

September 14, 2022

The Honorable Chiquita Brooks-LaSure
Administrator
Centers for Medicare & Medicaid Services
U.S. Department of Health and Human Services
200 Independence Avenue, SW
Washington, D.C. 20201

Dear Administrator Brooks-LaSure,

The American Nurses Association along (ANA) with 29 other state and nursing specialty organizations request your leadership to ensure safe nurse staffing levels are established and maintained in our nation's hospitals. We believe this is an important first step to mitigate the current national nursing shortage. We have heard from nurses that they do not feel valued – through compensation, work environment and working conditions which include inadequate staffing levels. For far too long nurses have had to endure working with minimum staffing levels which do not allow them to meet the needs of the patients and hinders their ability to provide optimum health care services. Inadequate staffing not only leads to burnout but has also been linked to higher rates of adverse health outcomes and hospital readmissions. It is also one of the most common reasons nurses choose to leave their employer – or the profession altogether – and is exacerbating the nursing shortage the country is now facing. CMS can and must address this issue swiftly and thoughtfully.

Simply put, CMS must define and enforce adequate nurse staffing levels in the Hospital Conditions of Participation (HCOP) and hold accreditation agencies accountable for ensuring hospital compliance. The current COP which was developed in the 1980 requires hospitals to “have adequate numbers of licensed registered nurses, licensed practical (vocational) nurses, and other personnel to provide nursing care to all patients as needed.”¹ The requirement was adopted to ensure that an important element of patient care and safety standards is met by hospitals, however to our knowledge, CMS never formally defined or recognized a measurement on how to record the adequacy of nurse staffing levels in the hospital setting.

To gain a better understanding of current nurse staffing levels we urge CMS to do a thorough review of the following and publish its findings and recommended changes as part of the next Inpatient Prospective Payment proposed rule:

- How is “adequate” nurse staffing, particularly in hospitals, currently defined and interpreted by Medicare and all other accreditation organizations approved by CMS?

¹ 42CFR 482.23(b)

- What criteria and current practices are deemed accreditation bodies utilizing to ensure “adequate” staffing levels in hospitals?
- Has CMS taken any enforcement actions in the past ten years in relation to findings that hospitals are not in compliance with 42CFR 482.23(b)?
- How does the current Medicare payment policy for hospital-based nursing services reimbursement influence hospitals’ nurse staffing strategies and practices?
- What role does the overall work environment, including issues of workplace violence and mandatory overtime play in nurse burnout and retention.

We respectfully request an opportunity to meet with you and your staff to discuss the national nursing shortage and how best to address hospital-based nurse staffing levels. These complex issues are long-standing and have only been exacerbated by the COVID-19 pandemic. We wish to work with CMS to develop recommendations that could be included in the upcoming IPPS proposed rule.

We appreciate thoughtful consideration of our request and look forward to reviewing your responses to these important questions. Please contact Lisa Stand, Director, Policy and Regulatory Advocacy, at (301) 628-5096 or Lisa.Stand@ana.org with any questions.

Sincerely,

American Nurses Association
 Academy of Medical Surgical Nurses
 American Association of Critical-Care Nurses
 American College of Nurse-Midwives
 American Nurses Association Illinois
 American Nurses Association Massachusetts
 American Nurses Association - New York
 Alabama State Nursing Association
 Arizona Nurses Association
 Association of Rehabilitation Nurses
 Association of Women’s Health, Obstetrics and Neonatal Nurses
 Colorado Nurses Association
 Emergency Nurses Association
 Florida Nurses Association
 Hospice and Palliative Nurses Association
 Kansas State Nurses Association
 Minnesota Organization of Registered Nurses
 Missouri Nurses Association
 Nebraska Nurses Association
 Pennsylvania State Nurses Association
 New Hampshire Nurses Association
 New Jersey State Nurses Association
 Ohio Nurses Association

Oklahoma Nurses Association
Oncology Nursing Society
Orthodox Jewish Nurses Association
Philippine Nurses Association of America, Inc.
South Carolina Nurses Association
Virgin Islands State Nurses Association
Wound, Ostomy, and Continence Nurses Society