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Dear Dr. Wasserman:

Thank you for your leadership on holding nursing homes accountable for improving the quality of care furnished to their residents. I share your view on the importance of ensuring that Medicare and Medicaid beneficiaries have access to safe and high-quality nursing home care, and I appreciate your letter urging the Centers for Medicare & Medicaid Services (CMS) to establish mandatory minimum staffing levels in skilled nursing facilities.

In February 2022, President Biden announced a comprehensive set of proposed reforms<sup>1</sup> to improve the safety and quality of nursing home care, hold nursing homes accountable for the care they provide, and make the quality of care and facility ownership more transparent. A key initiative of the President's strategy was the announcement that CMS would propose new nursing home minimum staffing requirements so every nursing home has sufficient staff who are adequately trained to provide the safe, quality care residents need. As was indicated in the February 2022 announcement, the "adequacy of a nursing home's staffing is the measure most closely linked to the quality of care residents receive."

To that end, CMS launched a multi-faceted approach aimed at determining the minimum level and type of staffing needed to promote safety and quality of care in nursing homes. First, to encourage better quality outcomes, CMS made updates to the Skilled Nursing Facility (SNF) Quality Reporting and Value-Based Purchasing (VBP) Programs, both of which are aimed at incentivizing high-quality care and improving transparency for the care that is provided. Congress revised the statute in the Consolidated Appropriations Act, 2021 (P.L. 116-260) to allow the Secretary to increase the number of measures in the SNF VBP program from the one required measure to up to ten measures. In rulemaking last year, CMS finalized the addition of two important measures to this program beginning with a performance period of Fiscal Year (FY) 2024: 1) the SNF Healthcare-Associated Infection measure; and 2) a staffing measure on Total Nursing Hours per Resident Day (87 FR 47502, 47564). Going forward, payment will now

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<sup>1</sup> <https://www.whitehouse.gov/briefing-room/statements-releases/2022/02/28/fact-sheet-protecting-seniors-and-people-with-disabilities-by-improving-safety-and-quality-of-care-in-the-nations-nursing-homes/>

be partially based on performance on these measures, which CMS believes will help to incentivize performance improvement.<sup>2</sup>

CMS initially published a Request for Information (RFI) soliciting public comments on minimum staffing requirements in April 2022, within the FY 2023 SNF Prospective Payment System Proposed Rule (87 FR 22720, 22789). CMS received many comments on the RFI from members of the public who identified themselves as family members or caretakers of residents living in nursing homes. The vast majority of those comments voiced concerns related to residents not receiving adequate care because of chronic understaffing in facilities. Multiple commenters stated that residents can go entire shifts without receiving toileting assistance, leading to falls or increased presence of pressure ulcers. One commenter, whose parents live in a nursing home, noted that they visit their parents on a daily basis to ensure the provision of quality care and reported that staff in the facility have stated that they are overworked and understaffed. The feedback received will be used to inform proposals for minimum direct care staffing requirements in nursing homes we expect to propose in forthcoming rulemaking.

CMS believes it essential to patient safety that it conduct new rulemaking to propose more specific, detailed, and quantitative minimum staffing requirements to ensure that all CMS-regulated facilities have sufficient staff. CMS is conducting a mixed methods study with qualitative and quantitative elements to help inform the minimum staffing proposed requirements.<sup>3</sup>

The information obtained through these and other efforts will inform proposed notice and comment rulemaking on minimum staffing requirements, which CMS expects to issue this spring. It is CMS's goal to consider all perspectives, as well as findings from RFI responses and the staffing study, as CMS develops future proposed minimum staffing requirements to advance the public's interest in safe, quality care for residents. CMS is aware of ongoing challenges to health care staffing providers across the country are facing, such as rural providers. CMS intends to seek workable, implementable solutions that ensure safe, quality care for residents. CMS appreciates the interest shown by so many stakeholders to date and looks forward to robust response from stakeholders when the proposed rule is issued.

Thank you again for sharing your views in this matter and your support of staffing standards for nursing homes. I appreciate your ongoing commitment to the quality of care for residents in America's long-term care facilities. Please share this response to the co-signers of your letter.

Sincerely,



Chiquita Brooks-LaSure

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<sup>2</sup> <https://www.cms.gov/newsroom/fact-sheets/fiscal-year-fy-2024-skilled-nursing-facility-prospective-payment-system-proposed-rule-cms-1779-p>

<sup>3</sup> <https://www.whitehouse.gov/briefing-room/statements-releases/2022/02/28/fact-sheet-protecting-seniors-and-people-with-disabilities-by-improving-safety-and-quality-of-care-in-the-nations-nursing-homes/>