

Statement for the Record

Submitted by Premier Inc.

"Supporting Access to Long-Term Services and Supports: An Examination of the Impacts of Proposed Regulations on Workforce and Access to Care."

House Energy and Commerce Subcommittee on Health

October 25, 2023

Premier Inc. appreciates the opportunity to submit a statement for the record on the House Energy and Commerce Subcommittee on Health hearing titled "*Supporting Access to Long-Term Services and Supports: An Examination of the Impacts of Proposed Regulations on Workforce and Access to Care*" on October 25, 2023. Our remarks focus on how the recent [proposed rule](#) from the Centers for Medicare & Medicaid Services (CMS) on minimum staffing standards in long-term care (LTC) facilities will impact access to care. Premier shares CMS' goal of ensuring those receiving care in LTC facilities – one of the country's fastest-growing populations and among the most vulnerable – receive safe, high-quality care. However, Premier is concerned that staffing mandates could exacerbate and create new challenges, as first noted in our [statement](#) in response to the proposed rule and as Premier plans to elaborate on in formal comments to CMS.

As the Medicare Payment Advisory Commission (MedPAC) noted in its October 2023 meeting, "the evidence of the relationship between quality and total staffing is mixed."¹ Given that current research is inconclusive, any mandates prior to further study would be premature.

Therefore, Premier urges CMS to not move forward with its current proposal at this time until the policy or any alternative approaches can be realistically achieved. Instead of finalizing a flawed policy, CMS should work with stakeholders to further study and understand the impact of staffing ratios on access to quality care for residents. In addition, Premier urges Congress to help address the root of the problem and advance legislation to alleviate persistent healthcare workforce shortages.

I. BACKGROUND ON PREMIER INC.

Premier is a leading healthcare improvement company, uniting an alliance of more than 4,350 U.S. hospitals and approximately 300,000 continuum of care providers to transform healthcare. With integrated data and analytics, collaboratives, supply chain solutions, consulting and other services, Premier enables better care and outcomes at a lower cost. Premier's sophisticated technology systems contain robust data gleaned from nearly half of U.S. hospital discharges, 812 million hospital outpatient and clinic encounters and 131 million physician office visits. Premier is a data-driven organization with a 360-degree view of the supply chain, working with more than 1,460 manufacturers to source the highest quality and most cost-effective products and services. Premier plays a critical role in the rapidly evolving healthcare industry, collaborating with healthcare providers, manufacturers, distributors, government and other entities to co-develop long-term innovations that reinvent and improve the way care is delivered to patients nationwide.

¹ https://www.medpac.gov/wp-content/uploads/2023/03/October2023_MedPAC_meeting_transcript_SEC.pdf

Headquartered in Charlotte, North Carolina, Premier is passionate about transforming American healthcare.

II. CONCERNS WITH CMS PROPOSED RULE

Proposed minimum staffing standards are unworkable given workforce limitations

CMS proposes to require that LTC facilities have individual minimum standards of 0.55 hours per nursing day (HPRD) for registered nurses (RNs), 2.45 HPRD for nurse aides (NAs) and maintain sufficient additional nursing personnel (including Licensed Practical Nurse/ Licensed Vocational Nurse [LPN/LVNs]). Additionally, CMS proposes to require LTC facilities to have an RN onsite and available to provide direct resident care 24 hours a day, seven days a week. As it stands, Premier believes these proposals are unworkable because of ongoing workforce shortages. There are simply not enough RNs and NAs in the workforce available to meet the demand that would result from the proposed staffing requirements. CMS estimates the rule would require LTC facilities to hire 12,639 additional RNs and 76,376 additional NAs. According to a recent analysis, less than one in five nursing facilities in the nation could currently meet the proposed required minimum HPRD for RNs and NAs.² The healthcare sector is still in a historic workforce crisis and the proposal would only exasperate the labor market that expands beyond LTC facilities to all healthcare settings including hospitals. Premier is deeply concerned that the proposal would lead LTC facilities to attempt to pull RNs and NAs away from other healthcare settings which would cause significant disruptions across the continuum of care.

Furthermore, in order to meet the staffing requirements if finalized as proposed, Premier is concerned that LTC facilities will have to limit the number of beds that they staff. As is, there is an insufficient number of LTC beds available to meet current demands, and that schism is expected to worsen as the population continues to age. By limiting the number of staffed LTC facility beds, pressure will be placed on acute care facilities who will be unable to discharge patients to a LTC facility in a timely manner. Therefore, Premier has significant concerns that this proposal will worsen boarding issues at acute care facilities and result in higher overall costs to the healthcare system.

Lack of funding to implement staffing requirements

CMS estimates the proposal will require LTC facilities to absorb an additional \$4 billion in wage costs annually. However, that figure understates the potential impact, as it does not consider any future wage increases or adjustments. A September 2023 analysis found the mandate would cost even more than suggested in the rule – \$6.8 billion annually to cover the cost of hiring the 102,000 additional caregivers necessary to meet the requirements.³ However, the proposed rule does not provide any funding mechanism to help facilities offset this expected massive increase in costs. LTC facilities are already grappling with chronic Medicaid underfunding, soaring inflation and funding instability due to the lingering effects of the COVID-19 public health emergency. Premier fears that imposing staffing mandates without any financial support would lead to greater widespread financial instability across the LTC sector that is likely to result in facility closures and compromise access to quality care.

² "What Share of Nursing Facilities Might Meet Proposed New Requirements for Nursing Staff Hours?". Kaiser Family Foundation. September 18, 2023. [What Share of Nursing Facilities Might Meet Proposed New Requirements for Nursing Staff Hours? | KFF](#)

³ "CMS Proposed Staffing Mandate: In-Depth Analysis on Minimum Staffing Levels". CliftonLarsonAllen LLP. September 2023. [CLA Staffing Mandate Analysis - September 2023 \(ahcancal.org\)](#)

Proposed national approach does not account for state variation

Additionally, Premier has concerns that the national staffing mandate proposed by CMS fails to account for wide variability across the states within the LTC sector. For example, some states are home to numerous LTC facilities with well over 500 beds, while average LTC facility capacity in other states is much smaller, reflecting different demographic factors and patient access needs. Further, state Medicaid rates for LTC facility care vary from \$170 a day to more than \$400 a day. Given these vastly different dynamics, it is unreasonable to have the same requirement in every state, which is why 46 states have adopted their own minimum staffing policies.

Consideration for variation across skilled nursing facilities (SNFs)

Premier is also concerned that the proposal does not take into account variation in patient mix across SNFs. Notably, at the October MedPAC 2023 meeting⁴, research was presented that indicates that SNFs with a higher portion of beneficiaries covered under Medicaid or by Medicare Part D's low-income subsidy (LIS) are associated with lower staffing levels. Therefore, a staffing mandate is highly likely to have a disproportional, negative impact on SNFs with those patient mixes as it will exacerbate the staffing challenges they are already grappling with.

Emergency preparedness

Premier is concerned about the negative consequences the proposal may have on emergency preparedness. A new HHS Office of Inspector General (OIG) report found that roughly 77 percent of nursing homes in areas prone to natural disasters reported challenges with emergency preparedness activities last year.⁵ An estimated 62 percent of nursing homes reported at least one challenge regarding staffing and an estimated 50 percent noted at least one challenge regarding transportation. Some nursing homes also reported issues with securing beds for evacuated residents and planning for infection control and quarantine during emergencies. Given the reality around staffing limitations during natural disasters, Premier encourages CMS to shift its focus away from mandates and, rather, advance policies that provide resources and enable staff to protect patients during emergencies.

III. OPPORTUNITIES FOR CONGRESSIONAL ACTION ON BEHALF OF LTC FACILITIES

More must be done to bolster the LTC facility workforce and ensure our nation's seniors have continued access to high quality, cost-effective care. **Premier [has called for a multi-pronged approach to holistically address healthcare workforce challenges, including policies to protect workers against violence and increase graduate medical education.](#)**

Congress can also help empower LTC facility staff to work more effectively and maximize their workflow by providing post-acute care providers incentives to adopt health information technology more readily to standardize patient data, improve care quality and reduce costs. Unfortunately, clinical analytics technologies are currently not widely used in nursing homes and other long-term and post-acute (LTPAC) settings to help them combat infection spread during any future disease outbreaks and during their day-to-day operations as programs authorized and funded under the Health Information Technology for Economic

⁴ https://www.medpac.gov/wp-content/uploads/2023/03/October2023_MedPAC_meeting_transcript_SEC.pdf

⁵ "Nursing Homes Reported Wide-Ranging Challenges Preparing for Public Health Emergencies and Natural Disasters". HHS OIG. September 1, 2023. <https://oig.hhs.gov/oei/reports/OEI-06-22-00100.asp>

Clinical Health (HITECH) Act excluded LTPAC providers. ***To further bolster the capabilities of LTC facility staff and improve patient care, Premier encourages Congress to consider policies that incentivize nursing homes and other LTPAC providers to implement electronic health records and electronic clinical surveillance technology to provide meaningful assistance with infection control.***

IV. CONCLUSION

In closing, Premier supports CMS' intent of ensuring patients in LTC facilities have access to the highest level of care. However, Premier has serious concerns that the regulatory mandates put forward need further refinement and, as proposed, will have a negative impact on access to care and create instability in the LTC sector. Premier urges Congress to encourage CMS to work with stakeholders to find a workable regulatory scheme that finds an appropriate balance before moving forward with any regulation.

Premier appreciates the opportunity to share these concerns with the Subcommittee and looks forward to working with Congress as it considers these very important issues. If you have any questions regarding our comments or need more information, please contact Shara Siegel, Senior Director of Government Affairs, at shara_siegel@premierinc.com or 646-484-0905.