Evaluation of Virginia's Nursing Home Workforce and Considerations for a State Nursing Home Staffing Standard

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Study Purpose

- Per House Bill 605 (Willett):
  - Evaluate the workforce in Virginia's nursing facilities
  - Develop recommendations for a staffing requirement, including the efficacy of a measure of Registered Nurse (RN) coverage
- Per House Bill 1357 (McQuinn):
  - Evaluate staffing levels and stability and the relationship between staffing and resident outcomes

Major study questions

- What is the relationship between nursing home staffing and quality of care?
- How are Virginia nursing homes currently staffed?
- How effective are state staffing standards?
- What should the state consider to establish a staffing standard for Virginia?

Findings in brief

- Regulations meant to ensure the health and safety of nursing home residents do not include a specific staffing standard
- Nurse staffing levels and skill mix impact quality of care, but are inadequate in some Virginia nursing homes
- States that establish nursing home staffing standards see improvements in staffing levels and skill mix

Agenda

Virginia nursing home regulations

Nurse staffing levels and skill mix in nursing homes

State efforts to address nursing home workforce shortages

State nursing home staffing standards

Considerations for a Virginia nursing home staffing standard

Nursing homes provide care for vulnerable individuals

- 291 nursing homes in Virginia care for approximately 27,000 residents each day
- Most residents in nursing homes:
  - Require continuous supervision, ongoing nursing care, and assistance with activities of daily living
  - Cannot be safely supported in less intensive care settings
  - Have one or more chronic health conditions
  - Cannot walk independently

Virginia agencies license and inspect nursing homes and address complaints

- Nursing homes licensed in Virginia must meet requirements set forth in *12VAC5-371-10* et seq.
- Nursing homes that accept Medicare and Medicaid must also meet requirements set forth in 42 CFR Subpart B
- VDH conducts on-site inspections and surveys to document compliance
- Multiple entities investigate nursing home complaints

VDH = Virginia Department of Health

Discretionary staffing regulations limit ability to address staffing concerns

- Virginia nursing homes have broad discretion with staffing:
  - 42 CFR § 483.35 requires nurses and nurse aides in sufficient number to address resident needs and an RN for at least 8 hours per day
  - *12VAC5-371-210* requires qualified nurses and CNAs in sufficient number to meet the assessed needs of residents
- State can only address insufficient staffing when it results in resident harm or other regulatory violations
- State complaint investigators believe insufficient staffing is the root cause of many quality of care complaints

RN = registered nurse; CNA = certified nurse aide

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Nurse staffing levels and skill mix in nursing homes

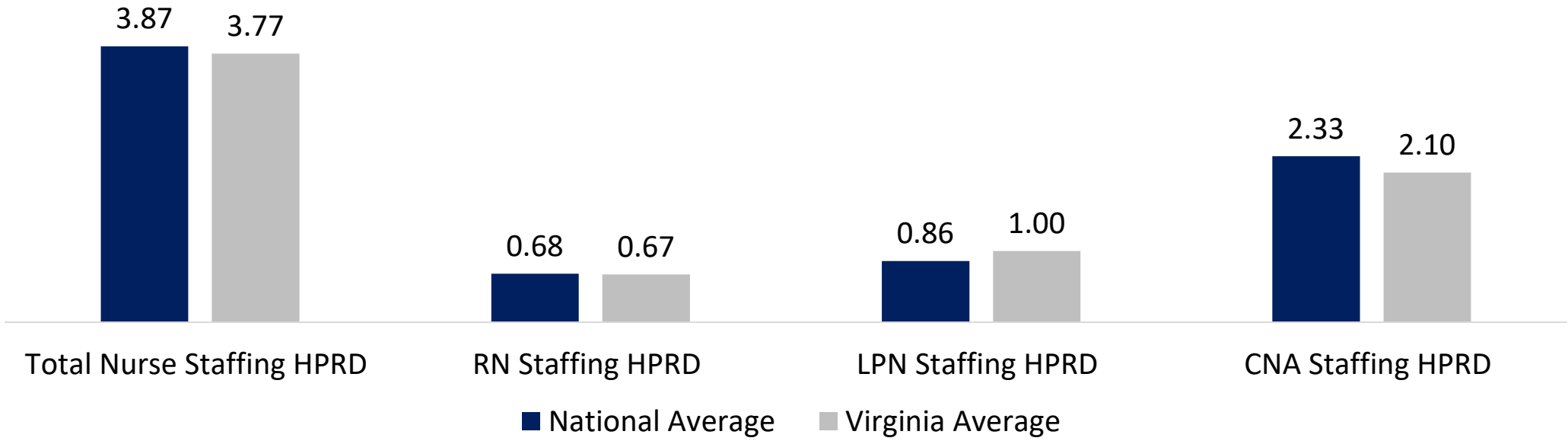
Nurse staffing levels and skill mix influence nursing home quality of care

- Nurse staffing levels are significantly, positively related to quality of care in nursing homes
- RNs, LPNs, and CNAs work together to meet residents' care needs
  - RNs supervise nurses and coordinate resident care and their presence has the strongest relationship with quality of care
  - LPNs carry out treatment and monitor residents but show no upward or downward trend in quality of care
  - CNAs assist residents with ADLs and their presence is related to improvements in resident functioning and quality of care

LPNs = Licensed Practical Nurses; ADL = activities of daily living

Virginia is lower than the national average on multiple staffing metrics

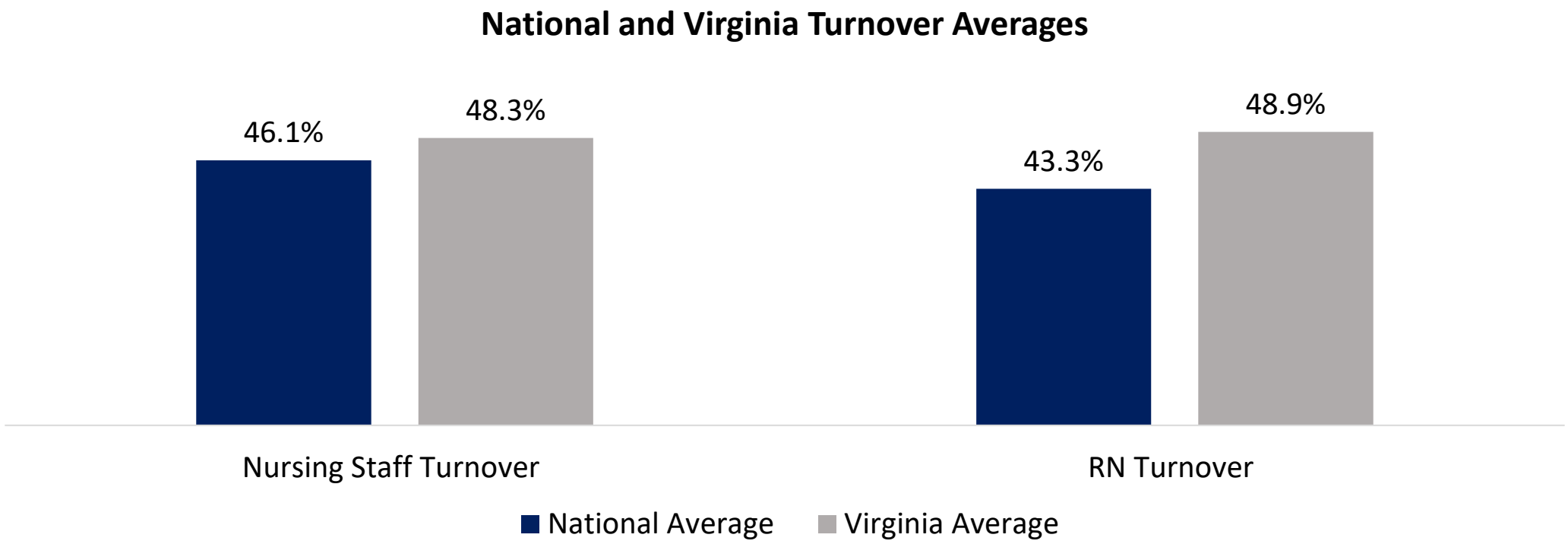
National and Virginia Averages of Reported Nurse Staffing Hours



HPRD = hours per resident day

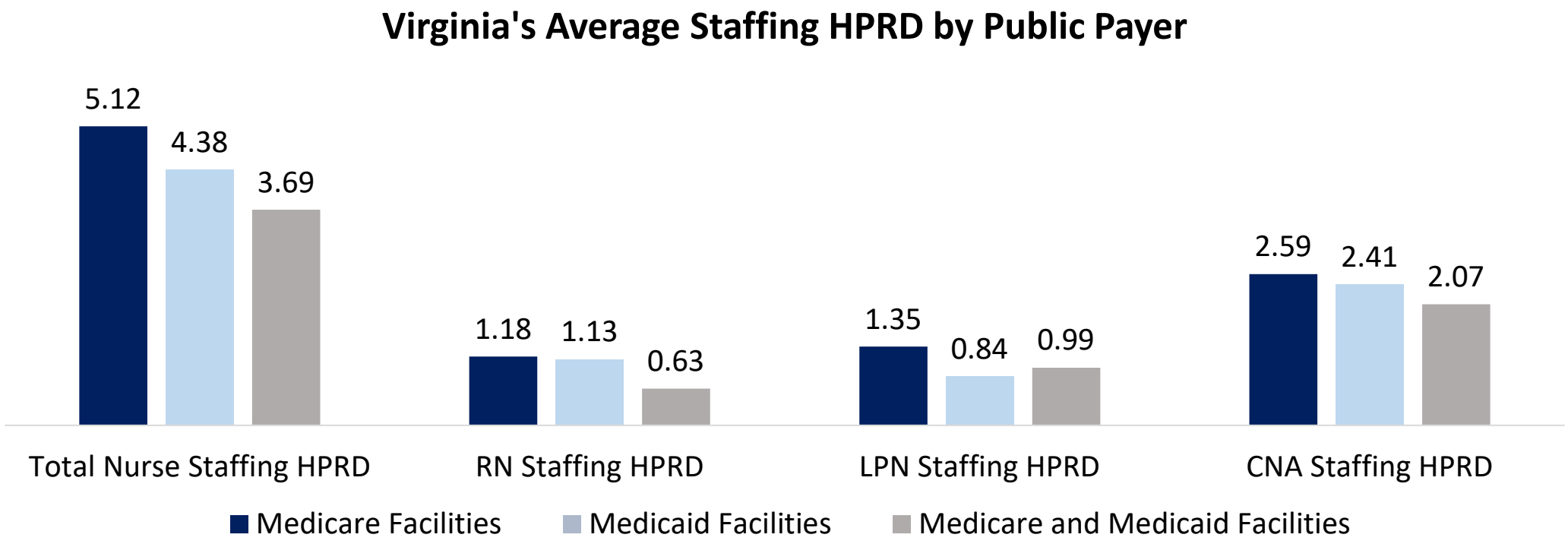
SOURCE: Centers for Medicare & Medicaid Services. (2026). *Nursing homes including rehab services.* Skilled Nursing Facility Quality Reporting Program – US and State Average Data. U.S. Department of Health and Human Services.

Virginia's turnover rate is higher than the national average



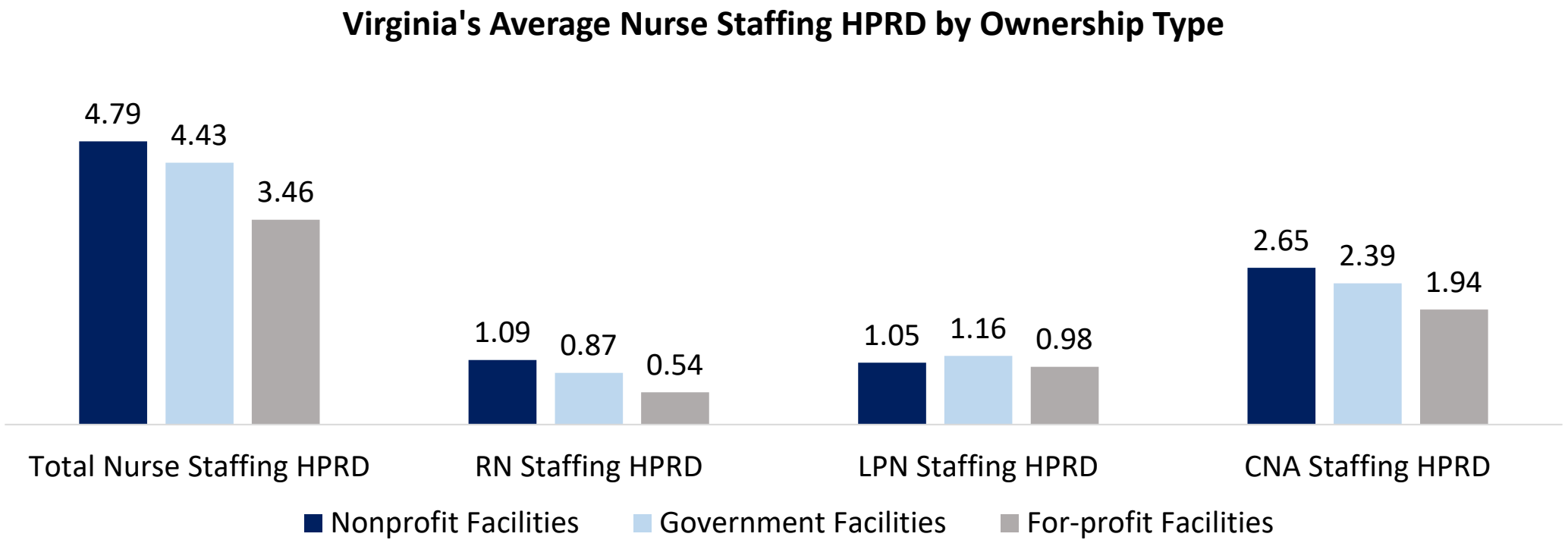
SOURCE: Centers for Medicare & Medicaid Services. (2026). *Nursing homes including rehab services.* Skilled Nursing Facility Quality Reporting Program – US and State Average Data. U.S. Department of Health and Human Services.

Nursing homes that accept Medicare and Medicaid have lower staffing levels



SOURCE: Centers for Medicare & Medicaid Services. (2026). *Nursing homes including rehab services.* Skilled Nursing Facility Quality Reporting Program – US and State Average Data. U.S. Department of Health and Human Services.

For-profit nursing homes report the lowest average staffing hours



SOURCE: Centers for Medicare & Medicaid Services. (2026). *Nursing homes including rehab services.* Skilled Nursing Facility Quality Reporting Program – US and State Average Data. U.S. Department of Health and Human Services.

Virginia's lower-staffed nursing homes have lower quality and inspection ratings

- As staffing ratings decrease, quality ratings and health inspection ratings also decrease
  - Nursing homes with a 5-star staffing rating have 4.32 stars for quality and 3.82 stars for health inspections
  - Nursing homes with a 1-star staffing rating have 3.52 stars for quality and 2.07 stars for health inspections
- 60% of Virginia's nursing homes receive a one- or two-star rating on staffing through the CMS's Five-Star Quality Rating System

CMS = Centers for Medicare & Medicaid Services

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State efforts to address nursing home workforce shortages

Workforce shortages in nursing homes persist

- Lack of interest and training opportunities in long term care settings contribute to persistent staff shortages
- Since the pandemic, nursing homes have experienced slower workforce recovery than other health care settings
- Demand for the long-term care workforce will grow by more than 25% by 2036 as the population ages

Virginia offers workforce incentive programs for nurses in long-term care

- Virginia Nursing Workforce Center (VNWC) administers:
  - Scholarships for RNs, LPNs, and CNAs in long-term care
  - Loan repayment for RNs, LPNs, and CNAs in long-term care
  - Earn-to-Learn programs for eligible nursing homes
- CMS is launching a Nursing Home Staffing Campaign
  - RNs and LPNs working in nursing homes
  - Up to $40,000 in loan repayment and $10,000 in stipends

Value-based program incentivizes staffing and quality improvements

- Virginia appropriated $721M for the Nursing Facility Value-Based Purchasing Program (NF VBPP) since SFY23
- DMAS provides payments for nursing home performance and improvement on staffing and quality measures
- Impact on staffing metrics is promising:
  - Increase in number of nursing homes with four or fewer days without at least 8 RN hours
  - Initial shift in nursing homes towards higher nurse staffing hours

SFY = state fiscal year; DMAS = Department of Medical Assistance Services

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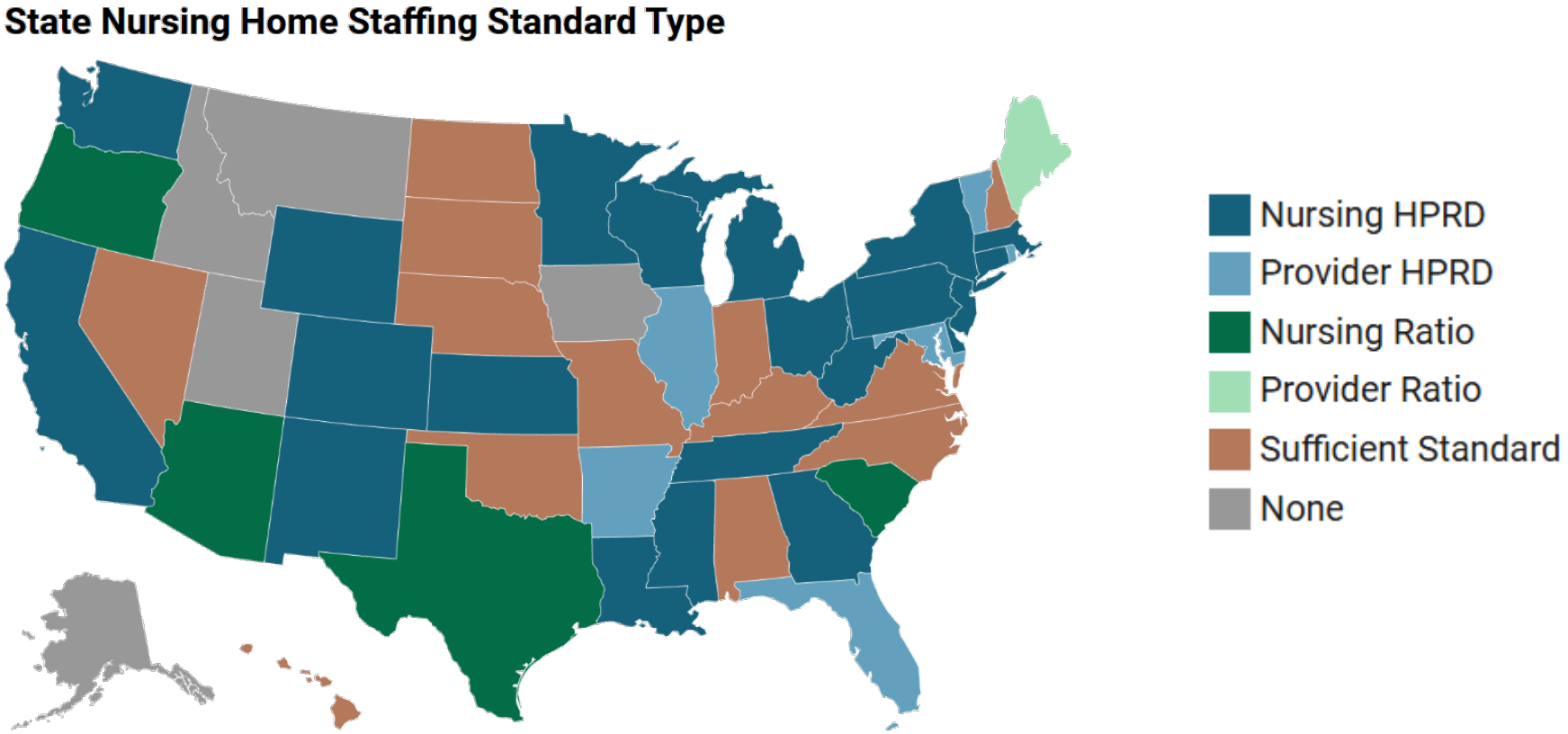
State nursing home staffing standards

Most states require staffing standards for nursing homes



SOURCE: JCHC staff analysis of state laws and regulations, 2026.

Staffing standards linked to licensure increase staff and improve care

- On average, states see a 5% increase in total nurse staffing following implementation of a staffing standard
  - Largest impacts observed in nursing homes with a higher share of Medicaid patients and lower baseline staffing levels
- Nursing homes that meet staffing standards have fewer deficiencies during inspections
- Staffing standards have minimal impact on nursing home finances and no impact on nursing home closures

Virginia enacted and then repealed nursing home staffing standards

2023: HB1146/SB1339

Required nursing facilities in Virginia to maintain at least 3.08 adjusted total nurse staffing HPRD

2024: CMS Final Rule

Required nursing facilities to provide 3.48 total nurse staffing HPRD, with 0.55 RN staffing HPRD and 2.45 nurse aide staffing HPRD

2024: Virginia repeals standard

Enactment clause on HB1146/ SB1339 repealed state staffing standard following CMS Final Rule

2025: Legal challenges, H.R. 1

Courts ruled CMS exceeded its statutory authority; H.R. 1 prohibits implementation of standards through 2034; CMS repealed Final Rule

2026: HB605

Attempted to re-establish nursing facility staffing standards; as enacted, directed JCHC to study nursing home workforce

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Considerations for a Virginia nursing home staffing standard

Virginia should re-establish a nursing home staffing standard

- Virginia has no nursing home staffing standard, even as:
  - Compelling evidence supports higher nurse staffing levels
  - Some Virginia nursing homes are persistently low staffed
  - State staffing standards can increase staffing levels
- Lack of staffing standards disproportionately impacts vulnerable residents who cannot advocate for themselves

Policy option 1

JCHC could submit legislation to amend § 32.1-127 of the *Code of Virginia* to establish a staffing standard for nursing homes in Virginia:

- Beginning SFY29, 3.09 adjusted total nurse staffing HPRD
- Beginning SFY31, 3.32 adjusted total nurse staffing HPRD, including 0.54 adjusted RN staffing HPRD and 2.06 adjusted CNA staffing HPRD
- Beginning SFY34, 3.43 adjusted total nurse staffing HPRD, including 0.60 adjusted RN staffing HPRD and 2.23 adjusted CNA staffing HPRD

Selected thresholds increase nursing staff and nurse skill mix over time

- JCHC staff selected values for each threshold based on staffing levels within median quality nursing homes
  - Total nurse staffing: 25th percentile in SFY29 → 40th percentile in SFY31 → 50th percentile in SFY34
  - RN staffing: 50th percentile in SFY31 → 60th percentile in SFY34
  - CNA staffing: 60th percentile in SFY31 → 75th percentile in SFY34

Proposed staffing standard reflects Virginia-specific context

- Acuity-adjusted metrics align with Medicaid payment models and better reflect the reality of residents' needs
  - Based on same calculations as publicly-available data for CMS's Five-Star Quality Rating System and the state's NF VBPP
- Staffing measures prioritize nurses but could include other direct care professionals in the future
- Separate thresholds for RNs and CNAs seek to re-balance the nursing skill mix in Virginia's nursing homes

Virginia could consider additional policy options to support implementation

- Addressing implementation considerations may ease feasibility concerns and amplify the effectiveness of staffing standards over time
- Ancillary policy options consider:
  - Funding to address the anticipated increased costs of care
  - Enforcement, accountability, and evaluation
  - Continued support for the long-term care nursing workforce

Proposed SFY29 threshold impacts 79 nursing homes

- Staffing and resident characteristics warrant immediate intervention
  - Significantly higher acuity, higher proportion of Medicaid residents
  - 1.63 hours less nursing time per resident per day than expected
- Increased staffing would increase costs of care for Medicaid members by $24.7M ($12.3M in GF)
  - Nursing homes received $52.7M through NF VBPP with mixed results
  - 72 of 79 facilities are for-profit nursing homes that are more profitable than nursing homes that do not meet the threshold

GF = general fund

Policy option 1a

JCHC could submit a budget amendment to establish a hardship fund for which nursing homes could apply if they are unable to meet the SFY29 threshold after documenting and accounting for investments in the recruitment and retention of nursing staff. The budget amendment could require nursing homes to use such funds only for nursing staff and to report to the state on how they used the funds.

Proposed SFY31 and SFY34 thresholds impact most nursing homes

- SFY31 threshold impacts 213 nursing homes and increases costs of care for Medicaid members by $84.6M ($42.3M in GF)
- SFY34 threshold impacts 232 nursing homes and increases costs of care for Medicaid members by $42.8M ($21.4M in GF)

Policy option 1b

The JCHC could include, in legislation amending § 32.1-127 of the *Code of Virginia* creating a staffing standard, an enactment clause that places the effective date of SFY31 and SFY34 staffing standard thresholds contingent upon an additional appropriation from the state to cover the increased costs of care for Medicaid members.

Standards linked to state licensure strengthen enforcement

State licensure requirements provide an enforcement mechanism to address persistently low staffed nursing homes:

- Commissioner of Health can currently restrict or prohibit new admissions, suspend a license, or revoke a certification
- HB2253/SB1383 permits new, intermediate sanctions if facilities do not improve after implementing a plan of correction

Policy option 1c

The JCHC could include, in legislation amending § 32.1-127 of the *Code of Virginia* creating a staffing standard, an enactment clause that requires the Board of Health to promulgate regulations incorporating staffing standards into the state's licensing requirements and gives the Commissioner the authority to impose sanctions pursuant to § 32.1-27.3 of the *Code of Virginia* when nursing homes fail to meet staffing standards.

Some states permit waivers from sanctions under limited circumstances

- Nursing homes may face challenges with compliance
- States provide waivers under specific circumstances, such as demonstrating that recruitment efforts have failed to fulfill the standard
- Stakeholders endorsed an exemption from sanctions after a good faith effort to meet the standard

Policy option 1d

The JCHC could include, in legislation amending § 32.1-127 of the *Code of Virginia* creating a staffing standard, a provision establishing a good faith exception for nursing homes that are unable to meet the staffing standard despite demonstrated, significant efforts to recruit and retain required nursing staff.

Staffing standard enforcement requires additional resources

- Enforcing staffing standards would require resources to avoid losing ground on the backlog of surveys, inspections, and complaint investigations
- Additional VDH staff needed to verify staffing records, analyze staffing data, investigate staffing related-complaints, and monitor corrective actions

Policy option 1e

The JCHC could submit a budget amendment for $726,500 in general funds in SFY28 for VDH to hire five additional positions to increase capacity for enforcement of nursing home staffing standards though the state licensure process.

Additional reporting increases transparency on the use of public funds

- States take multiple strategies to ensure fiscal accountability for public dollars:
  - Additional reporting requirements
  - Requirements for spending on nursing staff
  - Requirements to spend a specific proportion of Medicaid reimbursement on nursing staff
- Requirements for spending would require additional analysis to determine appropriate thresholds

Policy option 1f

JCHC could submit a language-only budget amendment requiring the DMAS to collect information from nursing homes on how they are using additional public funds to increase staffing levels, as part of DMAS's annual Wage Survey.

Evaluation provides important feedback about implementation and impact

- Evaluation could assess changes in staffing levels and skill mix, resident outcomes, and any unintended effects
- Use of an external, independent organization could ensure a fair examination of the staffing standard

Policy option 1g

The JCHC could submit a budget amendment for $250,000 in general funds for SFY28 requiring VDH to contract with an external organization to evaluate the impact of the state staffing standard. The budget amendment could also direct the selected evaluator to convene stakeholders to discuss the evaluation and for reporting requirements to begin in SFY29 and annually thereafter until nursing homes fully implement the standards.

Continued support of the nursing workforce is essential

- Virginia Nursing Workforce Center will report to the General Assembly in October 2027 on program outcomes and recommendations for future program investments
- Nursing Facility Value-based Purchasing Program could align with the state staffing standard to incentivize nursing home staffing levels above the state's standard

Policy option 1h

JCHC could introduce a language-only budget amendment requiring DMAS to update the NF VBPP's thresholds for total nurse staffing HPRD for the SFY29 performance period to align with the state staffing standard.

Summary of policy options

One bill that includes:

- Staffing standard thresholds (Policy option 1)
- Contingency of SFY31 and 34 thresholds upon additional state appropriations (Policy option 1b)
- Board of Health regulations for licensure (Policy option 1c)
- Good faith exception for sanctions (Policy option 1d)

Summary of policy options, cont.

Five budget amendments:

- Provide funding to establish hardship fund (Policy option 1a)
- Provide funding to VDH for enforcement (Policy option 1e)
- Direct DMAS to collect information on use of funds (Policy option 1f)
- Provide funding to VDH for an independent evaluation (Policy option 1g)
- Direct DMAS to update NF VBPP thresholds (Policy option 1h)

Opportunity for public comment

- Submit written public comments by close of business on Monday, November 2nd

  Email: jchcpubliccomments@jchc.virginia.gov

  Mail: 411 E. Franklin Street, Suite 505

  Richmond, VA 23219

NOTE: All public comments are subject to FOIA and must be released upon request.

Questions & Discussion