



 <h1>Regulatory Roundup</h1> <hr/> <p>Weekly Webinar for Long-Term Care Professionals</p> <hr/>  <a href="https://IHCA.org/regulatory-roundup">IHCA.org/regulatory-roundup</a>	<p>PRESENTERS</p> <p><b>Lori Davenport</b> Indiana Health Care Association</p> <p><b>Team Members from</b> Indiana Department of Health</p> <hr/> <p>September 7, 2023</p>
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 <h1>Today's Agenda</h1>  <a href="https://IHCA.org/regulatory-roundup">IHCA.org/regulatory-roundup</a>	<ul style="list-style-type: none"><li>• Nursing Home Minimum Staffing Requirements Proposed Rule</li><li>• Next week's guest – State Ombudsman</li><li>• Q&amp;A</li></ul>
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The graphic features a dark blue background on the left and a white background on the right. In the top left, the IHCA INCAL logo is displayed. Below it, the title "Assisted Living Symposium" is written in large white font. A circular inset image shows an elderly woman and a caregiver smiling. To the right of the image, the dates "SEPTEMBER 28-29, 2023" and the time "8:30 a.m. - 4:30 p.m." are listed. A white button with the text "REGISTER TODAY" is positioned below the dates. At the bottom left, the website "www.IHCA.org" is provided. On the right side, a large QR code is centered, with the text "SCAN QR CODE TO REGISTER" below it. Four small white circles are arranged in a horizontal line at the top and bottom of the blue section.

IHCA INCAL

# Assisted Living Symposium

SEPTEMBER 28-29, 2023  
8:30 a.m. - 4:30 p.m.

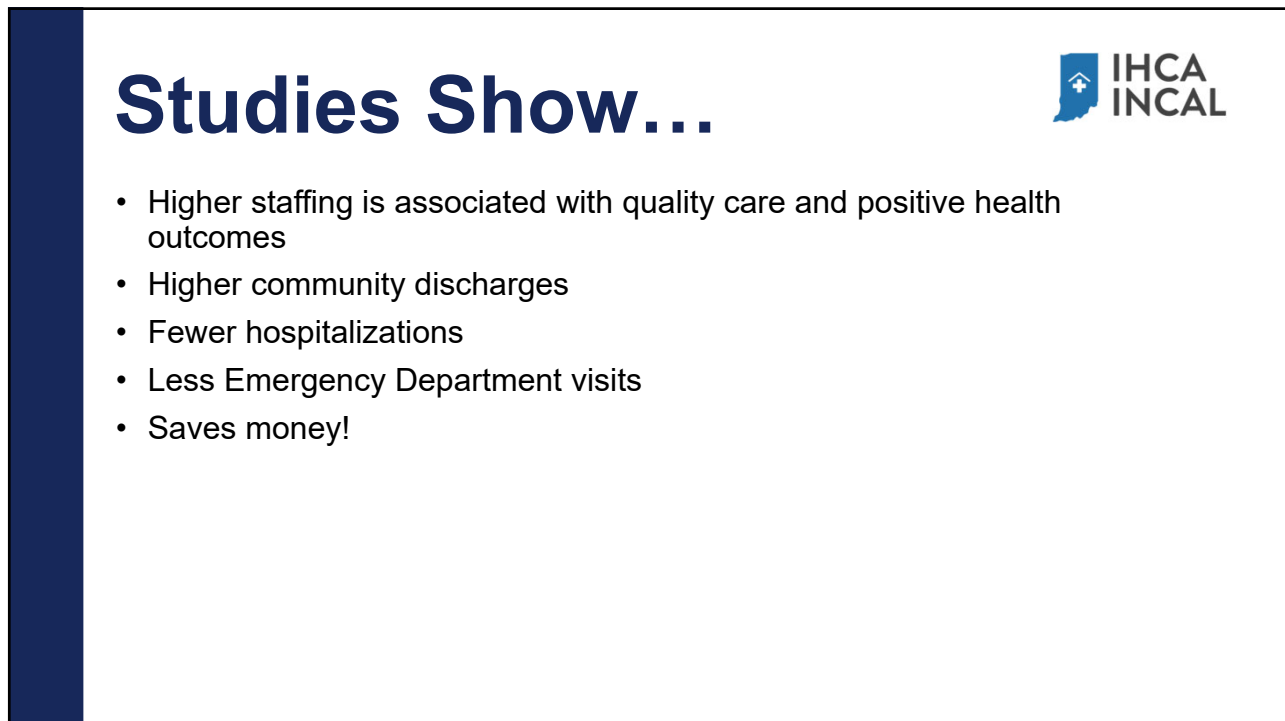
REGISTER TODAY

www.IHCA.org




SCAN QR CODE TO REGISTER

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The graphic has a dark blue vertical bar on the left and a white background on the right. The title "Studies Show..." is written in large, bold, dark blue font. To the right of the title is the IHCA INCAL logo. Below the title, a bulleted list of five points is presented. The points are: "Higher staffing is associated with quality care and positive health outcomes", "Higher community discharges", "Fewer hospitalizations", "Less Emergency Department visits", and "Saves money!".

## Studies Show...



- Higher staffing is associated with quality care and positive health outcomes
- Higher community discharges
- Fewer hospitalizations
- Less Emergency Department visits
- Saves money!

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# Minimum Staffing Standards

- Proposed rule released
- Three-pronged comprehensive staffing approach for Medicare and Medicaid certified nursing facilities (SNFs and NFs)
  - New hours per resident day (HPRD) minimum nurse staffing standards for registered nurses (RNs) and nurse aides (Nas) based on case-mix –adjusted staffing data sources;
  - Increase the on-site RN requirement
  - Expand the existing facility assessment requirement

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## Increase in onsite RN's



- Proposal is to increase the on-site RN in addition to setting minimum HPRD standards.
  - Safety events
  - Evenings
  - Nights
  - Weekends
  - Holidays

HPRD is the minimum standard – using the facility assessment to be used to determine if more staffing and/or resources is needed to care for the acuity of residents.

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## What it looks like



- Minimum RN staffing of 0.55 hours per resident day
- Minimum NA staffing of 2.45 hours per resident day
  - A one-year, renewable hardship exemption will be available for facilities that meet criteria.
  - PBJ will be used to self report compliance
  - Compliance will be on Care Compare
  - LPN hours are not part of this proposal
  - Non-nursing staff are not addressed in the proposal

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## RN Hours



- An RN on-site and available to provide resident care 24 hours per day, 7 days per week.
- 24/7 RN requirement does not imply compliance with the minimum 0.55 RN HPRD and 2.45 NA HPRD requirements or vice versa.
- A designated RN to serve as the director of nursing services on a full-time basis will continue to be separate requirement. – included in minimum staffing HPRD of 0.55 as an RN.

Note: CMS is seeking comments on whether the DON should be counted towards the 24/7 requirement.

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## Facility Assessment



- Address staffing needs to determine if staffing levels require to go above the minimum.
- Address care requirements using evidence-based, data-driven methods.
- Must address staff skills and competencies related to the population served.
- Must include input from staff and leadership and IDT.
- Must consider needs on each shift and used to drive staffing changes .
- Must use the assessment to develop and maintain a staffing plan.

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## Implementation




- Implementation scheduled for the staffing and facility assessment will be staggered, with separate implementation phases for the facility assessment requirement, the 24/7 on site RN standard, and the RN and NA minimum HPRD staffing standards.
- Rural and Urban facilities will have different timelines - range 60 days to five years after publication of the final rule.

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<b>Facilities located in urban areas</b>		
Phase 1	Require facilities to comply with the Facility assessment requirements.	60-days after the publication date of the final rule.
Phase 2 Urban	Facilities to comply with the requirement for a RN onsite 24 hours a day, 7 days a week.	2 years after the publication date of the final rule.
Phase 3 Urban	Minimum staffing requirement of 0.55 and 2.45 HPRD for RNs and NAs respectively	3 years after the publication date of the final rule
<b>Facilities located in rural areas</b>		
Phase 1	Require facilities to comply with the Facility assessment requirements	60-days after the publication date of the final rule.
Phase 2 Rural	Facilities to comply with the requirement for a RN onsite 24 hours a day, 7 days a week	3 years after the publication date of the final rule.
Phase 3 Rural	Minimum staffing requirement of 0.55 and 2.45 HPRD for RNs and NAs respectively	5 years after the publication date of the final rule.

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# Definitions



- CMS defines “rural” same as with the Census definition –
  - CMS is asking for public comment on whether a different definition should be used.
- Rural is all population, housing, and territory not included within an urban area

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## Is the rule funded?



- No

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## Will there be penalties for non-compliance?

- If the rule is finalized – there will be enforcement actions that are based on the scope and severity levels of the deficiency assessed.
  - Termination of the provider agreement
  - Temporary management
  - Denial of payment for all Medicare and Medicaid individuals by CMS
  - Denial of payment for new Medicare and Medicaid admissions
  - Civil money penalties
  - State monitoring
  - Transfer of residents
  - Closure of the facility
  - Directed plan of correction
  - Directed in-service training
  - Alternative or additional state remedies

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## Waiver or Hardship exemption

- Will use the existing process for RN waiver under the proposed 24/7 RN requirement.
- A hardship exemption from the proposed minimum nurse standard of 0.55 HPRD for RNs and 2.4 HPRD for Nas would be available in limited circumstances and specific criteria are met.
  - Not easy to obtain a hardship exemption

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## Is the rule funded?



- No
- Unfounded
- Unrealistic
- Healthcare is currently facing the worst labor shortage in history

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## A call to action



- Submit your comments
- Due by November 6, 2023
- More information will come from IHCA in two weeks.

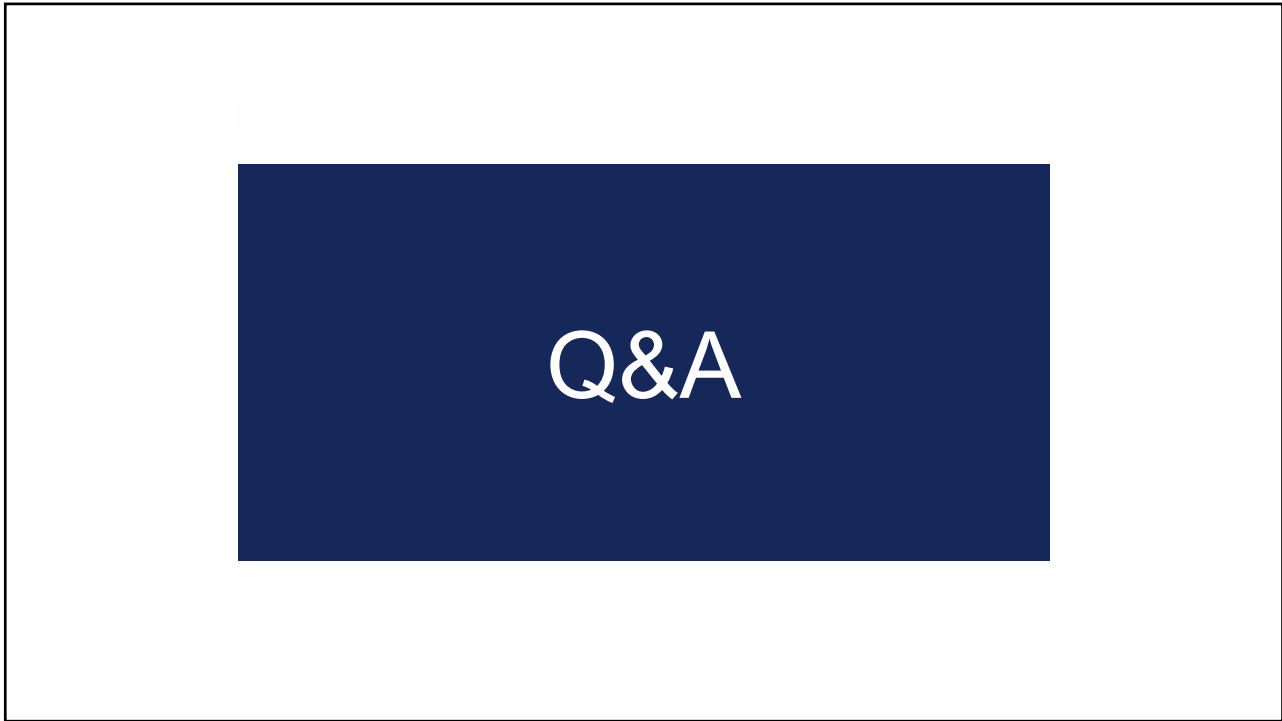
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## Next Week



- Guest Speaker from the State Ombudsman
  - AL and SNF – will have the opportunity to ask questions


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## Contact Information

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