

Skilled Nursing Facility Quality Standards Board Fact Sheet

The Problem:

- CMS Covid-19 nursing home data¹ shows that for the week ending February 27, 2022, 9,964 residents and staff in California's SNFs have died due to Covid-19.
- Many people would say that the pandemic was a crisis layered on top of a pre-existing staffing crisis. But the industry's loss of nearly 238,000 employees since the start of the pandemic² has turned the staffing crisis into a staffing apocalypse. In California, the 16,000 workers the skilled nursing industry has lost since January of 2020 constitute 11.3% of the entire workforce³. Concerns about the staffing crisis were echoed in a poll of nursing home workers in California conducted by EMC research in which 82% said they were extremely concerned about staffing shortages in the healthcare industry. The respondents overwhelmingly said that COVID made staffing shortages worse and that these shortages make it hard to do their jobs. Half of nursing home workers indicated a likelihood to leave their current positions, a harbinger for sustained workforce challenges in the industry. Similarly, a national survey from the National Association of Health Care Assistants (NAHCA), the professional association for Certified Nursing Assistants (CNAs), indicates that poor wages and benefits are the primary reasons why CNAs have left, or are considering leaving, their jobs. Nearly 84% of respondents said it would take better wages and benefits to be hired back by their nursing homes, while just under half said that better training/opportunities for career advancement would lure them back. More than half of the respondents identify staffing as the most pressing challenge for CNAs right now: 35% say they care for between 15 to 20 patients/residents; another 18% say they care for 25 or more patients/residents. Burnout/exhaustion and lack of respect from leadership were named as the second and third biggest challenges⁴.
- The median income of skilled nursing industry workers in 2020 was \$30,000. Census data show that nearly 77% of the workforce are women; a little over 69% are non-Whites; and over 61% are employed as caregivers (nursing assistants, 28%; registered nurses, 14%; licensed practical/vocational nurses, 11% and personal care aides, 8%). Only 19% of CNAs are White; but nearly 84% of registered nurses are either White or Asian. In 2020, the median income from wages of CNAs was \$26,000; for LPN/LVNs, median was \$48,000; for cooks, the median was around \$24,300 and for housekeepers, the median was approximately \$15,700. In 2020, an estimated 22% of all nursing home workers and their families in California fell below 200% of the federal poverty line—that was merely \$25,520 for a single individual and \$52,400 for a family of four. By job classification, 27% of CNAs, 44% of housekeepers, and 46% of cooks were below 200% of the federal poverty line. Approximately 51% of housekeepers were also in households that receive SNAP (formerly known as food stamps)⁵.
- Nursing staff turnover was 54.7% in 2020⁶
- Since 2018, over 1,500 staffing waivers have been approved⁷, and over \$50 million in add-on payments⁸ have been given to SNFs Waivers by number of SNFs: 2018 - 351 SNFs; 2019 - 398 SNFs; 2020 - 456 SNFs (plus 325 COVID waivers); 2021 - 374 SNFs
- A 10% Medi-Cal rate increase was granted to SNFs to compensate them for COVID-19 expenses, and that rate increase is expected to continue⁹

The Solution:

What is a Skilled Nursing Quality Standards board?

- The Skilled Nursing Quality Standards Board (SN QSB) is a governmental body housed under the California Health and Human Services Agency that will set minimum wage rates, benefits, and workplace standards for the skilled nursing industry. To ensure this is a balanced board that will represent the voices of workers, residents, employers, and state agencies, there will be 16 members from the following agencies and groups: 10 state agency seats; 2 employee seats; 2 advocate/family seats; and 2 employer seats.

- The State Government Agency seats will be from the Department of Public Health; Department of Health Care Services; Department of Aging; Labor Workforce Development Agency; California Workforce Development Board; Department of Health Care Access and Information; Division of Occupational Safety and Health; Division of Labor Standards and Enforcement; Department of Industrial Relations.
- The employer seats will include one for a representative of non-profit skilled nursing facility operators and another for a representative of for-profit skilled nursing facility operators
- One of the worker seats will be for a representative of workers' organizations and the other will be a representative elected by workers in the skilled nursing industry
- One of the seats for advocates will be filled by a designee of the Long-Term Care Ombudsman Program

What will a Skilled Nursing Quality Standards board do?

- The main function of the board will be to set industry standards that address prevalent workplace and quality issues. Workplace standards will include but not be limited to industry minimum wage and benefits standards, workplace protections and training standards. Quality standards will include staffing levels and conditions of resident care that will decrease long-standing racial disparities in the California nursing home industry. The standards will be set for statewide implementation, with the allowance for the creation of local standards boards.
- The board will be required to create a work plan, identifying the topics that will be addressed in the first two years of operation, and that work plan will be reviewed and updated every two years. Items to be addressed in the work plan (but will not be limited to): 1) Recruitment and retention of workers; 2) Minimum staffing levels; 3) Adequacy and enforcement of training requirements; 4) Job skills, potential accreditation or certification, and career ladder; 5) Paid sick leave, paid family leave, paid time off for bereavement, vacation; 6) Retirement benefits; 7) Affordable health care benefits that comply with the Affordable Care Act; 8) Access to worker's compensation and temporary disability insurance, including alternative ways to provide health insurance coverage for skilled nursing facility workers who are injured on the job but are not currently covered by state law; 9) Hiring agreements and contracts; 10) Notice or compensation requirements for changes to work schedules; 11) Worker and employer trainings required by the board standards; 12) Impact of systemic racism and economic injustice on workers, and efforts to relieve that impact; 13) COVID-19 policies to protect workers and residents; 14) The use of digital labor marketplaces to address workforce shortages; 15) Creation and administration of the systems, processes, and rules for nominating and electing a worker representative to the board; 16) Board and state agency outreach and enforcement strategies to facilitate compliance with laws, regulations, and board standards; 17) Other issues the board determines are necessary in fulfilling the board's purposes
- The board will commission a number of reports in consultation with policy think tanks and academic experts that will inform the policies set forth by the board. Some examples of the types of reports that will be beneficial to the board's mission may include: 1) a report that tracks and analyzes violations and adverse events in facilities located in communities of color. Recommendations that include a timeline for consideration and implementation will be developed with stakeholder input to address these violations/ racial inequities; 2) an analysis of the state/regional economic conditions, including cost of living, analysis of wages and benefits of nursing home workers in the region by job classification with a comparison to similar positions in other health care sectors. Analysis by race and ethnicity, gender, age, and other demographic information as available must be included; 3) a report on industry workforce trends by region that will inform local Boards of any workforce shortages and factors that may have impacted those shortages.
- The Board will certify worker organizations that will provide mandatory training to skilled nursing facility workers regarding the standards established by the Board and other rights.
- Starting in 2024, the Board will be responsible for creating a set of industry-wide standards that will serve as the minimum requirements that a skilled nursing facility must meet in order to participate in Medi-Cal managed care networks. Additionally, skilled nursing facilities that violate any of the quality standards established by the board will be subject to a civil penalty, with joint liability for its subcontractors' violations as well. A related party of a skilled

nursing facility operator or skilled nursing facility employer shall be responsible for ensuring that the skilled nursing facility operator or employer complies with this law.

How will a Skilled Nursing Quality Standards board help the problem?

- By bringing together representatives from both the workforce and their employers in an official capacity to help set and enforce workplace standards that cover all workers the SNF industry, the board will create a venue for workers to come together, share lessons they have learned from their day-to-day experience, and gain a stronger voice to advocate for themselves;
- Measurable standards that apply industrywide ensure that all workers, regardless of race, gender, or disability status, earn fair wages under better conditions, reducing opportunities for discrimination both directly and indirectly by addressing other causes of pay gaps, such as inconsistent scheduling or a lack of medical or family leave. This also creates a level playing field where high-road SNFs that provide good wages and benefits are not undercut by low-road operators
- Because the board will make recommendations on a broad range of interrelated issues rather than focus on a single problem such as low wages, the industry will arrive at holistic solutions more effectively than can legislation that targets single issues or covers all workers. The work plan's periodic review of workplace and quality issues will ensure that new and emerging concerns in the industry can be proactively addressed by revising or issuing new standards.

¹ <https://data.cms.gov/covid-19/covid-19-nursing-home-data/data>

² <https://www.ahcancal.org/News-and-Communications/Fact-Sheets/FactSheets/BLS-JAN2022-JOBS-REPORT.pdf>

³ <https://data.bls.gov/PDQWeb/sm>

⁴ <https://www.nahcacna.org/cnas-cite-low-wages-burnout-lack-of-respect-as-key-contributors-to-staffing-crisis/>

⁵ 2020 American Community Survey (ACS) data IPUMS USA, University of Minnesota, www.ipums.org

⁶ 2020 Long-term Care Pivot Profile <https://data.chhs.ca.gov/dataset/long-term-care-facility-disclosure-report-data>

⁷ Waiver approvals retrieved from the California Department of Public Health - <https://www.cdph.ca.gov/Programs/CHCQ/LCP/Pages/Final-Waiver-Approval-Report.aspx>; see also Cal Health Find database - <https://www.cdph.ca.gov/Programs/CHCQ/LCP/CalHealthFind/Pages/SearchResult.aspx>;

⁸ DHCS website, see IX, Add-ons, SB 97 mandate add-on, page 5: https://www.dhcs.ca.gov/services/medi-cal/Documents/AB1629/2018_19_SNF-B_Cost_Build_Up_Narrative.pdf

⁹ https://files.medi-cal.ca.gov/pubsdoco/newsroom/newsroom_30717_58.aspx