



CNA Ratio Legislation Testimony

Senate Health, Human Services and Senior Citizens Committee

May 21, 2018

Good afternoon Chairman Vitale and members of the committee. On behalf of the New Jersey Hospital Association (NJHA) and our nearly 400 hospital and post-acute members, which include more than 100 nursing homes, thank you for allowing me to testify respectfully in **opposition** today on **S-1612**. My name is Theresa Edelstein, and I am Vice President of Post-Acute Care Policy at NJHA. I am also a licensed nursing home administrator, and I have worked alongside the women and men who are CNAs and nurses in various NJ nursing homes in my career. My respect for CNAs runs deep; their work is some of the most important and physically and emotionally challenging work in nursing homes. They contribute significantly to the quality of life of nursing home residents in ways that are evident and through all the acts of human kindness that often go unnoticed, but that they provide and I have witnessed first-hand.

In no way should it be construed that NJHA's opposition to this legislation is reflective of our sincere appreciation and respect for certified nursing assistants (CNAs). CNAs are on the frontlines of long term care and nursing facilities. The individuals that work as CNAs arguably have some of the most physically and emotionally challenging work in nursing homes, and the care that they provide is important.

We need more CNAs in New Jersey. There simply aren't enough people to fill CNA positions right now – not just in New Jersey, but nationally. Projections are that our nation will need 95,000 additional CNAs by 2025 to help care for our aging population. Today in New Jersey nursing homes are recruiting and hiring CNAs to fill approximately 1800 open full- and part-time positions. There just aren't enough people applying for positions or obtaining the necessary certification to work as a CNA. In some cases, nursing homes do not receive any responses to openings. When we start to look at whether applicants' skills fit the needs of residents or if they are the right person for the position, the applicant pool grows even smaller. This physically and emotionally important work is not for everyone. NJHA and its member nursing homes are focused on finding new, different and effective ways to attract and retain CNAs to meet this need. And, we need partners to accomplish it. These include:

- **CNA reciprocity** – create a seamless, accessible pathway for CNAs certified in other states to obtain NJ certification without having to re-do and pay for the full training again. This would be based on work experience, fulfillment of annual continuing education requirements and a skills evaluation after completion of the mandated criminal background check and review of the CNA registry. Reciprocity for CNAs in New Jersey does not currently exist, but we look forward to making this a reality.
- **Establishment of scholarships** for individuals who want to enroll in the nurse aide training program through the Department of Health, using civil money penalty dollars. CMP dollars are required to be used to improve resident care. Nurse aide training classes combined with the cost of books, supplies, testing and possible loss of income to take the time to be in the class --- are expensive.
- **Creation of a tax credit** for tuition costs for CNAs – After one year of working as a CNA, individuals would be able to claim a one-time capped tax credit for the cost of their CNA training.
- **Provide government funded grants** to help expand access to CNA training in underserved areas of the state.

- **Require the Department of Health’s approval of a curriculum to train paid dining assistants.** Having paid dining assistants would enable CNAs to work at the top of their certification and focus on residents with greater needs, while paid dining assistants help other residents. This enhances the work environment and supports an enjoyable dining and social experience for residents. Federal rules already allow this.

The existing CNA shortage combined with the need to focus on care that is specific to the clinical needs of nursing home residents are two of the key reasons why NJHA is very concerned about legislation that would impose a strict certified nursing assistant to resident ratio mandate in nursing homes.

Our members provide high-quality care in what is a dynamic and complex environment. New Jersey nursing homes generally outperform their counterparts on quality throughout the nation. Based on recent CMS Five-Star Quality Ratings for nursing homes, 67 percent of New Jersey nursing homes have earned an overall 4 or 5-star rating. Our providers have accomplished this even with the challenge of chronic Medicaid underfunding.

Nursing home residents sometimes come for a short stay and are discharged back to their homes; other residents live in our homes for months or years and experience various changes during the course of their lives. Other nursing homes serve special needs populations such as children on ventilators and with congenital conditions, people with HIV/AIDS, adults with Huntington’s disease, and ventilator-dependent adults. Each unit of a nursing home is like a neighborhood; the nursing directors, nurses and CNAs develop a staffing plan to be responsive to the needs of the residents who live there and the staff who work there. Adjustments are made as needed and are done within the context of federal and the Department of Health regulations.

CMS, the agency that regulates the nation’s nursing homes, finalized a rule in 2016 that requires nursing homes to make staffing and other resource decisions based on an assessment of the home’s resident population and staff competencies. This was after years of debate around whether the federal government should mandate ratios. For example, a facility that provides dementia care would need to ensure it has sufficient numbers of staff and that the staff has the necessary training, education, and/or experience to care for individuals with dementia. **CMS’ focus is on the competencies and skill sets of the individuals delivering care and services rather than only on the number of caregivers available.** CMS notes that the International Council of Nurses (ICN) concluded that “safe staffing levels must reflect the skills, experience and knowledge required to meet patient care needs, taking acuity levels into account.” By allowing nurses and their teams the flexibility to determine the level of staffing needed in order to meet the needs of each resident, based on individual assessments and plans of care, facilities can adequately determine staff levels to best suit quality standards.¹

The New Jersey Department of Health already mandates overall nurse staffing amounts and availability in nursing homes in the licensing standards (*N.J.A.C. 8:39-25.2.*) New Jersey has been ahead of other states in this area. The regulations are based on hours per day of nursing services that include registered professional nurses, licensed practical nurses, and nurse aides based upon the needs of the residents in the following manner:

- The total number of residents multiplied by 2.5 hours/day; in addition to
- The total number of residents receiving each service listed below, multiplied by the corresponding number of hours per day:

Medical Condition of Resident	Corresponding Number of Hours Per Day
Wound care	0.75 hour/day
Nasogastric tube feedings and/or gastrostomy	1.00 hour/day
Oxygen therapy	0.75 hour/day
Tracheostomy	1.25 hours/day
Intravenous therapy	1.50 hours/day
Use of respirator	1.25 hours/day

Head trauma stimulation/advanced neuromuscular/orthopedic care	1.50 hours/day
--	----------------

Comparisons with other states in terms of quality and staffing can be somewhat instructive, but the reality is that state requirements related to staffing and the make-up of the nursing home resident population are variable across states. So, we need to be cautious about drawing conclusions from state-to-state comparisons.

The New Jersey Hospital Association has modeled the potential impact these mandates would have on New Jersey nursing homes. **New Jersey nursing homes would have to hire approximately an additional 3,000 certified nursing assistants at a cost of approximately \$95 million annually to comply with these proposed mandates. With approximately 1800 full and part time positions presently unfilled in New Jersey nursing homes, finding the CNAs to meet the ratio prescribed in the legislation is simply not feasible at this time with the direct care staffing shortage that the nation is facing.**

Unintended consequences of not being able to meet the ratio and/or afford the additional projected annual costs could manifest as nursing home closures or a reduction in the number of beds that nursing facilities currently operate, diminishing access to critically needed care.

NJHA believes our state's focus must be on attracting and retaining women and men to work in the field of long term care. NJHA is committed to helping CNAs by supporting, advocating and implementing the ideas we have recommended above, and we stand ready to do just that in partnership with all of you.

Thank you.