



Impact of Federal Staffing Mandates on Kentucky's Long-Term Care Facilities

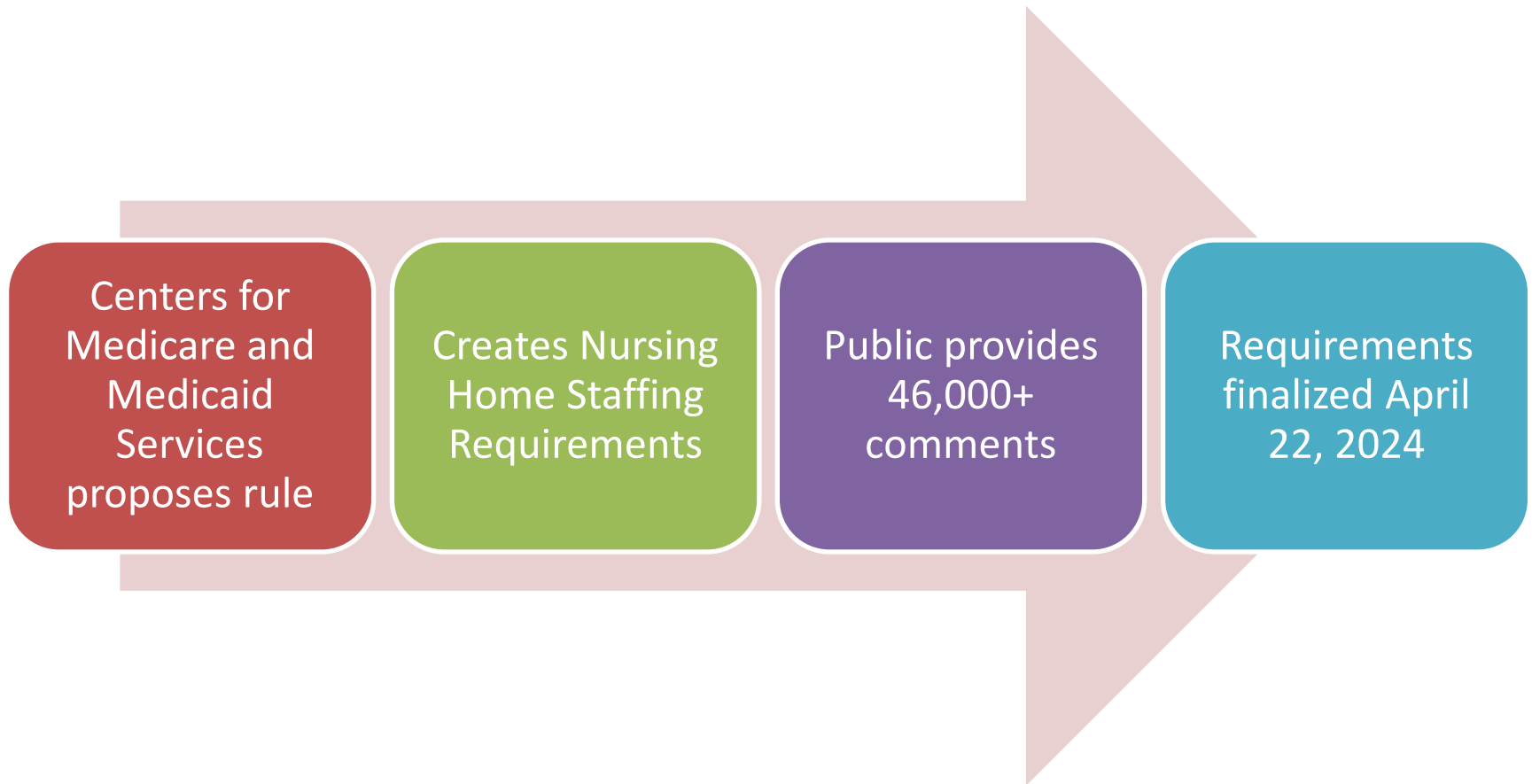
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Overview of Federal Rulemaking Process



Requirements



**Minimum of
3.48 hours of
nursing care per
resident per day**



**Registered
Nurse on-site
24/7**



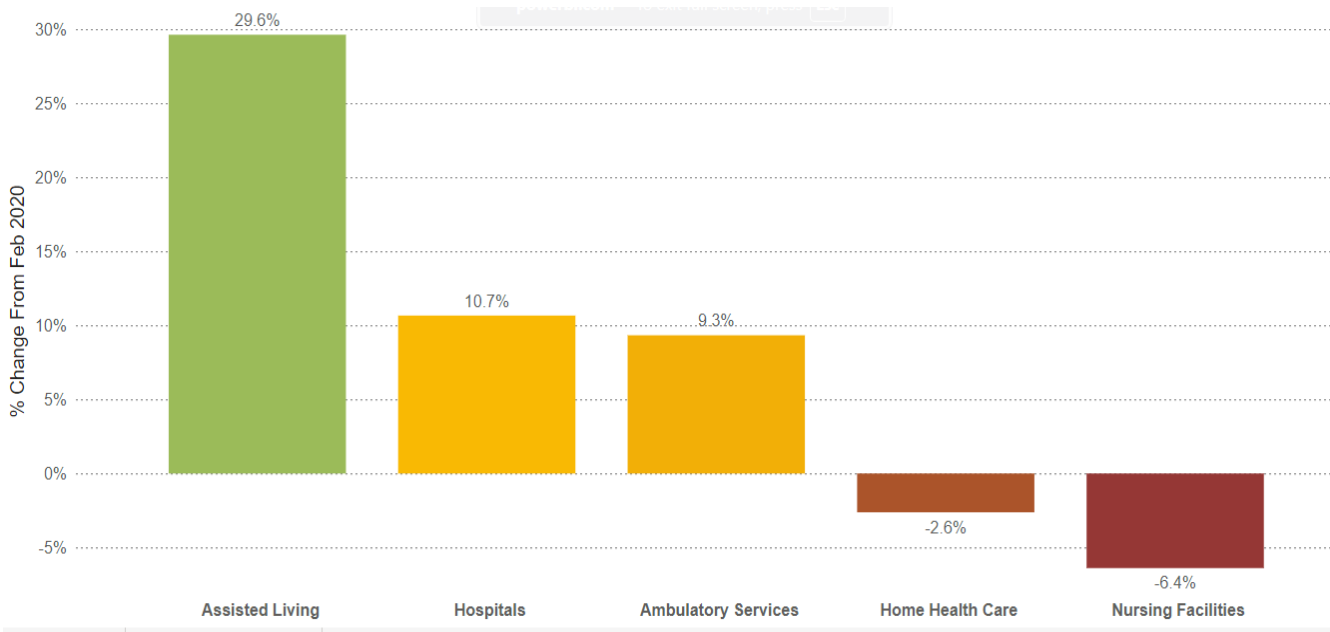
**Phased
compliance
timelines**

Urban: 2-3 years

Rural: 3-5 years

Terrible Timing

During the pandemic, nursing homes increased wages more than any other healthcare setting.



While other sectors have largely recovered, nursing homes continue to face significant staffing shortages, losing the most ground in workforce retention.

Post-Pandemic Workforce Recovery in Healthcare

Workforce Recovery in Other Healthcare Sectors:

- Many healthcare sectors, such as **hospitals and outpatient clinics**, have largely **recovered** from the staffing losses experienced during the COVID-19 pandemic.
- Competitive wages, flexible hours, and fewer staffing mandates have helped these settings rebound more quickly.

Nursing Homes Still Struggling:

- In contrast, **nursing homes** are still facing a significant **workforce shortage**.
- Despite increased demand for long-term care, facilities are struggling to attract and retain staff, with shortages in both **registered nurses (RNs)** and **nurse aides (NAs)**.

Key Issue:

- The **slow recovery** in nursing homes is exacerbating challenges posed by new federal staffing mandates, making compliance even more difficult.

Exemptions

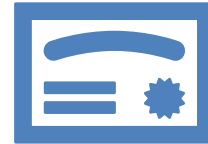
CMS has allowed for exemptions, but these are difficult to obtain and come with strict qualifications.

Challenges:

- Facilities must prove they've exhausted all options to recruit and retain staff.
- Exemptions are limited to very specific conditions, such as severe and long-term workforce shortages.
- Even facilities granted an exemption must still meet other stringent regulatory requirements.

Uncertainty:

Exemptions may be temporary and subject to CMS review, leaving facilities at risk of penalties for non-compliance.



Enforcement

Enforcement measures for non-compliance will include penalties such as termination of Medicare and Medicaid agreements and monetary fines.

The government is setting an impossible standard that lacks awareness of real-world situations.

Fines take precious resources away from nursing homes that could be used to further invest in recruiting and retaining staff.

Punishing facilities does not attract more staff or support the staff already working in the facility.

Closure is the ultimate penalty for vulnerable Kentuckians.





Congressional Response

Although there is bipartisan support to overturn the Biden administration's nursing home staffing mandate, Senate Republicans have decided not to pursue a vote on a resolution because the president would veto it.

Legal Challenge

The **American Health Care Association (AHCA)** filed a lawsuit in Texas against the federal staffing mandate, citing it as **unrealistic** and **underfunded**.

The lawsuit argues that the mandate does not account for severe workforce shortages and insufficient financial support, particularly in rural areas.

The outcome of this lawsuit could have significant implications for how the staffing requirements are enforced across states, including Kentucky.

Kentucky's Vulnerability



Both rural and urban areas facing severe workforce shortages



Rural facilities: hit harder by lack of nurses and nurse aides



Urban facilities: significant competition from higher-paying healthcare sectors, including hospitals and clinics that are not required to staff 24/7

Challenges for Kentucky's Nursing Homes



82% OF KENTUCKY'S
NURSING HOMES DO
NOT MEET NEW
STAFFING
REQUIREMENTS

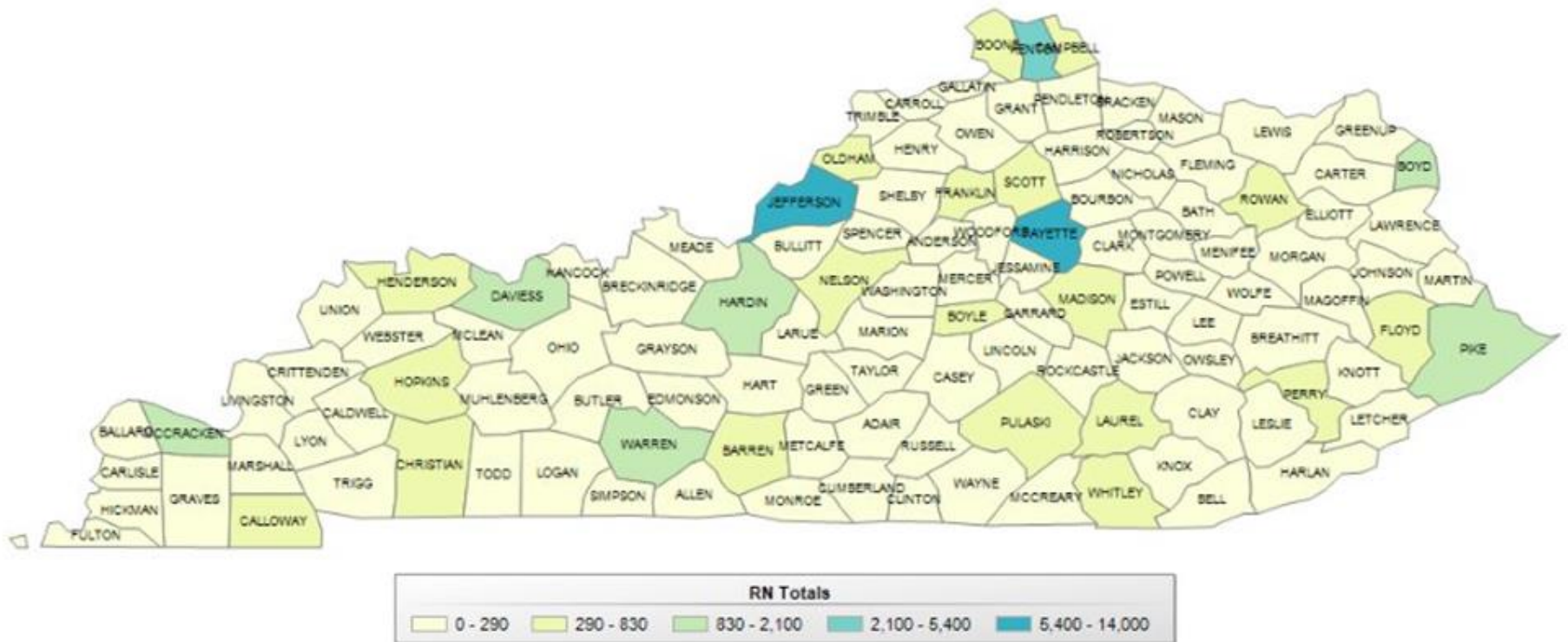


ONLY 6% OF KENTUCKY
NURSING HOMES
MEET ALL FOUR
REQUIREMENTS— 16
OF THE STATE'S 265
FACILITIES



PROJECTED COSTS:
ESTIMATED \$79.5
MILLION FOR
KENTUCKY FACILITIES,
NO CLEAR FUNDING
SOURCE

Registered Nurses across the State



Kentucky's Unique Workforce Struggles



Only 3% of Registered Nurses in Kentucky work in nursing homes



Most RNs work in hospitals, leaving nursing homes under-resourced



Hospitals using LPNs to alleviate staffing shortages in acute care settings



28% of LPNs and 5% of RNs working in nursing homes are aged 55+

Unfunded Mandates and Unrealistic Expectations

- No Additional Funding: Medicaid underfunding leaves facilities unable to compete for workers
- CMS intends to offer support that equates to less than \$5000 per facility.
- Labor Shortages: No pipeline to produce the necessary RNs and NAs, making compliance unattainable
- CMS's 2-year nurse aide training ban for certain levels of noncompliance exacerbates the staffing crisis, especially in Kentucky, where some counties have only one nursing home.

Seniors' Access to Care in Jeopardy



Potential Facility Reductions:

Facilities may reduce admissions, downsize, or close

Will worsen care access, especially in rural areas

Over 3,600 nursing home residents in the state of Kentucky could be displaced

Hospitals could face increased pressure if capacity shrinks

Recent Kentucky Facility Closures

Regis Woods – Louisville

The Forum At Brookside – Louisville

Friendship Health and Rehab– Pewee Valley

Baptist Health La Grange – La Grange

Rose Manor Health Care – Lexington

Johnson Mathers Nursing Home – Carlisle

St. Claire Medical Center – Morehead



Nationally there are 62,567 fewer nursing home beds in 2024 than there were in 2020.

Twenty percent of nursing homes have closed a unit, wing, or floor due to labor shortages.

How Kentucky Nursing Homes are Planning

Workforce Recruitment and Retention:

Kentucky nursing homes are ramping up efforts to **recruit and retain staff** by offering incentives, such as **signing bonuses, wage increases, and career development opportunities.**

Facilities are focusing on recruiting **nurse aides** and **licensed practical nurses**, who make up a larger portion of the workforce in rural areas.

How Kentucky Nursing Homes are Planning

State-Level Support:

Kentucky is leveraging **House Bill 200 (2023)**, which created a healthcare workforce fund, offering **scholarships** and **training programs** to attract new caregivers into long-term care.

Facilities are grateful for **increased Medicaid funding** to offer more competitive wages and improve retention.

Increased wages with no increase in available staff creates **high demand** amidst competition among nursing homes and other health care settings.

How Kentucky Nursing Homes are Planning

Legal and Policy Advocacy:

Kentucky long-term care facilities are supporting the **AHCA lawsuit** in Texas, hoping it will result in **delayed enforcement** or **adjustments** to the mandate's requirements, particularly in terms of funding and workforce availability.

How Kentucky Nursing Homes are Planning

Telehealth and Technology Solutions:

Some facilities are preparing to implement **telehealth** to help meet the 24/7 RN requirement, especially in rural areas where hiring enough RNs remains a significant challenge.

Exploring **technology-based solutions** for care delivery to maximize efficiency and comply with the new regulations.

How Kentucky Nursing Homes are Planning

Planning for Exemptions:

Rural facilities are considering applying for **exemptions**, though they recognize the difficulty in obtaining them due to strict CMS criteria.

Facilities are documenting their **efforts to recruit staff** to strengthen their case for potential exemptions.

How Kentucky Nursing Homes are Planning

Wrap up

We all desire to provide the highest quality of care for our most vulnerable Kentuckians.

The Federal mandate's requirements far exceed Kentucky's current workforce capacity.

The potential ramifications of the staffing mandate could result in additional facility closures and higher costs to the states, as most residents in nursing homes rely on Medicaid funded services.

Finding a Path Forward



We support having more RNs readily available.



We support telehealth RNs in times of RN shortages as well as rural areas and smaller nursing homes.



This situation isn't going to improve in a few years without any meaningful government resources or recruitment programs.



We need meaningful policies, resources, or flexibility to recognize and address the growing shortage of nurses.



We need programs to incentivize nurses to choose a career in long term care. Nursing homes do not have appropriate resources to compete against other health care sectors.



QUESTIONS?

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