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SDAHO Joins 20 Other State Affiliates & 20 Attorneys General in Lawsuit to Overturn CMS Staffing Mandate

The South Dakota Association of Healthcare Organizations (SDAHO) A total of 21 LeadingAge state affiliates, membership associations that represent hundreds of not-for-profit aging services providers across the country, have joined a lawsuit to overturn the Centers for Medicaid and Medicare Services' (CMS) staffing mandate. Led by LeadingAge Iowa, LeadingAge Kansas, and LeadingAge South Carolina, alongside other state affiliates, the suit filed on October 8th in the United States District Court's Northern District of Iowa, intends to overturn the mandate itself, and vacate certain of the more onerous requirements of the rule.

In April, CMS released the Nursing Home Minimum Staffing Standards final rule to the Federal Register. The rule requires all federally funded nursing homes to submit a revised facility assessment and changes the minimum number of hours per resident day (HPRD). All non-urban providers must provide 3.48 hours of direct nursing care per patient, per day and staff a registered nurse 24 hours a day. These specific breakdowns also require 0.55 RN and 2.45 certified nurse aide (CNA) coverage per patient, per day.

These newly-prescribed HPRDs mean nursing homes across the U.S. will need an additional 27,000 full-time registered nurses (RNs) and 78,000 full-time nurse aides costing over \$7 billion—an impossible requirement to meet amid a worldwide nursing shortage and dismal Medicaid reimbursement rates that do not fully cover the actual cost of care. Sadly, the HPRD limits the utilization of licensed practical nurses (LPNs) who provide most of the direct patient care in nursing homes, potentially displacing thousands of these workers across the U.S.

South Dakota Attorney General Marty Jackley was one of the Attorneys General who joined the lawsuit. "Rural states like South Dakota are already faced with challenges to meet staffing needs for aging residents," he said. "These are unnecessary federal mandates that add to the problem, not fix it."

"SDAHO is joining forces with other LeadingAge affiliates across the country as we recognize the need for action and we need to protect our members, especially in our rural areas where this mandate will create more harm to facilities. This allows South Dakota and other states to join forces to challenge this unfunded mandate." said LeadingAge State Executive and VP of Post Acute Care with SDAHO Justin Hinker.

SDAHO President/CEO, Tim Rave noted that the industry needs solutions to the workforce shortage, not unattainable mandates.

“When it comes to the proposed nursing home staffing mandate, the administration failed to consider two major issues: the ongoing workforce crisis and the proposals astronomical implementation costs.” Tim Rave, President/CEO, SDAHO.

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