Ready or not, here it comes

The release of the staffing mandate could be just around the corner

Providers are bracing themselves for the release of the nursing home staffing mandate. Many are focusing their energies on bolstering employee recruitment and retention.

Photos: Getty Images; photo illustration by *McKnight's*

BY LAURIE BUDGAR

Ever since the Centers for Medicare & Medicaid Services proposed a nursing home staffing mandate last year, the aging services community has been scrambling to figure out how to comply with it.

The uncertainty of when — or even if — the rule would be finalized further heightened the anxiety. After all, CMS initially said it could take up to three years to finalize the rule, and the agency received more than 46,000 comments in response to the proposal. Few providers expected the agency to sift through them quickly.

Well, as they say in the movies, it's just about show time.

Recently, a CMS official confirmed that the agency plans to finalize some version of the rule by the end of the year. Many long-term care providers and associations are gearing up for it now the best they can.

The cost of compliance

Most agree the mandate would compound the severe workforce shortage and budgetary constraints that already exist. Even if all the nurses and aides needed to meet this mandate suddenly appeared, the costs of recruiting, hiring and training them are significant, said Lisa Sanders, a spokeswoman for LeadingAge, a long-term care provider association.

"CMS's proposed rule estimates the cost of meeting these ratios over 10 years will be $40.6 billion with an average annual cost of $4.06 billion," Sanders said. "Our estimates, based on actual salaries instead of the average salary data CMS used, are closer to $7.1 billion for the first year."

Then there's the fact that Medicaid reimbursement doesn't come close to the actual cost of delivering care, Sanders said. Instead, it covers, on average, 86% of the cost.

"You can't both starve nursing homes and increase your expectations of nursing homes at the same time," Brendan Williams, president and CEO of the New Hampshire Health Care Association, pointed out.

Tough choices

Nursing homes that don't meet the criteria of the proposed rule could be fined, further gutting their budgets.

Williams noted that in a recent survey, NHHCA members overwhelmingly said that if they were to attempt to meet the requirements of the rule, they would have to rely on staffing agencies, which would drive costs up even further.

Another option might be for nursing homes to change their business model so that instead of offering skilled nursing, they become a "residential care facility," which largely is not bound by federal regulations.

To avoid such scenarios, some nursing homes may choose to limit admissions to increase their staffing ratios — or even be forced to close, Sanders said. "The unintended consequences of a mandate such as this would be actually limiting access to care, because nursing homes would be having to make tough choices," she noted.

Continued on page 8A

Continued from page 6A

Wide-ranging ripple effects

While the rule targets skilled nursing facilities, assisted living communities are also concerned.

"There's going to be a ripple effect throughout the healthcare sector," said Rachel Reeves, spokeswoman for the American Health Care Association / National Center for Assisted Living. "There's a limited pool of caregivers, so assisted living communities are at risk of losing staff. A federal minimum staffing mandate for nursing homes threatens to take away the essential staff on which these communities depend to provide high-quality care for their residents."

And if SNFs limit admissions or shut down altogether, hospitals will get jammed with patients who can't be discharged, straining the system and providing less-than-ideal care for those patients.

The ripples also will be felt in hospital, home health and hospice environments, because they also have workforce shortages. "They will be short even more workers if [those workers] move to nursing homes," Sanders said. "Shuffling the relatively small number of care workers available between settings won't solve the problem."

Finding solutions

While no one knew what the final rule would look like as of press time, providers are focusing now on what they can do — attract workers to the sector and help them build careers.

STAT

$4.06 billion

This is the annual estimated cost of the proposed nursing home staffing mandate.

- Centers for Medicare & Medicaid Services

Immigration reform

One approach to expand the pipeline of available healthcare professionals could be through changes to immigration policy. "That would help more international caregivers come to the US to help fill the widening caregiver gap," Reeves explained.

To that end, AHCA / NCAL supports the Healthcare Workforce Resilience Act, a bill that would recapture up to 25,000 unused visas for immigrant nurses.

In a similar vein, LeadingAge supports bills that "provide a pathway to citizenship, and permanent residency status for long-term care and home- and community-based services workers."

Domestic training

Another avenue to a greater pool of staff is to increase access to domestic training and education programs for would-be nursing staff. LeadingAge is advocating for expanded Pell grants and similar programs that would fund short-term training.

It also supports the National Apprenticeship Act of 2023, which would provide $3.85 billion over five years to create nearly a million new apprenticeships.

Apprenticeships, in fact, are becoming a popular way for nursing homes and senior living communities to generate interest and participation in long-term care careers.

One pioneering example is SkillSpring, offered by The New Jewish Home in New York City since 2006. Sanders says it supports youth from under-resourced schools in pursuit of careers in healthcare.

Similarly, Covenant Living Communities & Services, based in Skokie, IL, participates in a program called Genesys Works. Working with high school seniors and recent graduates, the program provides "internship opportunities to work in our communities and in our central office to gain more exposure to healthcare," said Dee Brown, senior vice president of human resources for Covenant Living.

The company also has partnered with Oakton College, a local community college, to establish a CNA apprenticeship program. "We pay for their certification while they're working part-time, and then have a guarantee of employment when they finish the program," Brown explained. "That allows us to not only depend on the labor market but also to build our talent and create interest and exposure into the CNA career for folks."

Covenant Living also partners with the nursing school at North Park University in Chicago. "[We're] really just strengthening our pipeline with those types of schools so that we become the employer of choice," Brown said.

Many state-led efforts are creating similar types of partnerships: As examples, in California, the Department of Health Care Access and the Department of Aging are spending nearly $10 million collectively to train CNAs, home health aides and healthcare social workers. And in Wisconsin, the WisCaregiver Careers program is working to bring 3,000 new CNAs into nursing homes.

Valuing employees

Brown was quick to note that increasing the number of available workers isn't the only way to approach the workforce problem. She emphasized the need to create a "well-defined employee value proposition with compensation and benefits that meet the needs of all our employees."

One method is by offering RNs shift flexibility. "We're looking at what are the most attractive shifts we can offer, and making sure we have shift differentials in all of our communities to help with compensation."

Similarly, Brown said, "We're building up our internal per diem staff … so we're not relying on agency." The per diem staff, she said, receive a differential wage, and, "We've done some enhancements around the recognition of per diem staff, and are really thinking about them as part of our culture."

Sanders would like to see even more approaches to recruiting and retaining staff, such as policy that establishes funding models that provide "family-sustaining wages reflective of the professionalism and skill of those working in long-term care and home- and community-based services."

"What's needed, whether the mandate is in place or not, is a multipronged approach to addressing the issues that exist in long-term care." ■