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# Skilled Nursing Industry Vaccination Mandate: Exacerbating Staffing Shortages & Turnover

A new regulation by the Centers for Medicare & Medicaid Services (CMS), effective September 30, 2021, will require all staff in Medicare and Medicaid participating long-term care facilities to be vaccinated against COVID-19.<sup>1,2</sup> Data suggests that the higher the rate of vaccination among staff, the lower the risk of an outbreak.

According to a June 2021 American Healthcare Association (AHCA) survey, 94% of nursing homes are currently facing staffing shortages, with 73% reporting a worsening of the situation since the end of 2020.<sup>3</sup> Staffing shortages and high turnover have compounded the impact of COVID-19, and an excess of non-COVID related deaths [due to neglect] have been reported.<sup>4</sup>

Currently, an estimated 62.7% of U.S. Skilled Nursing Facility (SNF) staff are vaccinated; it's unclear whether the data is for complete or partial immunization.<sup>5</sup> Comparable figures for U.S. adult figures estimate that 54.0% are fully vaccinated and 63.3% are partially vaccinated.<sup>6</sup> According to the Kaiser Family Foundation Vaccine Monitor, attitudes among the

<sup>1</sup> Biden-Harris Administration Takes Additional Action to Protect America's Nursing Home Residents from COVID-19. Centers for Medicare & Medicaid Services; August 18, 2021. <https://www.cms.gov/newsroom/press-releases/biden-harris-administration-takes-additional-action-protect-americas-nursing-home-residents-covid-19>

<sup>2</sup> Amy Stulick, "Nursing Home Staff Must Be Vaccinated, Biden Administration Says." Skilled Nursing News; August 18, 2021. <https://skillednursingnews.com/2021/08/biden-administration-expected-to-mandate-covid-19-vaccines-for-nursing-home-staff/>

<sup>3</sup> State of Nursing Home and Assisted Living Industry: Facing Workforce Challenges. AHCA/NCAL; June 2021. <https://www.ahcanca.org/News-and-Communications/Fact-Sheets/FactSheets/Workforce-Survey-June2020.pdf>

<sup>4</sup> Matt Sedensky and Bernard Condon, "Not just COVID: Nursing home neglect deaths surge in shadows." AP News; November 19, 2020. <https://apnews.com/article/nursing-homes-neglect-death-surge-3b74a2202140c5a6b5cf05cdf0ea4f32>

<sup>5</sup> COVID-19 Nursing home data. Centers for Medicare & Medicaid Services. <https://data.cms.gov/stories/s/COVID-19-Nursing-Home-Data/bkwz-xpvg/>

<sup>6</sup> Mayo Clinic Covid Vaccine Tracker. August 25, 2021. <https://www.mayoclinic.org/coronavirus-covid-19/vaccine-tracker>

non-vaccinated population regarding receiving the vaccine broke down as follows: “as soon as possible” (4%), “wait and see” (12%), “only if required” (7%) and “definitely not” (13%).<sup>7</sup> As of September, 2021 sixteen states, lag the national partial vaccination rate by approximately ten percentage points or more.<sup>8</sup> Compliance with the CMS regulation will be most challenging for nursing homes in these states.

### CMS Regulation: From Staff Education to Mandated Vaccination

According to the CMS Final Rule — COVID-19 Vaccine Immunization Requirements for Residents and Staff, published on May 11, 2021, “All residents and/or resident representatives and staff must be educated on the COVID-19 vaccine they are offered, in a manner they can understand, and receive the FDA COVID-19 EUA Fact Sheet before being offered the vaccine.”<sup>9</sup> And “the resident has the right to be free of interference, coercion, discrimination, and reprisal from the facility. Therefore, facilities cannot take any adverse action against a resident or representative who refuses the vaccine, including social isolation, denied visitation and involuntary discharge.”<sup>10</sup> Staff vaccine refusal is no longer allowed under President Biden’s executive order; federal employees could be fired if they refuse to get vaccinated and do not qualify for medical or religious exemptions.<sup>11</sup>

CMS expects vaccine mandates to contribute to a reduction in staff turnover due to the requirement affecting all SNFs (within a proximate area).<sup>12</sup> A reduction in unvaccinated

staff movement would reduce the likelihood of transmission and an outbreak. However, the corollary to this thesis is the potential for staff to leave the healthcare profession entirely and seek employment in a non-healthcare setting with less than 100 employees and without a vaccine mandate.

### Reasons for Non-Vaccination

Vaccine hesitance among healthcare workers may reflect safety and efficacy concerns, a preference for physiologic immunity, distrust of government and health organizations, and desire for autonomy and freedom.<sup>13</sup> Vaccine hesitancy among the general population often reflects “lack of access to vaccines, a refusal to see Covid-19 as a threat, concern about the vaccines’ side effects [e.g., fertility], little trust in the vaccines or the institutions behind them, and belief in at least one of several different conspiracy theories.”<sup>14</sup>

### Staffing Shortages Are a Chronic Problem

SNFs have had chronic staffing shortages predating the pandemic. A study from Health Affairs reported mean and median annual turnover rates for total nursing staff ranging from 128% and 94%, respectively, and mean turnover rates of 140.7% for registered nurses, 114.1% for licensed practical nurses and 129.1% for certified nursing assistants.<sup>15,16</sup> Facilities with one-star ratings have median turnover of 135.3% while the five-star facilities have turnover of 76.7%.<sup>17</sup> Quality appears to make a difference, as does location, for-profit status, chain ownership and Medicaid census.<sup>18</sup>

<sup>7</sup> KFF COVID-19 Vaccine Monitor: May 2021. May 28, 2021. <https://www.kff.org/report-section/kff-covid-19-vaccine-monitor-may-2021-findings>

<sup>8</sup> Mayo Clinic U.S. COVID-19 Vaccine Tracker. August 25, 2021. <https://www.mayoclinic.org/coronavirus-covid-19/vaccine-tracker>

<sup>9</sup> Final Rule — COVID-19 Vaccine Immunization Requirements for Residents and Staff. Centers for Medicare & Medicaid Services, May 11, 2021. <https://www.cms.gov/files/document/gso-21-19-nh.pdf>

<sup>10</sup> Ibid.

<sup>11</sup> Biden Mandates COVID-19 Vaccinations for All Feds. Government Executive; September 9, 2021 <https://www.govexec.com/workforce/2021/09/biden-mandate-covid-19-vaccinations-all-feds/185227/>

<sup>12</sup> Jordyn Reiland, “CMS: Staff Vaccine Mandate ‘Levels the Playing Field’, Coming Late September.” Skilled Nursing News; August 25, 2021. [https://skillednursingnews.com/2021/08/cms-staff-vaccine-mandate-levels-the-playing-field-coming-late-september/?euid=87413fa98b&utm\\_source=snn-newsletter&utm\\_medium=email&utm\\_campaign=4c0fa4d0e2](https://skillednursingnews.com/2021/08/cms-staff-vaccine-mandate-levels-the-playing-field-coming-late-september/?euid=87413fa98b&utm_source=snn-newsletter&utm_medium=email&utm_campaign=4c0fa4d0e2)

<sup>13</sup> “Four reasons for COVID-19 vaccine hesitancy among health care workers, and ways to counter them.” FPM Journal; April 27, 2021. [https://www.aafp.org/journals/fpm/blogs/inpractice/entry/countering\\_vaccine\\_hesitancy.html](https://www.aafp.org/journals/fpm/blogs/inpractice/entry/countering_vaccine_hesitancy.html)

<sup>14</sup> German Lopez, “The 6 reasons Americans aren’t getting vaccinated.” Vox; June 2, 2021. <https://www.vox.com/2021/6/2/22463223/covid-19-vaccine-hesitancy-reasons-why>

<sup>15</sup> Ashvin Gandhi, Huiyi Yu, and David C. Grabowski, “High Nursing Staff Turnover in Nursing Homes Offers Important Quality Information.” Health Affairs; March 2021. <https://www.healthaffairs.org/doi/10.1377/hlthaff.2020.00957>

<sup>16</sup> Alex Spanko, “Nursing Homes Have 94% Staff Turnover Rate—With Even Higher Churn at Low-Rated Facilities.” Skilled Nursing News; March 2, 2021. <https://skillednursingnews.com/2021/03/nursing-homes-have-94-staff-turnover-rate-with-even-higher-churn-at-low-rated-facilities/>

<sup>17</sup> Ibid.

<sup>18</sup> Ashvin Gandhi, Huiyi Yu, and David C. Grabowski, “High Nursing Staff Turnover in Nursing Homes Offers Important Quality Information.” Health Affairs; March 2021. <https://www.healthaffairs.org/doi/10.1377/hlthaff.2020.00957>

Shortages are being compounded by a national registered nurse (RN) hospital vacancy rate, which reached 9.9% in 2020; more than one-third of hospitals (35.8%) have vacancy rates exceeding 10.0%.<sup>19</sup> The average period to fill a vacancy was 89 days.<sup>20</sup> Licensed practical nurses are also in short supply.

Aides, including certified nurse assistants (CNAs), account for 63.9% of nursing home staffing.<sup>21</sup> The median pay for a CNA — the primary caregivers in nursing homes — is \$30,850, and ranges from \$22,750 – \$42,110.<sup>22</sup> Hospitals, on average, pay 6.8% higher than nursing homes.<sup>23</sup> Disparities in pay may reflect a less-favorable payer mix; i.e., a higher percentage of lower-paying Medicaid relative to Medicare.

Premium-priced contracted staff are increasingly being utilized, and overtime hours is widely reported as extremely high.<sup>24</sup>

### COVID-19: Post-Peak, but Getting Worse

Skilled nursing facilities have been severely affected by COVID-19. According to the CDC National Healthcare Safety Network, as of September 12, 2021, there were 134,908 resident and 2,026 healthcare worker deaths. Confirmed resident cases total 681,183 and healthcare worker cases total 622,596.<sup>25</sup> Approximately 95% of resident deaths and cases occurred prior to February 7, 2021, the peak of the pandemic and prior to the availability of vaccines. The mortality and

morbidity impact varies by state; double-digit positivity rates are found in many states with Delta variant outbreaks.<sup>26</sup>

### Bottom Line:

In the subacute setting, an estimated 37.3% of CNAs are not vaccinated. The CMS vaccination mandate is likely, at the very least, to exacerbate already high staff turnover rates. According to the Kaiser Vaccine Monitor, approximately one-third of the unvaccinated population will not get vaccinated — which will likely reduce the pool of eligible employees and making CNA hiring more challenging.<sup>27</sup> Full FDA approval of the Pfizer vaccine, mandates and economic incentives may induce vaccination among the remaining two-thirds.

Fundamentally, skilled nursing facility challenges include occupancy rates yet to fully recover from the December 2020 nadir, high PPE expenses and negative margins.<sup>28</sup> In the longer-term, aging baby boomers represent a catalyst for growth, partially offset by the shift to at-home acute care services.

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*FTI Consulting, Inc., including its subsidiaries and affiliates, is a consulting firm and is not a certified public accounting firm, a law firm, or healthcare provider.*

<sup>19</sup> 2021 NSI National Health Care Retention & RN Staffing Report. NSI Nursing Solutions; March 2021. [https://www.nsinursingsolutions.com/Documents/Library/NSI\\_National\\_Health\\_Care\\_Retention\\_Report.pdf](https://www.nsinursingsolutions.com/Documents/Library/NSI_National_Health_Care_Retention_Report.pdf)

<sup>20</sup> Ibid.

<sup>21</sup> Long-term Care Providers and Services Users in the United States, 2015-2016: Total number and percent distribution of nursing and social work full-time equivalent employees, by sector and staff type: United States, 2016. Centers for Disease Control and Prevention, National Center for Health Statistics. <https://www.cdc.gov/nchs/npals/reports.htm>

<sup>22</sup> Occupational Outlook Handbook.. Bureau of Labor Statistics; data from May 2020. <https://www.bls.gov/ooh/healthcare/nursing-assistants.htm#tab-5>

<sup>23</sup> Ibid.

<sup>24</sup> Amy Stulick, “Nursing Homes Use of Staffing Agencies Soars During Pandemic as Workforce Crisis Deepens.” Skilled Nursing News; June 27, 2021. <https://skillednursingnews.com/2021/06/nursing-homes-use-of-staffing-agencies-soars-during-pandemic-as-workforce-crisis-deepens/>

<sup>25</sup> Covid-19 Nursing Home Data. Data.cms.gov, Centers for Medicare & Medicaid Services; latest data August 15, 2021. <https://data.cms.gov/covid-19/covid-19-nursing-home-data>

<sup>26</sup> COVID-19 Viral (NAAT) Laboratory 14-Day Test Positivity Rates, by U.S. County. <https://data.cms.gov/covid-19/covid-19-nursing-home-data>

<sup>27</sup> KFF COVID-19 Vaccine Monitor: May 2021. May 28, 2021 <https://www.kff.org/report-section/kff-covid-19-vaccine-monitor-may-2021-findings>

<sup>28</sup> Occupancy at U.S. Skilled Nursing Facilities Hits New Low. NIC data from December 2020. <https://www.nic.org/news-press/occupancy-at-u-s-skilled-nursing-facilities-hits-new-low/>

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