. 55687 (Dec. 3, 2025).

[40] *Id.*

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