A Call to the CMS: Mandate Adequate Professional Nurse Staffing in Nursing Homes

The COVID-19 pandemic has exposed the vulnerability of residents and staff.

Editor's note: This article is by 22 nursing gerontology experts who are all advocates of nursing home reform. They are listed at the end of this article.

The COVID-19 pandemic has exposed the incredible vulnerability of residents and staff in our nation's nursing homes. About 5% of U.S. cases and nearly 40% of deaths attributed to COVID-19 have occurred in these long-term facilities, making them "ground zero" in the crisis.[1] In an effort to manage the current pandemic, as well as future pandemics caused by infectious diseases, organizations that advocate for older adults, such as the American Geriatrics Society, have issued calls for reforms that range from improved infection control to wider testing of staff and residents.[2] While these reforms are integral to preventing exposure and the spread of infectious disease(s), they are still a "Band-Aid fix" for a broken system. The elephant in the room, despite 40 years of advocacy efforts, is the need for a federal mandate for a stronger presence of professional nurses in nursing homes. These health care professionals are licensed RNs, the only type of nurse who has the legal authority and educational background to do all of the following: assess and plan for residents' care, supervise the provision of care by others, and monitor the health status of residents to avoid adverse outcomes. Many of the direct care COVID-19 reforms being called for nationally are the responsibility of RNs.

Nursing homes exist primarily for the delivery of nursing services. It is ironic then that the Centers for Medicare and Medicaid Services (CMS) has a requirement that only one licensed nurse be on duty 24 hours per day. Moreover, an RN need be on duty for only eight of those hours.[3] The other 16 hours can be covered by an LPN. The lack of 24-hour RN coverage and the chronic inadequate RN staffing levels in nursing homes not only underscore a dangerous assumption that anyone designated as a "nurse" can function as a professional nurse but also cost lives.[4] There is no substitute for the RN in nursing homes, where the aim is to promote, restore, and protect the health of residents.

As expert geriatric nurse scientists and clinicians, we have written this article to bring attention to the lack of professional nursing presence in nursing homes and the association between low RN staffing levels and poor health outcomes. The new CMS Coronavirus Commission for Safety and Quality in Nursing Homes, formed because of the pandemic, has an opportunity to mandate and enforce greater RN presence in nursing homes.[5] We propose a call to action that responds to a long history of neglect and is informed by evidence. We recommend that the CMS enacts policies to ensure appropriate 24-hour RN coverage as well as geriatric nursing expertise for the benefit of all people who reside and work in nursing homes.

BACKGROUND AND EVIDENCE

There are numerous reasons for the high rates of COVID-19 morbidity and mortality in nursing homes: residents live in close proximity to one another; they are often of advanced age and frail; and most have multiple comorbidities and functional impairments that require frequent physical contact for survival.[6] These are all factors that increase risk exponentially.

Despite the medical complexity and multiple psychosocial needs that nursing home residents have, there has been a historical lack of investment in their care. Structural problems such as chronic understaffing, lack of staff expertise in complex care problems, low pay coupled with little or no sick leave, inadequate training, and stigma have plagued the industry for years.[7-9] The shift from nonprofit to for-profit nursing home status has exacerbated these issues.[10, 11]

The state of nursing homes coupled with the ease of transmission and virulence of COVID-19 has created the perfect storm. The current crisis reflects the long-standing ineffective policies and practices in nursing homes that have put profits before people. The vast majority of nursing home staff strive to provide the best possible care, yet we are now wit-

nessing the shocking impact of a lack of resources (such as personal protective equipment, testing ability, staff) and reporting (case identification) that severely hampers their ability to quickly pivot to effective infection prevention and crisis management. Many of the structural issues that have led to this perfect storm will necessitate both an immediate response and a long-term approach. To ensure that these efforts are sustainable will require strong professional nursing leadership, a critical resource that has been repeatedly called for in national reports[12-14] but has been ignored in nursing home policy and practice.

Within their scope of practice, RNs in nursing homes are responsible for comprehensive health assessments and plans for person-centered life-sustaining and life-affirming care. They act as mentors and role models to staff; they advocate for needed resources; and they coordinate with the interdisciplinary team as well as local, state, and regional authorities to ensure safe, high-quality care.[15-18] At an organizational level, RNs are responsible for hiring and training staff, overseeing the implementation of best practices, ensuring resident safety, and compliance with facility policies and procedures as well as state and federal regulations.[18-20]

A pervasive public misperception is that nursing homes have an adequate number of professional nurses on staff. Sadly, this is not true. Only 10% to 15% of nursing staff in nursing homes are RNs.[21] The current CMS regulations specify that each nursing home must provide nursing services to meet the needs of residents, but its staffing standards are inadequate to support this regulation.[22] In most nursing homes, the time RNs spend in direct resident care falls far short of the 0.75 hours per resident-day minimum recommended by the CMS.[23] The most recent staffing data, which can be obtained at www.medicare.gov/care-compare/#search by entering the name of a specific nursing home in a geographic region and looking under "staffing," show that the average nursing home provides a total of 45 RN minutes, or 0.75 hours per resident-day, which includes the director of nursing, assistant director of nursing, and all RNs in the administration, not just those in direct care. At a facility level, this is equivalent to only 75 RN hours for a facility of 100 residents, or 9.4 RNs on eight-hour shifts over 24 hours (just three RNs per shift). In a recent study, Geng and colleagues report that 75% of nursing homes are almost never in compliance with what the CMS expects their RN staffing levels to be, based on acuity level.[24] This troubling finding underscores the inadequacy of the current RN staffing regulation. Equally troubling is that the federal enforcement system rarely cites nursing homes for these staffing deficiencies or imposes any financial penalties.[25]

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Added to the low staffing levels, the role of the RN as specified in many job descriptions emphasizes tasks to be completed rather than the full scope of their practice.[16, 26] The role of the RN is also viewed as interchangeable with that of LPNs.[26] Poor role differentiation fails to take advantage of the unique contributions RNs can make to resident care, and places LPNs in a position of practicing beyond their scope of practice.

When the work environment does not recognize the importance and value of autonomous professional nursing practice, deficiencies in care, difficulty in recruiting and retaining RNs, and the inability to make a sustainable impact on quality care are common.[8, 26] A number of organizations have endorsed a minimum RN hours per resident-day that is not only higher than the CMS recommendation, but adjusts for greater resident acuity.[21, 27] Harrington and colleagues have developed a method for determining appropriate nursing staffing levels by accounting for the needs of residents in the facility.[28]

Compounding the problem of insufficient numbers of RNs is that most RNs who are employed in nursing homes hold an associate degree in nursing, a degree that provides little or no geriatric and/or leadership/management training.[19, 21] In many states there is no requirement that the director of nursing have any leadership/management training, in contrast to nursing home administrators who are often required to have specific didactic and apprentice training, ongoing continuing education, and a national certification.[29] Research has shown that when RNs in nursing homes have higher degrees and/or leadership/management training there is significantly less staff

turnover, greater staff satisfaction, and, most importantly, better resident outcomes.[30-32]

The nursing home industry and the CMS have actively resisted advancing staffing requirements for RNs, fearing it would be too costly. This is particularly true of the for-profit sector, which comprises nearly 70% of all nursing homes.[33] Studies have linked for-profit homes with lower staffing levels, lower quality of care, and less attention to resident well-being than nonprofit homes.[34] Based on years of evidence, both the Institute of Medicine and the International Consortium on Professional Nursing Practice in Long-Term Care Homes have concluded that low RN staffing levels, as well as underutilization of advanced practice nurses with geriatric expertise, contribute to a greater risk of resident safety errors, reduction in quality measures, and adverse outcomes overall, ultimately increasing health care costs.[8,21]

Added to this strong body of evidence are recent findings of an association between low RN staffing levels and ineffective infection control. Li and colleagues report that in Connecticut nursing homes with at least one confirmed case of COVID-19, every 20-minute-per-resident-day increase in RN staffing was associated with 22% fewer confirmed cases and 26% fewer COVID-19 deaths.[4] These findings are supported by data from California nursing homes, which indicate that homes with total RN staffing levels less than the recommended 0.75 hours per resident-day had a twofold greater probability of having resident COVID-19 infections.[35]

Resources

American Association of Directors of Nursing Services Certification Program
www.aadns-ltc.org/Landing-Pages/DNS-CT-Certification

CMS Coronavirus Commission on Safety and Quality in Nursing Homes
www.cms.gov/newsroom/press-releases/cms-announces-membership-independent-coronavirus-commission-safety-and-quality-nursing-homes

Current Legislation for Improving Nursing Home Quality
Quality Care for Nursing Home Residents and Workers During COVID-19 Act of 2020 (HR 6698)
www.congress.gov/bill/116th-congress/house-bill/6698/cosponsors

Quality Care for Nursing Home Residents Act of 2019 (HR 5216)
www.congress.gov/bill/116th-congress/house-bill/5216/cosponsors

Quality Care for Nursing Home Residents and Workers During COVID-19 Act of 2020 (S 3644)
www.congress.gov/bill/116th-congress/senate-bill/3644/cosponsors

Quality Care for Nursing Home Residents Act of 2019 (S 2943)
www.congress.gov/bill/116th-congress/senate-bill/2943

CALL TO ACTION

A stable and qualified workforce with the ability to deliver person-centered, evidence-based care in a timely fashion is fundamental to achieving quality care and critical for responding to crises. RNs in nursing homes are essential to prevent and respond to events that threaten the health and safety of older adults, and by extension, the communities where nursing homes are located. Importantly, there is public support for aggressive quality improvement in nursing homes. A recent survey conducted by the American Health Care Association revealed overwhelming endorsement for greater governmental funding and resources for nursing homes similar to those in the acute care sector.[36]

In April 2020, the CMS established an independent Coronavirus Commission for Safety and Quality in Nursing Homes.[5] This commission was charged with conducting a comprehensive assessment of the nursing home response to the COVID-19 pandemic and will inform efforts to safeguard the health and quality of life of the residents who live there. We applaud the formation of this commission. We think that a major focus should be to ensure that every resident in our nation's nursing homes receives adequate professional nursing (RN) care and that direct care staff have strong professional nursing leadership to guide the care they provide to residents every day. As an initial step, we are calling on the CMS to:

1. Establish and enforce a regulation that mandates a 24-hour, 7-day a week onsite RN presence. This RN should be someone other than the director of nursing.
2. Establish and enforce a regulation that mandates 24-hour RN staffing levels at a minimum of one hour per resident-day and adjust upward for greater resident acuity and complexity.
3. Partner with professional nursing organizations to ensure that all directors of nursing in nursing homes become certified and maintain certification in core geriatric nursing and leadership competencies.

Links to information on the new CMS Coronavirus Commission and current legislation that supports nursing home reform can be found in *Resources*. We encourage you to reach out to the CMS and your legislatures and advocate for nursing home reform.

CMS oversight and more regulations cannot replace on-the-ground expert care and supervision provided by RNs, especially during crisis situations. Nursing home reform must include strong professional nursing leadership for the residents we care for. ▼

The authors of this article are: Ann Kolanowski, PhD, RN, FAAN; Tara A. Cortes, PhD, RN, FAAN; Christine Mueller, PhD, RN, FGSA, FAAN; Barbara Bowers, PhD, RN, FAAN; Marie Boltz, PhD, GNP-BC, FAAN; Deb Bakerjian, PhD, APRN, FAAN, FAANP, FGSA; Charlene Harrington, PhD, RN, FAAN; Lori Popejoy, PhD, RN,

FAAN; Amy Vogelsmeier, PhD, RN, FAAN; Margaret Wallhagen, PhD, GNP-BC, AGSF, FGSA, FAAN; Donna Fick, PhD, RN, FAAN; Melissa Batchelor, PhD, RN-BC, FNP-BC, FGSA, FAAN; Melodee Harris, PhD, RN, FAAN; Ruth Palan-Lopez, PhD, GNP-BC, FAAN; Mary Dellefield, PhD, RN, FAAN, Ann Mayo, DNS, RN, FAAN; Diana Lynn Woods, PhD, APRN-BC, FGSA, FAAN; Ann Horgas, PhD, RN, FAAN; Pamela Cacchione, PhD, CRNP, GNP, BC, FGSA, FAAN; Diane Carter, MSN, RN, CS, FAAN; Patricia Tabloski, PhD, GNP-BC, FAAN; and Linda Gerdner, PhD, RN, FAAN. For author affiliations, please see http://links.lww.com/AJN/ATK. Contact author: Ann Kolanowski, amk20@psu.edu. The authors have disclosed no potential conflicts of interest, financial or otherwise.

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