The Work Week

Bassford Remele Employment Practice Group

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HHS Repeals Federal Minimum Staffing Standards for Long-Term Care Facilities: Regulatory Shift and Its Implications

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On December 2, 2025, the U.S. Department of Health and Human Services ("HHS") issued a formal announcement rescinding key components of the 2024 Minimum Staffing Standards for Long-Term Care Facilities and Medicaid Institutional Payment Transparency Reporting Final Rule ("2024 CMS Rule"). The repealed rule, promulgated by the Centers for Medicare & Medicaid Services ("CMS"), represented one of the most sweeping federal staffing mandates applied to long-term care facilities. With the December 2025 repeal, CMS returns facilities to the staffing requirements set out in 42 C.F.R. § 483.35, which preceded the 2024 rule.

For advocates of nursing-home reform, the repeal represents a retreat from the 2024 CMS Rule, which was championed as an attempt to address chronic understaffing. For operators, especially in rural and resource-constrained areas, it is a positive reversal that avoids what was viewed as an unfunded and unworkable mandate.

The reversal now raises questions about how long-term care facilities will staff, budget, and operate going forward, and how federal and state policymakers will navigate the tension between workforce shortages and the need to safeguard vulnerable residents.

Regulatory Background & Details of the Repeal

The now-repealed CMS staffing rule, finalized in 2024, marked the culmination of decades of warnings that federal nursing-home staffing standards were too vague and lacked enforceable benchmarks. For years, the operative standard under 42 C.F.R. § 483.35 required only that

facilities employ “sufficient” nursing staff, a phrase that courts, advocates, and regulators often struggled to define with precision. By introducing numeric minimums, CMS attempted to transform a subjective standard into a measurable one.

Why CMS adopted numeric staffing standards in 2024

The 2024 CMS Rule required skilled nursing facilities to maintain staffing adequate to meet residents’ needs. CMS drew heavily on research linking low staffing levels to adverse health outcomes, preventable hospitalizations, and increased mortality, as well as advocacy organization input that argued that without mandatory ratios, oversight tools were too weak to deter chronic understaffing.

The proposed requirements, including 3.48 total hours per resident day, RN and CNA minimums, plus 24/7 on-site RN coverage, were designed to set a baseline for safety and consistency across states.

Why the December 2025 repeal occurred

Despite the policy arguments for the 2024 CMS Rule, the December 2025 repeal reflects an acknowledgment of the significant constraints facing long-term care operators. Nationwide shortages of RNs, LPNs, and CNAs have intensified in the years following the COVID-19 pandemic. Many facilities argued that the 2024 CMS Rule, although well-intentioned, risked pushing homes into noncompliance or closure.

HHS justified the repeal by pointing to:

- Workforce scarcity, especially in rural areas where recruiting licensed staff is extraordinarily difficult.
- Financial strain, as labor costs comprise the majority of nursing-home operating budgets, and reimbursement rates have not kept pace.
- Impact on care access, with projections that hundreds of facilities might close if forced to meet 2024 CMS Rule ratios.

In effect, the December 2025 repeal acknowledges a policy paradox created by the 2024 CMS Rule: staffing requirements intended to protect residents might have reduced access to care by creating complications for facilities that could not comply with stringent requirements.

The current federal regulatory standard

The repeal reinstates the pre-2024 staffing requirements under 42 C.F.R. § 483.35, which include:

- An RN on site at least 8 hours per day
- A full-time Director of Nursing

- A “sufficient” number of licensed nurses and nurse aides to meet resident needs, without numeric benchmarks.

This shift returns much of the discretion and responsibility for determining adequate staffing levels back to facility administrators.

Operational & Workforce Impact on Long-Term Care Facilities

The repeal does not simply unwind a rule; it fundamentally reshapes how facilities approach staffing strategy, budgeting, and regulatory risk.

Increased Flexibility: Relief for Facilities but Uneven Outcomes for Residents

Facilities gain significant operational flexibility under the restored “sufficient staffing” standard. Administrators can match staffing more closely to census, resident acuity, and budgetary constraints. This flexibility may stabilize operations in regions where shortages make compliance with the former rule nearly impossible.

However, flexibility also means variability. Facilities with strong finances or competitive labor markets may maintain higher staffing levels to attract residents and workers. Others, particularly those already struggling, may reduce staffing below what the 2024 CMS Rule envisioned, contributing to greater disparities in resident outcomes.

Workforce Consequences: A Return to Chronic Tension

The repeal intensifies longstanding tensions between long-term care workers and employers. Without federal numeric requirements, frontline caregivers may fear renewed pressure to take on heavier workloads or fill staffing gaps through overtime. Burnout, already high in the sector, could worsen.

Labor unions and worker advocates argue that the absence of mandated ratios weakens their ability to negotiate for safer working conditions. While some operators assert that they will voluntarily maintain robust staffing levels to support workforce retention, past patterns suggest some facilities may struggle to do so unless financially incentivized.

State-Level Labor Rules Grow in Importance

Federal deregulation tends to shift the regulatory burden to states. For example, Minnesota’s Nursing Home Workforce Standards Board is implementing substantial wage floors for nursing-home employees beginning in 2026 that would be independent of federal staffing policy.

In this environment, nursing homes face a more fragmented regulatory map. Facilities operating in multiple states must navigate divergent wage mandates, staffing ratios, and compliance deadlines which could potentially increase administrative complexity even as federal requirements shrink.

Stakeholder Responses, Legal Risks, and Future Outlook

The reaction to the repeal reveals deep divides in how stakeholders perceive risk, responsibility, and the purpose of federal regulation.

Provider Groups: Avoiding Unintended Consequences

Industry organizations, especially those representing rural facilities, argue that the now-repealed 2024 CMS Rule risked undermining the very residents it sought to protect by forcing closures or reducing admissions. They contend that the return to 42 C.F.R. § 483.35 avoids the unintended consequences of the 2024 CMS Rule and provides a workable standard that allows facilities to staff appropriately based on clinical judgment rather than federally imposed ratios.

Many providers view the repeal as welcome opportunity to redirect resources toward workforce development initiatives, technology adoption, and wage competitiveness, which are significant areas they feel may yield better long-term improvements than rigid staffing formulas.

Advocacy Organizations: Repeal as a Retreat from Accountability

Patient advocates counter that the repeal represents a profound setback. Decades of reports from the HHS Office of Inspector General and the Government Accountability Office have identified inadequate staffing as one of the most persistent deficiencies in long-term care.

Patient advocacy organizations argue that the numeric standards established by the 2024 CMS Rule were the only way to enforce meaningful accountability across a fragmented industry. Advocates warn that without mandatory ratios, facilities may revert to staffing patterns that prioritize cost savings over resident safety, and that the burden of these actions will fall hardest on residents with high acuity needs.

Litigation Exposure: A Shifting Legal Landscape

Interestingly, the repeal may increase litigation risk rather than reduce it. Without numeric regulatory safe harbors, courts adjudicating negligence or wrongful-death claims may rely more heavily on:

- Expert testimony about what constitutes “sufficient” staffing
- Internal evidence, such as staffing logs, call-light response times, and care-plan adherence
- CMS interpretive guidance (State Operations Manuals)

This heightened reliance on individual judgment, rather than compliance checkboxes, could make facilities vulnerable to claims that they failed to provide adequate staffing under the restored 2025 standard.

The Policy Future: Unpredictable and Politically Charged

Looking forward, the regulatory climate remains fluid. Several dynamics may shape future policy:

- **Political turnover:** A new administration could revive staffing mandates, either through new rulemaking or legislative pressure.
- **State activism:** In the absence of federal standards, states may act more aggressively to set their own ratios or wage floors.
- **Market forces:** Facilities competing for scarce workers may voluntarily adopt higher staffing levels to attract employees, which would effectively create de facto standards.
- **Public scrutiny:** Media attention to care failures or regional staffing crises could spur renewed calls for federal intervention.

In short, the repeal does not end the staffing debate. Instead, it shifts the terms of the conversation and the locus of regulatory authority away from the stringent 2024 federal oversight into a more localized state and facility-based approach.

Conclusion

The December 2, 2025 repeal of the federal minimum staffing rule marks a significant reversal in federal oversight of the long-term care sector. By restoring the longstanding framework under 42 C.F.R. § 483.35, HHS has embraced a more flexible, facility-driven approach that aims to balance the realities of workforce shortages against the need for resident protections.

But flexibility could create alternative consequences. The repeal opens the door to greater variability across states, potentially inconsistent care standards, and renewed legal and ethical scrutiny of how facilities define "sufficient staffing." The coming years will determine whether decentralized oversight can deliver both operational stability and high-quality resident care, or whether the absence of national staffing floors will deepen existing disparities in an already strained system.

At Bassford Remele, we actively track emerging and upcoming developments in employment law, with particular attention to workplace policy shifts influenced by recent state and federal regulatory changes. Feel free to reach out if you need assistance in this continually evolving landscape.

